

109TH CONGRESS
1ST SESSION

H. R. 1636

To establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

APRIL 14, 2005

Mr. FARR (for himself, Mr. SHAYS, Mr. ABERCROMBIE, Mr. ANDREWS, Mrs. CAPPS, Mr. CASE, Mr. GRIJALVA, Mr. HOLT, Mr. HONDA, Mr. LANTOS, Ms. LEE, Mr. McGOVERN, Mr. GEORGE MILLER of California, Mr. MORAN of Virginia, Mr. PALLONE, Mrs. TAUSCHER, Mr. WEINER, Ms. WOOLSEY, Mr. THOMPSON of California, Mr. UDALL of New Mexico, Ms. CARSON, Mr. STARK, Ms. SCHAKOWSKY, Ms. ESHOO, Ms. DELAUBO, and Ms. LINDA T. SÁNCHEZ of California) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To establish national standards for discharges from cruise vessels into the waters of the United States, and for other purposes.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Clean Cruise Ship Act of 2005”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purposes.
Sec. 3. Definitions.
Sec. 4. Prohibitions and conditions regarding the discharge of sewage, graywater, or bilge water.
Sec. 5. Effluent limits for discharges of sewage and graywater.
Sec. 6. Inspection and sampling.
Sec. 7. Employee protection.
Sec. 8. Judicial review.
Sec. 9. Enforcement.
Sec. 10. Citizen suits.
Sec. 11. Alaskan cruise vessels.
Sec. 12. Ballast water.
Sec. 13. Funding.
Sec. 14. Effect on other law.

1 SEC. 2. FINDINGS AND PURPOSES.

2 (a) FINDINGS.—Congress finds that—

3 (1) cruise vessels carry millions of passengers
4 each year, and in 2001 carried 8,400,000 passengers
5 in North America;

6 (2) cruise vessels carry passengers to and
7 through the most beautiful ocean areas in the
8 United States and provide many people in the
9 United States ample opportunities to relax and learn
10 about oceans and marine ecosystems;

11 (3) ocean pollution threatens the beautiful and
12 inspiring oceans and marine wildlife that many
13 cruise vessels intend to present to travelers;

14 (4) cruise vessels generate tremendous quantities
15 of pollution, including—

16 (A) sewage (including sewage sludge);

17 (B) graywater from showers, sinks, laun-
18 dries, baths, and galleys;

1 (C) oily water;

2 (D) toxic chemicals from photo processing,

3 dry cleaning, and paints;

4 (E) ballast water;

5 (F) solid wastes; and

6 (G) emissions of air pollutants;

(5) some of the pollution generated by cruise ships, particularly sewage discharge, can lead to

9 high levels of nutrients that are known to harm and

kill coral reefs and which can increase the quantity of pathogens in the water and heighten the suscepti-

2 ability of many coral species to scarring and disease;

3 (6) laws (including regulations) in effect as of
4 the date of enactment of this Act do not provide

5 adequate controls, monitoring, or enforcement of
6 certain discharges from cruise vessels into the wa-

7 ters of the United States; and

8 (7) to protect coastal and ocean areas of the
9 United States from pollution generated by
10

vessels, new Federal legislation is needed to reduce

and to improve monitoring, reporting, and enforce-

ment of discharges.

16 (4) to ensure that cruise vessels entering ports
17 of the United States comply with all applicable envi-
18 ronmental laws.

19 SEC. 3. DEFINITIONS.

20 In this Act:

21 (1) COMMANDANT.—The term “Commandant”
22 means the Commandant of the Coast Guard.

1 (3) TERRITORIAL SEA.—

24 (A) Lake Erie:

(B) Lake Huron (including Lake Saint Clair);

3 (C) Lake Michigan;

4 (D) Lake Ontario; and

5 (E) Lake Superior.

6 (7) CRUISE VESSEL.—

11 (i) is authorized to carry at least 250
12 passengers; and

13 (ii) has onboard sleeping facilities for
14 each passenger.

15 (B) EXCLUSIONS.—The term “cruise ves-
16 sel” does not include—

19 (ii) a vessel owned and operated by
20 the government of a State.

21 (8) PASSENGER.—

22 (A) IN GENERAL.—The term “passenger”
23 means any person on board a cruise vessel for
24 the purpose of travel.

3 (i) a paying passenger; and
4 (ii) a staffperson, such as a crew
5 member, captain, or officer.

6 (9) PERSON.—The term “person” means—

7 (A) an individual

8 (B) a corporation;

9 (C) a partnership;

10 (D) a limited liability company;

11 (E) an association;

12 (F) a State;

13 (G) a municipality;

14 (H) a commission or political subdivision
15 of a State; and

16 (I) an Indian tribe.

17 (10) CITIZEN.—The term “citizen” means a
18 person that has an interest that is or may be ad-
19 versely affected by any provision of this Act.

20 (11) DISCHARGE.—

21 (A) IN GENERAL.—The term “discharge”
22 means a release of any substance, however
23 caused, from a cruise vessel.

24 (B) INCLUSIONS.—The term "discharge"
25 includes any escape, disposal, spilling, leaking,

1 pumping, emitting or emptying of any sub-
2 stance.

3 (12) SEWAGE.—The term “sewage” means—

4 (A) human body wastes;
5 (B) the wastes from toilets and other re-
6 ceptacles intended to receive or retain human
7 body wastes; and
8 (C) sewage sludge.

9 (13) GRAYWATER.—The term “graywater”
10 means galley, dishwasher, bath, and laundry waste
11 water.

12 (14) BILGE WATER.—The term “bilge water”
13 means wastewater that includes lubrication oils,
14 transmission oils, oil sludge or slops, fuel or oil
15 sludge, used oil, used fuel or fuel filters, or oily
16 waste.

17 (15) SEWAGE SLUDGE.—

18 (A) IN GENERAL.—The term “sewage
19 sludge” means any solid, semi-solid, or liquid
20 residue removed during the treatment of munic-
21 ipal waste water or domestic sewage.

22 (B) INCLUSIONS.—The term “sewage
23 sludge” includes—

1 (i) solids removed during primary,
2 secondary, or advanced waste water treat-
3 ment;

4 (ii) scum;

5 (iii) septage;

6 (iv) portable toilet pumpings;

7 (v) type III marine sanitation device
8 pumpings (as defined in part 159 of title
9 33, Code of Federal Regulations); and

10 (vi) sewage sludge products.

11 (C) EXCLUSIONS.—The term “sewage
12 sludge” does not include—

13 (i) grit or screenings; or

14 (ii) ash generated during the inciner-
15 ation of sewage sludge.

16 (16) INDIAN TRIBE.—The term “Indian tribe”
17 has the meaning given in section 4 of the Indian
18 Self-Determination and Education Assistance Act
19 (25 U.S.C. 450b).

20 SEC. 4. PROHIBITIONS AND CONDITIONS REGARDING THE
21 DISCHARGE OF SEWAGE, GRAYWATER, OR
22 BILGE WATER.

23 (a) PROHIBITION.—

24 (1) IN GENERAL.—Except as provided in para-
25 graph (2) and section 11, no cruise vessel entering

1 a port of the United States may discharge sewage,
2 graywater, or bilge water into the waters of the
3 United States.

4 (2) EXCEPTION.—A cruise vessel described in
5 paragraph (1) may discharge sewage, graywater, or
6 bilge water into the exclusive economic zone but out-
7 side the territorial sea, or, in the case of the Great
8 Lakes, beyond any point that is 12 miles from the
9 shore, only if—

10 (A)(i) in the case of a discharge of sewage
11 or graywater, the discharge meets all applicable
12 effluent limits established under this Act and is
13 in accordance with all other applicable laws (in-
14 cluding regulations); or

15 (ii) in the case of a discharge of bilge
16 water, the discharge is in accordance with all
17 applicable laws (including regulations);

18 (B) the cruise vessel meets all applicable
19 management standards established under this
20 Act; and

21 (C) the cruise vessel is not discharging in
22 an area in which the discharge is otherwise pro-
23 hibited.

24 (b) SAFETY EXCEPTION.—

6 (B) all reasonable precautions have been
7 taken for the purpose of preventing or mini-
8 mizing the discharge.

9 (2) NOTIFICATION OF COMMANDANT.—

10 (A) IN GENERAL.—If the owner, operator,
11 or master, or other individual in charge, of a
12 cruise vessel authorizes a discharge described in
13 paragraph (1), the individual shall notify the
14 Commandant of the decision to authorize the
15 discharge as soon as practicable, but not later
16 than 24 hours, after authorizing the discharge.

17 (B) REPORT.—Not later than 7 days after
18 the date on which an individual described in
19 subparagraph (A) notifies the Commandant of
20 an authorization of a discharge under the safety
21 exception under this paragraph, the individual
22 shall submit to the Commandant a report that
23 includes—

1 (i) the quantity and composition of
2 each discharge made under the safety ex-
3 ception;

4 (ii) the reason for authorizing each
5 discharge;

6 (iii) the location of the vessel during
7 the course of each discharge; and

8 (iv) such other supporting information
9 and data as are requested by the Com-
10 mandant.

11 SEC. 5. EFFLUENT LIMITS FOR DISCHARGES OF SEWAGE
12 AND GRAYWATER.

13 (a) EFFLUENT LIMITS.—

1 age and graywater by cruise vessels into the wa-
2 ters of the United States by 2016; and

(B) require compliance with all relevant water quality criteria standards.

5 (b) MINIMUM LIMITS.—The effluent limits under
6 subsection (a) shall require, at a minimum, that treated
7 sewage and graywater effluent discharges from cruise ves-
8 sels shall, not later than 3 years after the date of enact-
9 ment of this Act, meet the following standards:

20 (B) not more than 10 percent of the sam-
21 ples shall exceed 40 fecal coliform per 100 milli-
22 liters.

1 (c) REVIEW AND REVISION OF EFFLUENT LIMITS.—
2 The Commandant and the Administrator shall jointly—
3 (1) review the effluent limits required by sub-
4 section (a) at least once every 3 years; and
5 (2) revise the effluent limits as necessary to in-
6 corporate technology available at the time of the re-
7 view in accordance with subsection (a)(2).

8 **SEC. 6. INSPECTION AND SAMPLING.**

9 (a) DEVELOPMENT AND IMPLEMENTATION OF IN-
10 SPECTION PROGRAM.—

11 (1) IN GENERAL.—The Commandant, in con-
12 sultation with the Administrator, shall promulgate
13 regulations to implement an inspection, sampling,
14 and testing program sufficient to verify that cruise
15 vessels calling on ports of the United States are in
16 compliance with—

17 (A) this Act (including regulations promul-
18 gated under this Act);

19 (B) the Federal Water Pollution Control
20 Act (33 U.S.C. 1251 et seq.) (including regula-
21 tions promulgated under that Act);

22 (C) other applicable Federal laws and reg-
23 ulations; and

24 (D) all applicable requirements of inter-
25 national agreements.

3 (A) regular announced and unannounced
4 inspections be conducted of any relevant aspect
5 of cruise vessel operations, equipment, or dis-
6 charges, including sampling and testing of
7 cruise vessel discharges; and

(B) each cruise vessel that calls on a port of the United States shall be subject to an unannounced inspection at least annually.

11 (b) REGULATIONS.—Not later than 1 year after the
12 date of enactment of this Act, the Commandant, in con-
13 sultation with the Administrator, shall promulgate regula-
14 tions that, at a minimum—

20 (2) provide for routine announced and unan-
21 nounced inspections of—

22 (A) cruise vessel environmental compliance
23 records and procedures; and

24 (B) the functionality and proper operation
25 of installed equipment for abatement and con-

1 trol of any cruise vessel discharge (which equipment
2 shall include equipment intended to treat
3 sewage, graywater, or bilge water);

8 (A) to conduct that sampling or testing;

9 and

10 (B) to produce any records of the sampling
11 or testing;

24 (c) EVIDENCE OF COMPLIANCE.—

25 (1) VESSEL OF THE UNITED STATES.—

5 (B) ISSUANCE OF CERTIFICATE.—The
6 Commandant may issue a certificate described
7 in subparagraph (A) only after the cruise vessel
8 has been examined and found to be in compli-
9 ance with this Act, including prohibitions on
10 discharges and requirements for effluent limits,
11 as determined by the Commandant.

12 (C) VALIDITY OF CERTIFICATE.—A certifi-
13 cate issued under this paragraph—

14 (i) shall be valid for a period of not
15 more than 5 years, beginning on the date
16 of issuance of the certificate;

17 (ii) may be renewed as specified by
18 the Commandant; and

19 (iii) shall be suspended or revoked if
20 the Commandant determines that the
21 cruise vessel for which the certificate was
22 issued is not in compliance with the condi-
23 tions under which the certificate was
24 issued.

1 (D) SPECIAL CERTIFICATES.—The Com-
2 mandant may issue special certificates to cer-
3 tain vessels that exhibit compliance with this
4 Act and other best practices, as determined by
5 the Commandant.

6 (2) FOREIGN VESSEL.—

14 (B) ISSUANCE OF CERTIFICATE.—The
15 Commandant may issue a certificate described
16 in subparagraph (A) to a cruise vessel only
17 after the cruise vessel has been examined and
18 found to be in compliance with this Act, includ-
19 ing prohibitions on discharges and requirements
20 for effluent limits, as determined by the Com-
21 mandant.

22 (C) ACCEPTANCE OF FOREIGN DOCUMENTATION.—The Commandant may consider
23 a certificate, endorsement, or document issued
24 by the government of a foreign country under
25

1 a treaty, convention, or other international
2 agreement to which the United States is a
3 party, in issuing a certificate of compliance
4 under this paragraph (except that such a cer-
5 tificate, endorsement, or document shall not
6 serve as a proxy for certification of compliance
7 with this Act).

8 (D) VALIDITY OF CERTIFICATE.—A certifi-
9 cate issued under this section—

- 10 (i) shall be valid for a period of not
11 more than 24 months, beginning on the
12 date of issuance of the certificate;
- 13 (ii) may be renewed as specified by
14 the Commandant; and
- 15 (iii) shall be suspended or revoked if
16 the Commandant determines that the
17 cruise vessel for which the certificate was
18 issued is not in compliance with the condi-
19 tions under which the certificate was
20 issued.

21 (d) CRUISE OBSERVER PILOT PROGRAM.—

22 (1) IN GENERAL.—Not later than 1 year after
23 the date of enactment of this Act, the Commandant
24 shall establish, and for each of fiscal years 2006
25 through 2008, shall carry out, a program for the

1 placement of 2 or more independent observers on
2 cruise vessels for the purpose of monitoring and in-
3 specting cruise vessel operations, equipment, and
4 discharges to ensure compliance with—

5 (A) this Act (including regulations promul-
6 gated under this Act); and

7 (B) all other relevant Federal laws (includ-
8 ing regulations) and international agreements.

9 (2) RESPONSIBILITIES.—An observer described
10 in paragraph (1) shall—

11 (A) observe and inspect—

12 (i) onboard environmental treatment
13 systems;

14 (ii) use of shore-based treatment and
15 storage facilities;

16 (iii) discharges and discharge prac-
17 tices; and

18 (iv) blueprints, logbooks, and other
19 relevant information;

20 (B) have the authority to interview and
21 otherwise query any crew member with knowl-
22 edge of vessel operations;

23 (C) have access to all data and information
24 made available to government officials under
25 this section; and

13 (e) ONBOARD MONITORING SYSTEM PILOT PRO-
14 GRAM—

(B) functioning of cruise vessel components relating to pollution control.

8 (A) shall have the ability to record—

9 (i) the location and time of discharges
10 from cruise vessels;

11 (ii) the source, content, and volume of
12 those discharges; and

13 (iii) the state of components relating
14 to pollution control at the time of the dis-
15 charges, including whether the components
16 are operating correctly; and

17 (B) shall be tested on not less than 10 per-
18 cent of all cruise vessels operating in the terri-
19 torial sea of the United States, including large
20 and small vessels.

21 (3) PARTICIPATION OF INDUSTRY.—

22 (A) COMPETITIVE SELECTION PROCESS.—
23 Industry partners willing to participate in the
24 program may do so through a competitive selec-
25 tion process conducted by the Administrator of

1 the National Oceanic and Atmospheric Admin-
2 istration.

3 (B) CONTRIBUTION.—A selected industry
4 partner shall contribute not less than 20 per-
5 cent of the cost of the project in which the in-
6 dustry partner participates.

7 (4) REPORT.—Not later than January 31,
8 2008, the Administrator of the National Oceanic
9 and Atmospheric Administration shall submit to
10 Congress a report describing the results, and rec-
11 ommendations for continuance, of the program
12 under this subsection.

13 **SEC. 7. EMPLOYEE PROTECTION.**

14 (a) PROHIBITION OF DISCRIMINATION AGAINST PER-
15 SONS FILING, INSTITUTING, OR TESTIFYING IN PRO-
16 CEEDINGS UNDER THIS ACT.—No person shall terminate
17 the employment of, or in any other way discriminate
18 against (or cause the termination of employment of or dis-
19 crimination against), any employee or any authorized rep-
20 resentative of employees by reason of the fact that the em-
21 ployee or representative—

22 (1) has filed, instituted, or caused to be filed or
23 instituted any proceeding under this Act; or

4 (b) APPLICATION FOR REVIEW; INVESTIGATION;
5 HEARINGS; REVIEW.—

15 (2) APPLICATION.—A copy of an application for
16 review filed under paragraph (1) shall be sent to the
17 respondent.

18 (3) INVESTIGATION.—

19 (A) IN GENERAL.—On receipt of an appli-
20 cation for review under paragraph (1), the Sec-
21 retary of Labor shall carry out an investigation
22 of the complaint.

23 (B) REQUIREMENTS.—In carrying out this
24 subsection, the Secretary of Labor shall—

(i) provide an opportunity for a public hearing at the request of any party to the review to enable the parties to present information relating to the alleged violation;

(ii) ensure that, at least 5 days before the date of the hearing, each party to the hearing is provided written notice of the time and place of the hearing; and

(iii) ensure that the hearing is on the record and subject to section 554 of title 5, United States Code.

(C) FINDINGS OF COMMANDANT.—On completion of an investigation under this paragraph, the Secretary of Labor shall—

(i) make findings of fact;

(ii) if the Secretary of Labor determines that a violation did occur, issue a decision, incorporating an order and the findings, requiring the person that committed the violation to take such action as is necessary to abate the violation, including the rehiring or reinstatement, with compensation, of an employee or representative of employees to the former position of the employee or representative; and

4 (D) ORDER.—An order issued by the Sec-
5 retary of Labor under subparagraph (C) shall
6 be subject to judicial review in the same man-
7 ner as orders and decisions of the Adminis-
8 trator are subject to judicial review under this
9 Act.

10 (c) COSTS AND EXPENSES.—In any case in which an
11 order is issued under this section to abate a violation, at
12 the request of the applicant, a sum equal to the aggregate
13 amount of all costs and expenses (including attorney's
14 fees), as determined by the Secretary of Labor, to have
15 been reasonably incurred by the applicant for, or in con-
16 nection with, the institution and prosecution of the pro-
17 ceedings, shall be assessed against the person committing
18 the violation.

19 (d) DELIBERATE VIOLATIONS BY EMPLOYEE ACTING
20 WITHOUT DIRECTION FROM EMPLOYER OR AGENT.—
21 This section shall not apply to any employee that, without
22 direction from the employer of the employee (or agent of
23 the employer), deliberately violates any provision of this
24 Act.

1 **SEC. 8. JUDICIAL REVIEW.**

2 (a) REVIEW OF ACTIONS BY ADMINISTRATOR OR

3 COMMANDANT; SELECTION OF COURT; FEES.—

4 (1) REVIEW OF ACTIONS.—

5 (A) IN GENERAL.—Any interested person
6 may petition for a review, in the United States
7 circuit court for the circuit in which the person
8 resides or transacts business directly affected
9 by the action of which review is requested—10 (i) of an action of the Commandant in
11 promulgating any effluent limit under sec-
12 tion 5; or13 (ii) of an action of the Commandant
14 in carrying out an inspection, sampling, or
15 testing under section 6.16 (B) DEADLINE FOR REVIEW.—A petition
17 for review under subparagraph (A) shall be
18 made—19 (i) not later than 120 days after the
20 date of promulgation of the limit or stand-
21 ard relating to the review sought; or22 (ii) if the petition for review is based
23 solely on grounds that arose after the date
24 described in clause (i), as soon as prac-
25 ticable after that date.

13 (b) ADDITIONAL EVIDENCE.—

14 (1) IN GENERAL.—In any judicial proceeding
15 instituted under subsection (a) in which review is
16 sought of a determination under this Act required to
17 be made on the record after notice and opportunity
18 for hearing, if any party applies to the court for
19 leave to adduce additional evidence, and dem-
20 onstrates to the satisfaction of the court that the ad-
21 dditional evidence is material and that there were rea-
22 sonable grounds for the failure to adduce the evi-
23 dence in the proceeding before the Commandant or
24 Administrator, the court may order the additional
25 evidence (and evidence in rebuttal of the additional

1 evidence) to be taken before the Commandant or Ad-
2 ministrator, in such manner and on such terms and
3 conditions as the court determines to be appropriate.

4 (2) MODIFICATION OF FINDINGS.—On admis-
5 sion of additional evidence under paragraph (1), the
6 Commandant or Administrator—

7 (A) may modify findings of fact of the
8 Commandant or Administrator, as the case may
9 be, relating to a judicial proceeding, or make
10 new findings of fact, by reason of the additional
11 evidence so admitted; and

12 (B) shall file with the return of the addi-
13 tional evidence any modified or new findings,
14 and any related recommendations, for the modi-
15 fication or setting aside of any original deter-
16 minations of the Commandant or Adminis-
17 trator.

18 **SEC. 9. ENFORCEMENT.**

19 (a) IN GENERAL.—Any person that violates section
20 4 or any regulation promulgated under this Act may be—

21 (1) assessed a class I or class II penalty de-
22 scribed in subsection (b); or

23 (2) assessed a civil penalty in a civil action
24 under subsection (c).

25 (b) AMOUNT OF ADMINISTRATIVE PENALTY.—

3 (A) \$10,000 per violation; or

4 (B) \$25,000 in the aggregate, in the case
5 of multiple violations.

6 (2) CLASS II.—The amount of a class II civil

7 penalty under subsection (a)(1) shall not exceed—

10 (B) \$125,000 in the aggregate, in the case
11 of multiple violations.

12 (3) SEPARATE VIOLATIONS.—Each day on
13 which a violation continues shall constitute a sepa-
14 rate violation.

19 (A) the seriousness of the violation;

20 (B) any economic benefit resulting from
21 the violation;

22 (C) any history of violations;

23 (D) any good-faith efforts to comply with
24 the applicable requirements;

1 (E) the economic impact of the penalty on
2 the violator; and

3 (F) such other matters as justice may re-
4 quire.

5 (5) PROCEDURE FOR CLASS I PENALTY.—

10 (i) written notice of the proposal of
11 the Commandant to assess the penalty;
12 and

17 (B) HEARING.—A hearing described in
18 subparagraph (A)(ii)—

19 (i) shall not be subject to section 554
20 or 556 of title 5, United States Code; but
21 (ii) shall provide a reasonable oppor-
22 tunity to be heard and to present evidence.

23 (6) PROCEDURE FOR CLASS II PENALTY.—

24 (A) IN GENERAL.—Except as otherwise
25 provided in this subsection, a class II civil pen-

1 alty shall be assessed and collected in the same
2 manner, and subject to the same provisions, as
3 in the case of civil penalties assessed and col-
4 lected after notice and an opportunity for a
5 hearing on the record in accordance with sec-
6 tion 554 of title 5, United States Code.

7 (B) RULES.—The Commandant may pro-
8 mulgate rules for discovery procedures for hear-
9 ings under this subsection.

10 (7) RIGHTS OF INTERESTED PERSONS.—

11 (A) PUBLIC NOTICE.—Before issuing an
12 order assessing a class II civil penalty under
13 this subsection, the Commandant shall provide
14 public notice of and reasonable opportunity to
15 comment on the proposed issuance of each
16 order.

17 (B) PRESENTATION OF EVIDENCE.—

18 (i) IN GENERAL.—Any person that
19 comments on a proposed assessment of a
20 class II civil penalty under this subsection
21 shall be given notice of—

22 (I) any hearing held under this
23 subsection; and

24 (II) any order assessing the pen-
25 alty.

1 (ii) HEARING.—In any hearing de-
2 scribed in clause (i)(I), a person described
3 in clause (i) shall have a reasonable oppor-
4 tunity to be heard and to present evidence.

5 (C) RIGHTS OF INTERESTED PERSONS TO
6 A HEARING.—

7 (i) IN GENERAL.—If no hearing is
8 held under subparagraph (B) before the
9 date of issuance of an order assessing a
10 class II civil penalty under this subsection,
11 any person that commented on the pro-
12 posed assessment may, not later than 30
13 days after the date of issuance of the
14 order, petition the Commandant—

15 (I) to set aside the order; and
16 (II) to provide a hearing on the
17 penalty.

24 (I) set aside the order; and

1 (II) provide a hearing in accord-
2 ance with subparagraph (B)(ii).

9 (8) FINALITY OF ORDER.—

10 (A) IN GENERAL.—An order assessing a
11 class II civil penalty under this subsection shall
12 become final on the date that is 30 days after
13 the date of issuance of the order unless, before
14 that date—

15 (i) a petition for judicial review is
16 filed under paragraph (10); or
17 (ii) a hearing is requested under para-
18 graph (7)(C).

19 (B) DENIAL OF HEARING.—If a hearing is
20 requested under paragraph (7)(C) and subse-
21 quently denied, an order assessing a class II
22 civil penalty under this subsection shall become
23 final on the date that is 30 days after the date
24 of the denial.

5 (10) JUDICIAL REVIEW.—

6 (A) IN GENERAL.—Any person against
7 which a civil penalty is assessed under this sub-
8 section, or that commented on the proposed as-
9 sessment of such a penalty in accordance with
10 paragraph (7), may obtain review of the assess-
11 ment in a court described in subparagraph (B)
12 by—

13 (i) filing a notice of appeal with the
14 court within the 30-day period beginning
15 on the date on which the civil penalty
16 order is issued; and

(B) COURTS OF JURISDICTION.—Review of an assessment under subparagraph (A) may be obtained by a person—

23 (i) in the case of assessment of a class
24 I civil penalty, in—

1 (I) the United States District
2 Court for the District of Columbia; or

3 (II) the United States district
4 court for the district in which the vio-
5 lation occurred; or

11 (II) the United States circuit
12 court for any other circuit in which
13 the person resides or transacts busi-
14 ness.

15 (C) COPY OF RECORD.—On receipt of no-
16 tice under subparagraph (A)(ii), the Com-
17 mandant, shall promptly file with the appro-
18 priate court a certified copy of the record on
19 which the order assessing a civil penalty that is
20 the subject of the review was issued.

21 (D) SUBSTANTIAL EVIDENCE.—A court
22 with jurisdiction over a review under this para-
23 graph—

1 (i) shall not set aside or remand an
2 order described in subparagraph (C) un-
3 less—

4 (I) there is not substantial evi-
5 dence in the record, taken as a whole,
6 to support the finding of a violation;
7 or

8 (II) the assessment by the Com-
9 mandant of the civil penalty con-
10 stitutes an abuse of discretion; and

11 (ii) shall not impose additional civil
12 penalties for the same violation unless the
13 assessment by the Commandant of the civil
14 penalty constitutes an abuse of discretion.

15 (11) COLLECTION.—

16 (A) IN GENERAL.—If any person fails to
17 pay an assessment of a civil penalty after the
18 assessment has become final, or after a court in
19 a proceeding under paragraph (10) has entered
20 a final judgment in favor of the Commandant,
21 the Commandant shall request the Attorney
22 General to bring a civil action in an appropriate
23 district court to recover—

24 (i) the amount assessed; and

1 (ii) interest that has accrued on the
2 amount assessed, as calculated at currently
3 prevailing rates beginning on the date of
4 the final order or the date of the final
5 judgment, as the case may be.

6 (B) NONREVIEWABILITY.—In an action to
7 recover an assessed civil penalty under subparagraph
8 (A), the validity, amount, and appropriateness
9 of the civil penalty shall not be sub-
10 ject to judicial review.

11 (C) FAILURE TO PAY PENALTY.—Any per-
12 son that fails to pay, on a timely basis, the
13 amount of an assessment of a civil penalty
14 under subparagraph (A) shall be required to
15 pay, in addition to the amount of the civil pen-
16 alty and accrued interest—

17 (i) attorney's fees and other costs for
18 collection proceedings; and

19 (ii) for each quarter during which the
20 failure to pay persists, a quarterly non-
21 payment penalty in an amount equal to 20
22 percent of the aggregate amount of the as-
23 sessed civil penalties and nonpayment pen-
24 alties of the person that are unpaid as of
25 the beginning of the quarter.

1 (12) SUBPOENAS.—

11 (i) the United States district court for
12 any district in which the person is found,
13 resides, or transacts business, on applica-
14 tion by the United States and after notice
15 to the person, shall have jurisdiction to
16 issue an order requiring the person to ap-
17 pear and give testimony before the Com-
18 mandant or to appear and produce docu-
19 ments before the Commandant; and

20 (ii) any failure to obey such an order
21 of the court may be punished by the court
22 as a contempt of the court.

23 (c) CIVIL ACTION.—The Commandant may com-
24 mence, in the United States district court for the district
25 in which the defendant is located, resides, or transacts

1 business, a civil action to impose a civil penalty under this
2 subsection in an amount not to exceed \$25,000 for each
3 day of violation.

4 (d) CRIMINAL PENALTIES.—

5 (1) NEGLIGENT VIOLATIONS.—A person that
6 negligently violates section 4 or any regulation pro-
7 mulgated under this Act commits a Class A mis-
8 demeanor.

9 (2) KNOWING VIOLATIONS.—Any person that
10 knowingly violates section 4 or any regulation pro-
11 mulgated under this Act commits a Class D felony.

12 (3) FALSE STATEMENTS.—Any person that
13 knowingly makes any false statement, representa-
14 tion, or certification in any record, report, or other
15 document filed or required to be maintained under
16 this Act or any regulation promulgated under this
17 Act, or that falsifies, tampers with, or knowingly
18 renders inaccurate any testing or monitoring device
19 or method required to be maintained under this Act
20 or any regulation promulgated under this Act, com-
21 mits a Class D felony.

22 (e) REWARDS.—

23 (1) PAYMENTS TO INDIVIDUALS.—

24 (A) IN GENERAL.—The Commandant or
25 the court, as the case may be, may order pay-

1 ment, from a civil penalty or criminal fine col-
2 lected under this section, of an amount not to
3 exceed ½ of the civil penalty or fine, to any in-
4 dividual who furnishes information that leads to
5 the payment of the civil penalty or criminal
6 fine.

7 (B) MULTIPLE INDIVIDUALS.—If 2 or
8 more individuals provide information described
9 in subparagraph (A), the amount available for
10 payment as a reward shall be divided equitably
11 among the individuals.

12 (C) INELIGIBLE INDIVIDUALS.—No officer
13 or employee of the United States, a State, or an
14 Indian tribe who furnishes information or ren-
15 ders service in the performance of the official
16 duties of the officer or employee shall be eligible
17 for a reward payment under this subsection.

8 (f) LIABILITY IN REM.—A cruise vessel operated in
9 violation of this Act or any regulation promulgated under
10 this Act—

11 (1) shall be liable in rem for any civil penalty
12 or criminal fine imposed under this section; and

13 (2) may be subject to a proceeding instituted in
14 the United States district court for any district in
15 which the cruise vessel may be found.

16 (g) COMPLIANCE ORDERS.—

21 (A) issue an order requiring the person to
22 comply with the section or requirement; or

23 (B) bring a civil action in accordance with
24 subsection (b).

25 (2) COPIES OF ORDER, SERVICE.—

5 (B) METHOD OF SERVICE; SPECIFICA-
6 TIONS.—An order issued under this subsection
7 shall—

8 (i) be by personal service;

9 (ii) state with reasonable specificity

10 the nature of the violation for which the

11 order was issued; and

12 (iii) specify a deadline for compliance
13 that is not later than—

14 (I) 30 days after the date of
15 issuance of the order, in the case of a
16 violation of an interim compliance
17 schedule or operation and mainte-
18 nance requirement; and

19 (II) such date as the Com-
20 mandant, taking into account the seri-
21 ousness of the violation and any good
22 faith efforts to comply with applicable
23 requirements, determines to be rea-
24 sonable, in the case of a violation of
25 a final deadline.

1 (h) CIVIL ACTIONS.—

2 (1) IN GENERAL.—The Commandant may com-
3 mence a civil action for appropriate relief, including
4 a permanent or temporary injunction, for any viola-
5 tion for which the Commandant is authorized to
6 issue a compliance order under this subsection.

7 (2) COURT OF JURISDICTION.—

8 (A) IN GENERAL.—A civil action under
9 this subsection may be brought in the United
10 States district court for the district in which
11 the defendant is located, resides, or is doing
12 business.

13 (B) JURISDICTION.—A court described in
14 subparagraph (A) shall have jurisdiction to
15 grant injunctive relief to address a violation,
16 and require compliance, by the defendant.

17 **SEC. 10. CITIZEN SUITS.**

18 (a) AUTHORIZATION.—Except as provided in sub-
19 section (c), any citizen may commence a civil action on
20 his or her own behalf—

21 (1) against any person (including the United
22 States and any other governmental instrumentality
23 or agency to the extent permitted by the eleventh
24 amendment of the Constitution) that is alleged to be
25 in violation of—

11 (b) JURISDICTION.—The United States district
12 courts shall have jurisdiction, without regard to the
13 amount in controversy or the citizenship of the parties—
14 (1) to enforce a condition, effluent limit, per-
15 formance standard, or order described in subsection
16 (a)(1);
17 (2) to order the Administrator or Commandant
18 to perform a nondiscretionary act or duty described
19 in subsection (a)(2); and
20 (3) to apply any appropriate civil penalties
21 under section 9(b).

22 (c) NOTICE.—No action may be commenced under
23 this section—

4 (A) to the Administrator or Commandant;

5 and

6 (B) to any alleged violator of the condition,
7 limit, standard, or order; or

13 (d) VENUE.—

14 (1) IN GENERAL.—Any civil action under this
15 section shall be brought in—

16 (A) the United States District Court for
17 the District of Columbia; or

18 (B) any other United States district court
19 for any judicial district in which a cruise vessel
20 or the owner or operator of a cruise vessel are
21 located.

22 (2) INTERVENTION.—In a civil action under
23 this section, the Administrator or the Commandant,
24 if not a party, may intervene as a matter of right.

25 (3) PROCEDURES.—

- 5 (i) the Attorney General;
- 6 (ii) the Administrator; and
- 7 (iii) the Commandant.

8 (B) CONSENT JUDGMENTS.—No consent
9 judgment shall be entered in a civil action
10 under this section to which the United States is
11 not a party before the date that is 45 days after
12 the date of receipt of a copy of the proposed
13 consent judgment by—

14 (i) the Attorney General;
15 (ii) the Administrator; and
16 (iii) the Commandant.

17 (e) LITIGATION COSTS.—

7 (f) STATUTORY OR COMMON LAW RIGHTS NOT RE-
8 STRICTED.—Nothing in this section restricts the rights of
9 any person (or class of persons) under any statute or com-
10 mon law to seek enforcement or other relief (including re-
11 lief against the Administrator or Commandant).

12 (g) CIVIL ACTION BY STATE GOVERNORS.—A Gov-
13 erner of a State may commence a civil action under sub-
14 section (a) of this section, without regard to the limitation
15 under subsection (c), against the Administrator or Com-
16 mandant in any case in which there is alleged a failure
17 of the Administrator or Commandant to enforce an efflu-
18 ent limit or performance standard under this Act, the vio-
19 lation of which is causing—

1 **SEC. 11. ALASKAN CRUISE VESSELS.**

2 (a) DEFINITION OF ALASKAN CRUISE VESSEL.—In
3 this section, the term “Alaskan cruise vessel” means a
4 cruise vessel—

5 (1) that seasonally operates in water of or sur-
6 rounding the State of Alaska;

7 (2) in which is installed, not later than the date
8 of enactment of this Act (or, at the option of the
9 Commandant, not later than September 30 of the
10 fiscal year in which this Act is enacted), and cer-
11 tified by the State of Alaska for continuous dis-
12 charge and operation in accordance with all applica-
13 ble Federal and State law (including regulations), an
14 advanced treatment system for the treatment and
15 discharge of graywater and sewage; and

16 (3) that enters a port of the United States.

17 (b) APPLICABILITY.—

18 (1) IN GENERAL.—Except as provided in para-
19 graph (2), an Alaskan cruise vessel shall not be sub-
20 ject to this Act (including regulations promulgated
21 under this Act) until the date that is 15 years after
22 the date of enactment of this Act.

23 (2) EXCEPTIONS.—An Alaskan cruise vessel—

24 (A) shall not be subject to the minimum
25 effluent limits prescribed under section 5(b)

11 SEC. 12. BALLAST WATER.

12 It is the sense of Congress that action should be
13 taken to enact legislation requiring strong, mandatory
14 standards for ballast water to reduce the threat of aquatic
15 invasive species.

16 SEC. 13. FUNDING.

17 (a) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to the Commandant and
19 the Administrator such sums as are necessary to carry out
20 this Act for each of fiscal years 2006 through 2010.

21 (b) CRUISE VESSEL POLLUTION CONTROL FUND—

22 (1) ESTABLISHMENT.—There is established in
23 the general fund of the Treasury a separate account
24 to be known as the “Cruise Vessel Pollution Control
25 Fund” (referred to in this section as the “Fund”).

8 (c) FEES ON CRUISE VESSELS.—

14 (2) ADJUSTMENT OF FEE.—

21 (B) ROUNDING.—The Commandant may
22 round the adjustment in subparagraph (A) to
23 the nearest $\frac{1}{10}$ of a dollar.

24 (3) FACTORS IN ESTABLISHING FEES.—

6 (i) size;
7 (ii) economic share; and
8 (iii) such other factors as are deter-
9 mined to be appropriate by the Com-
10 mandant and Administrator.

11 (B) FEE SCHEDULES.—Any fee schedule
12 established under paragraph (1), including the
13 level of fees and the maximum amount of fees,
14 shall take into account—

15 (i) cruise vessel routes;

16 (ii) the frequency of stops at ports of

17 call by cruise vessels; and

18 (iii) other relevant considerations.

1 for violations of this Act, shall be deposited into the
2 Fund.

3 **SEC. 14. EFFECT ON OTHER LAW.**

4 (a) UNITED STATES.—Nothing in this Act restricts,
5 affects, or amends any other law or the authority of any
6 department, instrumentality, or agency of the United
7 States.

8 (b) STATES AND INTERSTATE AGENCIES.—

9 (1) IN GENERAL.—Except as provided in para-
10 graph (2), nothing in this Act precludes or denies
11 the right of any State (including a political subdivi-
12 sion of a State) or interstate agency to adopt or en-
13 force—

14 (A) any standard or limit relating to the
15 discharge of pollutants by cruise ships; or

16 (B) any requirement relating to the control
17 or abatement of pollution.

18 (2) EXCEPTION.—If an effluent limit, perform-
19 ance standard, water quality standard, or any other
20 prohibition or limitation is in effect under Federal
21 law, a State (including a political subdivision of a
22 State) or interstate agency described in paragraph
23 (1) may not adopt or enforce any effluent limit, per-
24 formance standard, water quality standard, or any
25 other prohibition that—

(A) is less stringent than the effluent limit, performance standard, water quality standard, or other prohibition or limitation under this Act, or

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