

AMENDMENT NO. _____ Calendar No. _____

Purpose: To clarify Congressional intent regarding the regulation of the use of pesticides in or near navigable waters, and for other purposes.

IN THE SENATE OF THE UNITED STATES—112th Cong., 2d Sess.

S. 3240

To reauthorize agricultural programs through 2017, and for other purposes.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mrs. HAGAN (for herself, Mr. CRAPO, Mrs. MCCASKILL, Mr. RISCH, Mr. PRYOR, Mr. CHAMBLISS, and Ms. LANDRIEU)

Viz:

1 On page 1009, after line 11, add the following:

2 **SEC. 12207. USE OF AUTHORIZED PESTICIDES; DISCHARGES**

3 **OF PESTICIDES; REPORT.**

4 (a) USE OF AUTHORIZED PESTICIDES.—Section 3(f)

5 of the Federal Insecticide, Fungicide, and Rodenticide Act

6 (7 U.S.C. 136a(f)) is amended by adding at the end the

7 following:

8 “(5) USE OF AUTHORIZED PESTICIDES.—Ex-

9 cept as provided in section 402(s) of the Federal

10 Water Pollution Control Act (33 U.S.C. 1342), the

1 Administrator or a State shall not require a permit
2 under that Act for a discharge from a point source
3 into navigable waters of—

4 “(A) a pesticide authorized for sale, dis-
5 tribution, or use under this Act; or

6 “(B) the residue of the pesticide, resulting
7 from the application of the pesticide.”.

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

11 “(s) DISCHARGES OF PESTICIDES.—

12 “(1) NO PERMIT REQUIREMENT.—Except as
13 provided in paragraph (2), a permit shall not be re-
14 quired by the Administrator or a State under this
15 Act for a discharge from a point source into navi-
16 gable waters of—

17 “(A) a pesticide authorized for sale, dis-
18 tribution, or use under the Federal Insecticide,
19 Fungicide, and Rodenticide Act (7 U.S.C. 136
20 et seq.); or

21 “(B) the residue of the pesticide, resulting
22 from the application of the pesticide.

23 “(2) EXCEPTIONS.—Paragraph (1) shall not
24 apply to the following discharges of a pesticide or
25 pesticide residue:

1 “(A) A discharge resulting from the appli-
2 cation of a pesticide in violation of a provision
3 of the Federal Insecticide, Fungicide, and
4 Rodenticide Act (7 U.S.C. 136 et seq.) relevant
5 to protecting water quality if—

6 “(i) the discharge would not have oc-
7 curred without the violation; or

8 “(ii) the amount of pesticide or pes-
9 ticide residue in the discharge is greater
10 than would have occurred without the vio-
11 lation.

12 “(B) Stormwater discharges subject to reg-
13 ulation under subsection (p).

14 “(C) The following discharges subject to
15 regulation under this section:

16 “(i) Manufacturing or industrial efflu-
17 ent.

18 “(ii) Treatment works effluent.

19 “(iii) Discharges incidental to the nor-
20 mal operation of a vessel, including a dis-
21 charge resulting from ballasting operations
22 or vessel biofouling prevention.”.

23 (c) REPORT.—Not later than 1 year after the date
24 of enactment of this Act, the Administrator of the Envi-
25 ronmental Protection Agency, in consultation with the

1 Secretary of Agriculture, shall submit a report to the Com-
2 mittee on Environment and Public Works and the Com-
3 mittee on Agriculture of the Senate and the Committee
4 on Transportation and Infrastructure and the Committee
5 on Agriculture of the House of Representatives that in-
6 cludes—

7 (1) the status of intra-agency coordination be-
8 tween the Office of Water and the Office of Pes-
9 ticide Programs of the Environmental Protection
10 Agency regarding streamlining information collec-
11 tion, standards of review, and data use relating to
12 water quality impacts from the registration and use
13 of pesticides;

14 (2) an analysis of the effectiveness of current
15 regulatory actions relating to pesticide registration
16 and use aimed at protecting water quality; and

17 (3) any recommendations on how the Federal
18 Insecticide, Fungicide, and Rodenticide Act (7
19 U.S.C. 136 et seq.) can be modified to better protect
20 water quality and human health.