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1ST SESSION

# H. R. 802

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IN THE SENATE OF THE UNITED STATES

MARCH 27, 2007

Received

MARCH 28, 2007

Read twice and referred to the Committee on Commerce, Science, and  
Transportation

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## AN ACT

To amend the Act to Prevent Pollution from Ships to  
implement MARPOL Annex VI.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Maritime Pollution  
3 Prevention Act of 2007”.

4 **SEC. 2. REFERENCES.**

5 Wherever in this Act an amendment or repeal is ex-  
6 pressed in terms of an amendment to or a repeal of a sec-  
7 tion or other provision, the reference shall be considered  
8 to be made to a section or other provision of the Act to  
9 Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).

10 **SEC. 3. DEFINITIONS.**

11 Section 2(a) (33 U.S.C. 1901(a)) is amended—

12 (1) by redesignating the paragraphs (1)  
13 through (12) as paragraphs (2) through (13), re-  
14 spectively;

15 (2) by inserting before paragraph (2) (as so re-  
16 designated) the following:

17 “(1) ‘Administrator’ means the Administrator  
18 of the Environmental Protection Agency.”;

19 (3) in paragraph (5) (as so redesignated) by  
20 striking “and V” and inserting “V, and VI”;

21 (4) in paragraph (6) (as so redesignated) by  
22 striking “‘discharge’ and ‘garbage’ and ‘harmful  
23 substance’ and ‘incident’” and inserting “‘dis-  
24 charge’, ‘emission’, ‘garbage’, ‘harmful substance’,  
25 and ‘incident’”; and

1           (5) by redesignating paragraphs (7) through  
2           (13) (as redesignated) as paragraphs (8) through  
3           (14), respectively, and inserting after paragraph (6)  
4           (as redesignated) the following:

5           “(7) ‘navigable waters’ includes the territorial  
6           sea of the United States (as defined in Presidential  
7           Proclamation 5928 of December 27, 1988) and the  
8           internal waters of the United States;”.

9 **SEC. 4. APPLICABILITY.**

10          Section 3 (33 U.S.C. 1902) is amended—

11           (1) in subsection (a)—

12                (A) by striking “and” at the end of para-  
13                graph (3);

14                (B) by striking the period at the end of  
15                paragraph (4) and inserting “; and”; and

16                (C) by adding at the end the following:

17           “(5) with respect to Annex VI to the Conven-  
18           tion, and other than with respect to a ship referred  
19           to in paragraph (1)—

20                “(A) to a ship that is in a port, shipyard,  
21                offshore terminal, or the internal waters of the  
22                United States;

23                “(B) to a ship that is bound for, or depart-  
24                ing from, a port, shipyard, offshore terminal, or

1 the internal waters of the United States, and is  
2 in—

3 “(i) the navigable waters of the  
4 United States;

5 “(ii) an emission control area des-  
6 ignated pursuant to section 4; or

7 “(iii) any other area that the Admin-  
8 istrator, in consultation with the Secretary  
9 and each State in which any part of the  
10 area is located, has designated by order as  
11 being an area from which emissions from  
12 ships are of concern with respect to protec-  
13 tion of public health, welfare, or the envi-  
14 ronment;

15 “(C) to a ship that is entitled to fly the  
16 flag of, or operating under the authority of, a  
17 party to Annex VI, and is in—

18 “(i) the navigable waters of the  
19 United States;

20 “(ii) an emission control area des-  
21 ignated under section 4; or

22 “(iii) any other area that the Admin-  
23 istrator, in consultation with the Secretary  
24 and each State in which any part of the  
25 area is located, has designated by order as

1 being an area from which emissions from  
2 ships are of concern with respect to protec-  
3 tion of public health, welfare, or the envi-  
4 ronment; and

5 “(D) to the extent consistent with inter-  
6 national law, to any other ship that is in—

7 “(i) the exclusive economic zone of the  
8 United States;

9 “(ii) the navigable waters of the  
10 United States;

11 “(iii) an emission control area des-  
12 ignated under section 4; or

13 “(iv) any other area that the Adminis-  
14 trator, in consultation with the Secretary  
15 and each State in which any part of the  
16 area is located, has designated by order as  
17 being an area from which emissions from  
18 ships are of concern with respect to protec-  
19 tion of public health, welfare, or the envi-  
20 ronment.”;

21 (2) in subsection (b)—

22 (A) in paragraph (1) by striking “para-  
23 graph (2)” and inserting “paragraphs (2) and  
24 (3)”; and

25 (B) by adding at the end the following:

1       “(3) With respect to Annex VI the Administrator, or  
2 the Secretary, as relevant to their authorities pursuant to  
3 this Act, may determine that some or all of the require-  
4 ments under this Act shall apply to one or more classes  
5 of public vessels, except that such a determination by the  
6 Administrator shall have no effect unless the head of the  
7 Department or agency under which the vessels operate  
8 concurs in the determination. This paragraph does not  
9 apply during time of war or during a declared national  
10 emergency.”;

11           (3) by redesignating subsections (e) through (g)  
12 as subsections (d) through (h), respectively, and in-  
13 sserting after subsection (b) the following:

14       “(c) APPLICATION TO OTHER PERSONS.—This Act  
15 shall apply to all persons to the extent necessary to ensure  
16 compliance with Annex VI to the Convention.”; and

17           (4) in subsection (e), as redesignated—

18           (A) by inserting “or the Administrator,  
19 consistent with section 4 of this Act,” after  
20 “Secretary”;

21           (B) by striking “of section (3)” and insert-  
22 ing “of this section”; and

23           (C) by striking “Protocol, including regula-  
24 tions conforming to and giving effect to the re-  
25 quirements of Annex V” and inserting “Pro-

1           tocol (or the applicable Annex), including regu-  
2           lations conforming to and giving effect to the  
3           requirements of Annex V and Annex VI”.

4 **SEC. 5. ADMINISTRATION AND ENFORCEMENT.**

5           Section 4 (33 U.S.C. 1903) is amended—

6           (1) by redesignating subsections (b) and (c) as  
7           subsections (c) and (d), respectively, and inserting  
8           after subsection (a) the following:

9           “(b) DUTY OF THE ADMINISTRATOR.—In addition to  
10          other duties specified in this Act, the Administrator and  
11          the Secretary, respectively, shall have the following duties  
12          and authorities:

13                 “(1) The Administrator shall, and no other per-  
14          son may, issue Engine International Air Pollution  
15          Prevention certificates in accordance with Annex VI  
16          and the International Maritime Organization’s Tech-  
17          nical Code on Control of Emissions of Nitrogen Ox-  
18          ides from Marine Diesel Engines, on behalf of the  
19          United States for a vessel of the United States as  
20          that term is defined in section 116 of title 46,  
21          United States Code. The issuance of Engine Inter-  
22          national Air Pollution Prevention certificates shall  
23          be consistent with any applicable requirements of  
24          the Clean Air Act or regulations prescribed under  
25          that Act.

1           “(2) The Administrator shall have authority to  
2           administer regulations 12, 13, 14, 15, 16, 17, 18,  
3           and 19 of Annex VI to the Convention.

4           “(3) The Administrator shall, only as specified  
5           in section 8(f), have authority to enforce Annex VI  
6           of the Convention.”;

7           (2) in subsection (c), as redesignated, by redesi-  
8           gnating paragraph (2) as paragraph (4), and insert-  
9           ing after paragraph (1) the following:

10          “(2) In addition to the authority the Secretary has  
11          to prescribe regulations under this Act, the Administrator  
12          shall also prescribe any necessary or desired regulations  
13          to carry out the provisions of regulations 12, 13, 14, 15,  
14          16, 17, 18, and 19 of Annex VI to the Convention.

15          “(3) In prescribing any regulations under this sec-  
16          tion, the Secretary and the Administrator shall consult  
17          with each other, and with respect to regulation 19, with  
18          the Secretary of the Interior.”; and

19          (3) by adding at the end of subsection (c), as  
20          redesignated, the following:

21          “(5) No standard issued by any person or Federal  
22          authority, with respect to emissions from tank vessels sub-  
23          ject to regulation 15 of Annex VI to the Convention, shall  
24          be effective until 6 months after the required notification

1 to the International Maritime Organization by the Sec-  
2 retary.”.

3 **SEC. 6. CERTIFICATES.**

4 Section 5 (33 U.S.C. 1904) is amended—

5 (1) in subsection (a) by striking “The Sec-  
6 retary” and inserting “Except as provided in section  
7 4(b)(1), the Secretary”;

8 (2) in subsection (b) by striking “Secretary  
9 under the authority of the MARPOL protocol.” and  
10 inserting “Secretary or the Administrator under the  
11 authority of this Act.”; and

12 (3) in subsection (e) by striking “environment.”  
13 and inserting “environment or the public health and  
14 welfare.”.

15 **SEC. 7. RECEPTION FACILITIES.**

16 Section 6 (33 U.S.C. 1905) is amended—

17 (1) in subsection (a) by adding at the end the  
18 following:

19 “(3) The Secretary and the Administrator, after con-  
20 sulting with appropriate Federal agencies, shall jointly  
21 prescribe regulations setting criteria for determining the  
22 adequacy of reception facilities for receiving ozone deplet-  
23 ing substances, equipment containing such substances,  
24 and exhaust gas cleaning residues at a port or terminal,  
25 and stating any additional measures and requirements as

1 are appropriate to ensure such adequacy. Persons in  
2 charge of ports and terminals shall provide reception fa-  
3 cilities, or ensure that reception facilities are available, in  
4 accordance with those regulations. The Secretary and the  
5 Administrator may jointly prescribe regulations to certify,  
6 and may issue certificates to the effect, that a port's or  
7 terminal's facilities for receiving ozone depleting sub-  
8 stances, equipment containing such substances, and ex-  
9 haust gas cleaning residues from ships are adequate.”;

10           (2) in subsection (b) by inserting “or the Ad-  
11           ministrator” after “Secretary”;

12           (3) in subsection (e) by striking paragraph (2)  
13           and inserting the following:

14           “(2) The Secretary may deny the entry of a ship to  
15           a port or terminal required by the MARPOL Protocol, this  
16           Act, or regulations prescribed under this section relating  
17           to the provision of adequate reception facilities for gar-  
18           bage, ozone depleting substances, equipment containing  
19           those substances, or exhaust gas cleaning residues, if the  
20           port or terminal is not in compliance with the MARPOL  
21           Protocol, this Act, or those regulations.”;

22           (4) in subsection (f)(1) by striking “Secretary  
23           is” and inserting “Secretary and the Administrator  
24           are”; and

25           (5) in subsection (f)(2) by striking “(A)”.

1 **SEC. 8. INSPECTIONS.**

2 Section 8(f) (33 U.S.C. 1907(f)) is amended to read  
3 as follows:

4 “(f)(1) The Secretary may inspect a ship to which  
5 this Act applies as provided under section 3(a)(5), to  
6 verify whether the ship is in compliance with Annex VI  
7 to the Convention and this Act.

8 “(2) If an inspection under this subsection or any  
9 other information indicates that a violation has occurred,  
10 the Secretary, or the Administrator in a matter referred  
11 by the Secretary, may undertake enforcement action under  
12 this section.

13 “(3) Notwithstanding subsection (b) and paragraph  
14 (2) of this subsection, the Administrator shall have all of  
15 the authorities of the Secretary, as specified in subsection  
16 (b) of this section, for the purposes of enforcing regula-  
17 tions 17 and 18 of Annex VI to the Convention to the  
18 extent that shoreside violations are the subject of the ac-  
19 tion and in any other matter referred to the Administrator  
20 by the Secretary.”.

21 **SEC. 9. AMENDMENTS TO THE PROTOCOL.**

22 Section 10(b) (33 U.S.C. 1909(b)) is amended by in-  
23 serting “or the Administrator as provided for in this Act,”  
24 after “Secretary.”.

25 **SEC. 10. PENALTIES.**

26 Section 9 (33 U.S.C. 1908) is amended—

1           (1) by striking “Protocol,,” each place it ap-  
2           pears and inserting “Protocol,”;

3           (2) in subsection (b)—

4                 (A) by inserting “, or the Administrator as  
5                 provided for in this Act” after “Secretary” the  
6                 first place it appears;

7                 (B) in paragraph (2), by inserting “, or  
8                 the Administrator as provided for in this Act,”  
9                 after “Secretary”; and

10            (C) in the matter after paragraph (2)—

11                 (i) by inserting “, or the Adminis-  
12                 trator as provided for in this Act” after  
13                 “Secretary” the first place it appears; and

14                 (ii) by inserting “, or the Adminis-  
15                 trator as provided for in this Act,” after  
16                 “Secretary” the second and third places it  
17                 appears;

18           (3) in subsection (c), by inserting “, or the Ad-  
19           ministrator as provided for in this Act,” after “Sec-  
20           retary” each place it appears; and

21           (4) in subsection (f), by inserting “, or the Ad-  
22           ministrator as provided for in this Act” after “Sec-  
23           retary” the first place appears.

1 **SEC. 11. EFFECT ON OTHER LAWS.**

2 Section 15 (33 U.S.C. 1911) is amended to read as  
3 follows:

4 **“SEC. 15. EFFECT ON OTHER LAWS.**

5 “Authorities, requirements, and remedies of this Act  
6 supplement and neither amend nor repeal any other au-  
7 thorities, requirements, or remedies conferred by any  
8 other provision of law. Nothing in this Act shall limit,  
9 deny, amend, modify, or repeal any other authority, re-  
10 quirement, or remedy available to the United States or  
11 any other person, except as expressly provided in this  
12 Act.”.

Passed the House of Representatives March 26,  
2007.

Attest:

LORRAINE C. MILLER,

*Clerk.*