

113TH CONGRESS
1ST SESSION

H. R. 3464

To amend the Federal Water Pollution Control Act with respect to discharges incidental to the normal operation of certain vessels.

IN THE HOUSE OF REPRESENTATIVES

NOVEMBER 13, 2013

Mr. LOBIONDO (for himself and Mr. LARSEN of Washington) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To amend the Federal Water Pollution Control Act with respect to discharges incidental to the normal operation of certain vessels.

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 “Commercial Vessel
5 Discharges Reform Act of 2013”.

6 **SEC. 2. DISCHARGES INCIDENTAL TO THE NORMAL OPER-**
7 **ATION OF A COVERED VESSEL.**

8 (a) DISCHARGES INCIDENTAL TO THE NORMAL OP-
9 ERATION OF A COVERED VESSEL.—

1 (1) NO PERMIT REQUIRED.—Section 402 of the
2 Federal Water Pollution Control Act (33 U.S.C.
3 1342) is amended by adding at the end the fol-
4 lowing:

5 “(s) DISCHARGES INCIDENTAL TO THE NORMAL OP-
6 ERATION OF A COVERED VESSEL.—No permit shall be re-
7 quired under this Act by the Administrator (or a State,
8 in the case of a permit program approved under subsection
9 (b)) for a discharge incidental to the normal operation of
10 a covered vessel (as defined in section 312(p)).”.

11 (2) BEST MANAGEMENT PRACTICES FOR COV-
12 ERED VESSELS.—Section 312 of the Federal Water
13 Pollution Control Act (33 U.S.C. 1342) is amended
14 by adding at the end the following:

15 “(p) BEST MANAGEMENT PRACTICES FOR COVERED
16 VESSELS.—

17 “(1) DEFINITIONS.—In this subsection, the fol-
18 lowing definitions apply:

19 “(A) COVERED VESSEL.—The term ‘cov-
20 ered vessel’ means every description of
21 watercraft, or other artificial contrivance used
22 or capable of being used as a means of trans-
23 portation on water, that is engaged in commer-
24 cial service (as defined under section 2101 of
25 title 46, United States Code), and—

1 “(i) is less than 79 feet in length; or

2 “(ii) is a fishing vessel (as defined in
3 section 2101 of title 46, United States
4 Code), regardless of length of the vessel.

5 “(B) DISCHARGE INCIDENTAL TO THE
6 NORMAL OPERATION OF A COVERED VESSEL.—

7 “(i) IN GENERAL.—The term ‘dis-
8 charge incidental to the normal operation
9 of a covered vessel’ means—

10 “(I) a discharge into navigable
11 waters from a covered vessel of—

12 “(aa)(AA) graywater (except
13 graywater referred to in section
14 312(a)(6)), bilge water, cooling
15 water, oil water separator efflu-
16 ent, anti-fouling hull coating
17 leachate, boiler or economizer
18 blowdown, byproducts from ca-
19 thodic protection, controllable
20 pitch propeller and thruster hy-
21 draulic fluid, distillation and re-
22 verse osmosis brine, elevator pit
23 effluent, firemain system efflu-
24 ent, freshwater layup effluent,
25 gas turbine wash water, motor

1 gasoline and compensating efflu-
2 ent, refrigeration and air conden-
3 sate effluent, seawater pumping
4 biofouling prevention substances,
5 boat engine wet exhaust, sonar
6 dome effluent, exhaust gas scrub-
7 ber washwater, or stern tube
8 packing gland effluent; or

9 “(BB) any other pollutant
10 associated with the operation of a
11 marine propulsion system, ship-
12 board maneuvering system, hab-
13 itability system, or installed
14 major equipment, or from a pro-
15 tective, preservative, or absorp-
16 tive application to the hull of a
17 covered vessel;

18 “(bb) weather deck runoff,
19 deck wash, aqueous film forming
20 foam effluent, chain locker efflu-
21 ent, non-oily machinery waste-
22 water, underwater ship hus-
23 bandry effluent, welldeck efflu-
24 ent, or fish hold and fish hold
25 cleaning effluent; or

1 “(cc) any effluent from a
2 properly functioning marine en-
3 gine; or

4 “(II) a discharge of a pollutant
5 into navigable waters in connection
6 with the testing, maintenance, and re-
7 pair of a system, equipment, or an en-
8 gine described in item (aa)(BB) or
9 (cc) of subclause (I) whenever the cov-
10 ered vessel is waterborne.

11 “(ii) EXCLUSION.—The term ‘dis-
12 charge incidental to the normal operation
13 of a covered vessel’ does not include—

14 “(I) a discharge into navigable
15 waters from a covered vessel of—

16 “(aa) ballast water;

17 “(bb) rubbish, trash, gar-
18 bage, incinerator ash, or other
19 such material discharged over-
20 board;

21 “(cc) oil or a hazardous sub-
22 stance within the meaning of sec-
23 tion 311; or

24 “(dd) sewage within the
25 meaning of section 312;

1 “(II) an emission of an air pol-
2 lutant resulting from the operation
3 onboard a covered vessel of a vessel
4 propulsion system, motor driven
5 equipment, or incinerator; or

6 “(III) a discharge into navigable
7 waters from a covered vessel when the
8 covered vessel is operating in a capac-
9 ity other than as a means of transpor-
10 tation on water.

11 “(2) DETERMINATION OF DISCHARGES SUB-
12 JECT TO BEST MANAGEMENT PRACTICES.—

13 “(A) DETERMINATION.—

14 “(i) IN GENERAL.—The Adminis-
15 trator, in consultation with the Secretary
16 of the department in which the Coast
17 Guard is operating, shall determine the
18 discharges incidental to the normal oper-
19 ation of a covered vessel for which it is
20 reasonable and practicable to develop best
21 management practices to mitigate the ad-
22 verse impacts of such discharges on the
23 waters of the United States.

24 “(ii) PROMULGATION.—The Adminis-
25 trator shall promulgate the determinations

1 under clause (i) in accordance with section
2 553 of title 5, United States Code.

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

6 “(i) the nature of the discharge;

7 “(ii) the environmental effects of the
8 discharge, including characteristics of the
9 receiving waters;

10 “(iii) the effectiveness of the best
11 management practice in reducing adverse
12 impacts of the discharge on water quality;

13 “(iv) the practicability of developing
14 and using a best management practice;

15 “(v) the effect that the use of a best
16 management practice would have on the
17 operation, operational capability, or safety
18 of the vessel;

19 “(vi) applicable Federal and State
20 law;

21 “(vii) applicable international stand-
22 ards; and

23 “(viii) the economic costs of the use of
24 the best management practice.

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

1 “(i) make initial determinations under
2 subparagraph (A) not later than 1 year
3 after the date of enactment of this sub-
4 section; and

5 “(ii) every 5 years thereafter—

6 “(I) review the determinations;
7 and

8 “(II) if necessary, revise the de-
9 terminations based on any new infor-
10 mation available to the Administrator.

11 “(3) REGULATIONS FOR THE USE OF BEST
12 MANAGEMENT PRACTICES.—

13 “(A) IN GENERAL.—The Secretary of the
14 department in which the Coast Guard is oper-
15 ating, in consultation with the Administrator,
16 shall promulgate regulations on the use of best
17 management practices for discharges incidental
18 to the normal operation of a covered vessel that
19 the Administrator determines are reasonable
20 and practicable to develop under paragraph (2).

21 “(B) REGULATIONS.—

22 “(i) IN GENERAL.—The Secretary
23 shall promulgate the regulations under this
24 paragraph as soon as practicable after the

1 Administrator makes determinations pur-
2 suant to paragraph (2).

3 “(ii) CONSIDERATIONS.—In promul-
4 gating regulations under this paragraph,
5 the Secretary may—

6 “(I) distinguish among classes,
7 types, and sizes of vessels;

8 “(II) distinguish between new
9 and existing vessels; and

10 “(III) provide for a waiver of the
11 applicability of the standards as nec-
12 essary or appropriate to a particular
13 class, type, age, or size of vessel.

14 “(4) EFFECT OF OTHER LAWS.—This sub-
15 section shall not affect the application of section 311
16 to a covered vessel.

17 “(5) PROHIBITION RELATING TO COVERED VES-
18 SELS.—After the effective date of the regulations
19 promulgated by the Secretary of the department in
20 which the Coast Guard is operating under paragraph
21 (3), the owner or operator of a covered vessel shall
22 neither operate in, nor discharge any discharge inci-
23 dental to the normal operation of the vessel into,
24 navigable waters, if the owner or operator of the ves-
25 sel is not using any applicable best management

1 practice meeting standards established under this
2 subsection.”.

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