

110TH CONGRESS  
2D SESSION

**S.** \_\_\_\_\_

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 SENATE OF THE UNITED STATES

Mr. NELSON of Florida (for himself and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on

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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”.

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

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

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

16 **SEC. 3. DEFINITION.**

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

20 “(25) RECREATIONAL VESSEL.—

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

23 “(i) manufactured or used primarily  
24 for pleasure; or

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

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

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

5                               “(ii) carries paying passengers.”.

6 **SEC. 4. MANAGEMENT PRACTICES FOR RECREATIONAL**  
7                               **VESSELS.**

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

11                   “(o) MANAGEMENT PRACTICES FOR RECREATIONAL  
12 VESSELS.—

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

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

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

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

22                                       “(A) DETERMINATION.—

23   “(i) IN GENERAL.—The Adminis-  
24                   trator, in consultation with the Secretary  
25                   of the department in which the Coast

1           Guard is operating, the Secretary of Com-  
2           merce, and interested States, shall deter-  
3           mine the discharges incidental to the nor-  
4           mal operation of a recreational vessel for  
5           which it is reasonable and practicable to  
6           develop management practices to mitigate  
7           adverse impacts on the waters of the  
8           United States.

9           “(ii) PROMULGATION.—The Adminis-  
10          trator shall promulgate the determinations  
11          under clause (i) in accordance with section  
12          553 of title 5, United States Code.

13          “(iii) MANAGEMENT PRACTICES.—The  
14          Administrator shall develop management  
15          practices for recreational vessels in any  
16          case in which the Administrator deter-  
17          mines that the use of those practices is  
18          reasonable and practicable.

19          “(B) CONSIDERATIONS.—In making a de-  
20          termination under subparagraph (A), the Ad-  
21          ministrators shall consider—

22                  “(i) the nature of the discharge;

23                  “(ii) the environmental effects of the  
24          discharge;

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

3 “(iv) the effect that the use of a man-  
4 agement practice would have on the oper-  
5 ation, operational capability, or safety of  
6 the vessel;

7 “(v) applicable Federal and State law;

8 “(vi) applicable international stand-  
9 ards; and

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

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

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

17 “(ii) every 5 years thereafter—

18 “(I) review the determinations;

19 and

20 “(II) if necessary, revise the de-  
21 terminations based on any new infor-  
22 mation available to the Administrator.

23 “(3) PERFORMANCE STANDARDS FOR MANAGE-  
24 MENT PRACTICES.—

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

12          “(B) CONSIDERATIONS.—In promulgating  
13          standards under this paragraph, the Adminis-  
14          trator shall take into account the considerations  
15          described in paragraph (2)(B).

16          “(C) CLASSES, TYPES, AND SIZES OF VES-  
17          SELS.—The standards promulgated under this  
18          paragraph may—

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

21                 “(ii) distinguish between new and ex-  
22                 isting vessels; and

23                 “(iii) provide for a waiver of the appli-  
24                 cability of the standards as necessary or

1 appropriate to a particular class, type, age,  
2 or size of vessel.

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

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

10 “(ii) every 5 years thereafter—

11 “(I) review the standards; and

12 “(II) if necessary, revise the  
13 standards, in accordance with sub-  
14 paragraph (B) and based on any new  
15 information available to the Adminis-  
16 trator.

17 “(4) REGULATIONS FOR THE USE OF MANAGE-  
18 MENT PRACTICES.—

19 “(A) IN GENERAL.—The Secretary of the  
20 department in which the Coast Guard is oper-  
21 ating shall promulgate such regulations gov-  
22 erning the design, construction, installation,  
23 and use of management practices for rec-  
24 reational vessels as are necessary to meet the

1 standards of performance promulgated under  
2 paragraph (3).

3 “(B) REGULATIONS.—

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

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

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

24 “(5) EFFECT OF OTHER LAWS.—This sub-  
25 section shall not affect the application of section 311

1 to discharges incidental to the normal operation of  
2 a recreational vessel.

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