

Public Law 110–288
110th Congress

An Act

July 29, 2008
[S. 2766]

To amend the Federal Water Pollution Control Act to address certain discharges incidental to the normal operation of a recreational vessel.

Clean Boating
Act of 2008.
33 USC 1251
note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Clean Boating Act of 2008”.

SEC. 2. DISCHARGES INCIDENTAL TO THE NORMAL OPERATION OF RECREATIONAL VESSELS.

Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342) is amended by adding at the end the following:

“(r) DISCHARGES INCIDENTAL TO THE NORMAL OPERATION OF RECREATIONAL VESSELS.—No permit shall be required under this Act by the Administrator (or a State, in the case of a permit program approved under subsection (b)) for the discharge of any graywater, bilge water, cooling water, weather deck runoff, oil water separator effluent, or effluent from properly functioning marine engines, or any other discharge that is incidental to the normal operation of a vessel, if the discharge is from a recreational vessel.”

SEC. 3. DEFINITION.

Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

“(25) RECREATIONAL VESSEL.—

“(A) IN GENERAL.—The term ‘recreational vessel’ means any vessel that is—

“(i) manufactured or used primarily for pleasure;

or

“(ii) leased, rented, or chartered to a person for the pleasure of that person.

“(B) EXCLUSION.—The term ‘recreational vessel’ does not include a vessel that is subject to Coast Guard inspection and that—

“(i) is engaged in commercial use; or

“(ii) carries paying passengers.”

SEC. 4. MANAGEMENT PRACTICES FOR RECREATIONAL VESSELS.

Section 312 of the Federal Water Pollution Control Act (33 U.S.C. 1322) is amended by adding at the end the following:

“(o) MANAGEMENT PRACTICES FOR RECREATIONAL VESSELS.—

“(1) APPLICABILITY.—This subsection applies to any discharge, other than a discharge of sewage, from a recreational vessel that is—

“(A) incidental to the normal operation of the vessel;
and

“(B) exempt from permitting requirements under section 402(r).

“(2) DETERMINATION OF DISCHARGES SUBJECT TO MANAGEMENT PRACTICES.—

“(A) DETERMINATION.—

“(i) IN GENERAL.—The Administrator, in consultation with the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and interested States, shall determine the discharges incidental to the normal operation of a recreational vessel for which it is reasonable and practicable to develop management practices to mitigate adverse impacts on the waters of the United States.

“(ii) PROMULGATION.—The Administrator shall promulgate the determinations under clause (i) in accordance with section 553 of title 5, United States Code.

“(iii) MANAGEMENT PRACTICES.—The Administrator shall develop management practices for recreational vessels in any case in which the Administrator determines that the use of those practices is reasonable and practicable.

“(B) CONSIDERATIONS.—In making a determination under subparagraph (A), the Administrator shall consider—

“(i) the nature of the discharge;

“(ii) the environmental effects of the discharge;

“(iii) the practicability of using a management practice;

“(iv) the effect that the use of a management practice would have on the operation, operational capability, or safety of the vessel;

“(v) applicable Federal and State law;

“(vi) applicable international standards; and

“(vii) the economic costs of the use of the management practice.

“(C) TIMING.—The Administrator shall—

“(i) make the initial determinations under subparagraph (A) not later than 1 year after the date of enactment of this subsection; and

“(ii) every 5 years thereafter—

“(I) review the determinations; and

“(II) if necessary, revise the determinations based on any new information available to the Administrator.

Deadlines.

“(3) PERFORMANCE STANDARDS FOR MANAGEMENT PRACTICES.—

“(A) IN GENERAL.—For each discharge for which a management practice is developed under paragraph (2), the Administrator, in consultation with the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, other interested Federal agencies, and interested States, shall promulgate, in accordance with section 553 of title 5, United States Code, Federal standards of performance for each management practice required with respect to the discharge.

“(B) CONSIDERATIONS.—In promulgating standards under this paragraph, the Administrator shall take into account the considerations described in paragraph (2)(B).

“(C) CLASSES, TYPES, AND SIZES OF VESSELS.—The standards promulgated under this paragraph may—

“(i) distinguish among classes, types, and sizes of vessels;

“(ii) distinguish between new and existing vessels; and

“(iii) provide for a waiver of the applicability of the standards as necessary or appropriate to a particular class, type, age, or size of vessel.

Deadlines.

“(D) TIMING.—The Administrator shall—

“(i) promulgate standards of performance for a management practice under subparagraph (A) not later than 1 year after the date of a determination under paragraph (2) that the management practice is reasonable and practicable; and

“(ii) every 5 years thereafter—

“(I) review the standards; and

“(II) if necessary, revise the standards, in accordance with subparagraph (B) and based on any new information available to the Administrator.

“(4) REGULATIONS FOR THE USE OF MANAGEMENT PRACTICES.—

“(A) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall promulgate such regulations governing the design, construction, installation, and use of management practices for recreational vessels as are necessary to meet the standards of performance promulgated under paragraph (3).

“(B) REGULATIONS.—

Deadline.

“(i) IN GENERAL.—The Secretary shall promulgate the regulations under this paragraph as soon as practicable after the Administrator promulgates standards with respect to the practice under paragraph (3), but not later than 1 year after the date on which the Administrator promulgates the standards.

“(ii) EFFECTIVE DATE.—The regulations promulgated by the Secretary under this paragraph shall be effective upon promulgation unless another effective date is specified in the regulations.

“(iii) CONSIDERATION OF TIME.—In determining the effective date of a regulation promulgated under this paragraph, the Secretary shall consider the period of time necessary to communicate the existence of the regulation to persons affected by the regulation.

“(5) EFFECT OF OTHER LAWS.—This subsection shall not affect the application of section 311 to discharges incidental to the normal operation of a recreational vessel.

“(6) PROHIBITION RELATING TO RECREATIONAL VESSELS.—After the effective date of the regulations promulgated by the Secretary of the department in which the Coast Guard is operating under paragraph (4), the owner or operator of a recreational vessel shall neither operate in nor discharge any discharge incidental to the normal operation of the vessel into,

the waters of the United States or the waters of the contiguous zone, if the owner or operator of the vessel is not using any applicable management practice meeting standards established under this subsection.”.

Approved July 29, 2008.

LEGISLATIVE HISTORY—S. 2766:

SENATE REPORTS: No. 110-398 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 154 (2008):

July 22, considered and passed Senate and House.