

## Union Calendar No. 488

110TH CONGRESS  
2D SESSION

# H. R. 5949

[Report No. 110-765]

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

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### IN THE HOUSE OF REPRESENTATIVES

MAY 1, 2008

Mr. LATOURETTE (for himself and Mrs. MILLER of Michigan) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

JULY 22, 2008

Additional sponsors: Mr. COBLE, Mr. FILNER, Ms. SCHWARTZ, Mr. WHITFIELD of Kentucky, Mr. KIND, Mr. KAGEN, Mr. PAUL, Mr. CARTER, Mr. GERLACH, Mr. WALSH of New York, Mr. FARR, Mr. ENGLISH of Pennsylvania, Ms. SUTTON, Mrs. GILLIBRAND, Mr. KING of New York, Mr. BOREN, Mr. SARBANES, Mr. KLEIN of Florida, Mr. ROGERS of Kentucky, Mr. SHAYS, Mr. GOODE, Mr. ISRAEL, Mr. KNOLLENBERG, Mr. KUHL of New York, Mr. HAYES, Ms. KAPTUR, and Mr. CAMPBELL of California

JULY 22, 2008

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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## A BILL

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

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Clean Boating Act of  
5       2008”.

6       **SEC. 2. DISCHARGES INCIDENTAL TO THE NORMAL OPER-**  
7                               **ATION OF RECREATIONAL VESSELS.**

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

11       “(r) DISCHARGES INCIDENTAL TO THE NORMAL OP-  
12      ERATION OF RECREATIONAL VESSELS.—No permit shall  
13      be required under this Act by the Administrator (or a  
14      State, in the case of a permit program approved under  
15      subsection (b)) for the discharge of any graywater, bilge  
16      water, cooling water, weather deck runoff, oil water sepa-  
17      rator effluent, or effluent from properly functioning ma-  
18      rine engines, or any other discharge that is incidental to  
19      the normal operation of a vessel, if the discharge is from  
20      a recreational vessel.”.

21      **SEC. 3. DEFINITION.**

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

25                               “(25) RECREATIONAL VESSEL.—

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

3                               “(i) manufactured or used primarily  
4                               for pleasure; or

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

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

10                               “(i) is engaged in commercial use; or

11                               “(ii) carries paying passengers.”.

12 **SEC. 4. MANAGEMENT PRACTICES FOR RECREATIONAL**  
13 **VESSELS.**

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

17           “(o) MANAGEMENT PRACTICES FOR RECREATIONAL  
18 VESSELS.—

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

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

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

1           “(2) DETERMINATION OF DISCHARGES SUB-  
2           JECT TO MANAGEMENT PRACTICES.—

3           “(A) DETERMINATION.—

4           “(i) IN GENERAL.—The Adminis-  
5           trator, in consultation with the Secretary  
6           of the department in which the Coast  
7           Guard is operating, the Secretary of Com-  
8           merce, and interested States, shall deter-  
9           mine the discharges incidental to the nor-  
10          mal operation of a recreational vessel for  
11          which it is reasonable and practicable to  
12          develop management practices to mitigate  
13          adverse impacts on the waters of the  
14          United States.

15          “(ii) PROMULGATION.—The Adminis-  
16          trator shall promulgate the determinations  
17          under clause (i) in accordance with section  
18          553 of title 5, United States Code.

19          “(iii) MANAGEMENT PRACTICES.—The  
20          Administrator shall develop management  
21          practices for recreational vessels in any  
22          case in which the Administrator deter-  
23          mines that the use of those practices is  
24          reasonable and practicable.

1 “(B) CONSIDERATIONS.—In making a de-  
2 termination under subparagraph (A), the Ad-  
3 ministrator shall consider—

4 “(i) the nature of the discharge;

5 “(ii) the environmental effects of the  
6 discharge;

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

9 “(iv) the effect that the use of a man-  
10 agement practice would have on the oper-  
11 ation, operational capability, or safety of  
12 the vessel;

13 “(v) applicable Federal and State law;

14 “(vi) applicable international stand-  
15 ards; and

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

18 “(C) TIMING.—The Administrator shall—

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

23 “(ii) every 5 years thereafter—

24 “(I) review the determinations;  
25 and

1 “(II) if necessary, revise the de-  
2 terminations based on any new infor-  
3 mation available to the Administrator.

4 “(3) PERFORMANCE STANDARDS FOR MANAGE-  
5 MENT PRACTICES.—

6 “(A) IN GENERAL.—For each discharge  
7 for which a management practice is developed  
8 under paragraph (2), the Administrator, in con-  
9 sultation with the Secretary of the department  
10 in which the Coast Guard is operating, the Sec-  
11 retary of Commerce, other interested Federal  
12 agencies, and interested States, shall promul-  
13 gate, in accordance with section 553 of title 5,  
14 United States Code, Federal standards of per-  
15 formance for each management practice re-  
16 quired with respect to the discharge.

17 “(B) CONSIDERATIONS.—In promulgating  
18 standards under this paragraph, the Adminis-  
19 trator shall take into account the considerations  
20 described in paragraph (2)(B).

21 “(C) CLASSES, TYPES, AND SIZES OF VES-  
22 SELS.—The standards promulgated under this  
23 paragraph may—

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

1 “(ii) distinguish between new and ex-  
2 isting vessels; and

3 “(iii) provide for a waiver of the appli-  
4 cability of the standards as necessary or  
5 appropriate to a particular class, type, age,  
6 or size of vessel.

7 “(D) TIMING.—The Administrator shall—

8 “(i) promulgate standards of perform-  
9 ance for a management practice under  
10 subparagraph (A) not later than 1 year  
11 after the date of a determination under  
12 paragraph (2) that the management prac-  
13 tice is reasonable and practicable; and

14 “(ii) every 5 years thereafter—

15 “(I) review the standards; and

16 “(II) if necessary, revise the  
17 standards, in accordance with sub-  
18 paragraph (B) and based on any new  
19 information available to the Adminis-  
20 trator.

21 “(4) REGULATIONS FOR THE USE OF MANAGE-  
22 MENT PRACTICES.—

23 “(A) IN GENERAL.—The Secretary of the  
24 department in which the Coast Guard is oper-  
25 ating shall promulgate such regulations gov-

1           erning the design, construction, installation,  
2           and use of management practices for rec-  
3           reational vessels as are necessary to meet the  
4           standards of performance promulgated under  
5           paragraph (3).

6           “(B) REGULATIONS.—

7                   “(i) IN GENERAL.—The Secretary  
8           shall promulgate the regulations under this  
9           paragraph as soon as practicable after the  
10          Administrator promulgates standards with  
11          respect to the practice under paragraph  
12          (3), but not later than 1 year after the  
13          date on which the Administrator promul-  
14          gates the standards.

15                  “(ii) EFFECTIVE DATE.—The regula-  
16          tions promulgated by the Secretary under  
17          this paragraph shall be effective upon pro-  
18          mulgation unless another effective date is  
19          specified in the regulations.

20                  “(iii) CONSIDERATION OF TIME.—In  
21          determining the effective date of a regula-  
22          tion promulgated under this paragraph,  
23          the Secretary shall consider the period of  
24          time necessary to communicate the exist-



1                   ence of the regulation to persons affected  
2                   by the regulation.

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

7                   “(6) PROHIBITION RELATING TO REC-  
8                   REATIONAL VESSELS.—After the effective date of  
9                   the regulations promulgated by the Secretary of the  
10                  department in which the Coast Guard is operating  
11                  under paragraph (4), the owner or operator of a rec-  
12                  reational vessel shall neither operate in nor dis-  
13                  charge any discharge incidental to the normal oper-  
14                  ation of the vessel into, the waters of the United  
15                  States or the waters of the contiguous zone, if the  
16                  owner or operator of the vessel is not using any ap-  
17                  plicable management practice meeting standards es-  
18                  tablished under this subsection.”.

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