

108TH CONGRESS  
2D SESSION

# S. 2271

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

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## IN THE SENATE OF THE UNITED STATES

APRIL 1, 2004

Mr. DURBIN (for himself, Mr. LAUTENBERG, Mr. CORZINE, Mrs. FEINSTEIN, Mr. KENNEDY, and Mrs. BOXER) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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## 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 This Act may be cited as the “Clean Cruise Ship Act  
5 of 2004”.

6 (a) SHORT TITLE.—This Act may be cited as the  
7 “Clean Cruise Ship Act of 2004”.

8 (b) TABLE OF CONTENTS.—The table of contents of  
9 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 quan-  
 15 tities 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;

7 (5) some of the pollution generated by cruise  
8 ships, particularly sewage discharge, can lead to  
9 high levels of nutrients that are known to harm and  
10 kill coral reefs and which can increase the quantity  
11 of pathogens in the water and heighten the suscepti-  
12 bility of many coral species to scarring and disease;

13 (6) laws (including regulations) in effect as of  
14 the date of enactment of this Act do not provide  
15 adequate controls, monitoring, or enforcement of  
16 certain discharges from cruise vessels into the wa-  
17 ters of the United States; and

18 (7) to protect coastal and ocean areas of the  
19 United States from pollution generated by cruise  
20 vessels, new Federal legislation is needed to reduce  
21 and better regulate discharges from cruise vessels,  
22 and to improve monitoring, reporting, and enforce-  
23 ment of discharges.

24 (b) PURPOSES.—The purposes of this Act are—

1           (1) to prevent the discharge of any untreated  
2           sewage or graywater from a cruise vessel entering  
3           ports of the United States into the waters of the  
4           United States;

5           (2) to prevent the discharge of any treated sew-  
6           age, sewage sludge, graywater, or bilge water from  
7           cruise vessels entering ports of the United States  
8           into the territorial sea;

9           (3) to establish new national effluent limits and  
10          management standards for the discharge of treated  
11          sewage or graywater from cruise vessels entering  
12          ports of the United States into the exclusive eco-  
13          nomic zone of the United States in any case in  
14          which the discharge is not within an area in which  
15          discharges are prohibited; and

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.

23           (2) **ADMINISTRATOR.**—The term “Adminis-  
24           trator” means the Administrator of the Environ-  
25           mental Protection Agency.

1           (3) TERRITORIAL SEA.—

2                   (A) IN GENERAL.—The term “territorial  
3 sea” means the belt of the sea measured from  
4 the baseline of the United States determined in  
5 accordance with international law, as set forth  
6 in Presidential Proclamation number 5928,  
7 dated December 27, 1988.

8                   (B) INCLUSION.—The term “territorial  
9 sea” includes the waters lying seaward of the  
10 line of ordinary low water and extending to the  
11 baseline of the United States described in sub-  
12 paragraph (A).

13           (4) EXCLUSIVE ECONOMIC ZONE.—The term  
14 “exclusive economic zone” means the Exclusive Eco-  
15 nomic Zone of the United States established by  
16 Presidential Proclamation number 5030, dated  
17 March 10, 1983.

18           (5) WATERS OF THE UNITED STATES.—The  
19 term “waters of the United States” means the wa-  
20 ters of the territorial sea, the exclusive economic  
21 zone, and the Great Lakes.

22           (6) GREAT LAKE.—The term “Great Lake”  
23 means—

24                   (A) Lake Erie;

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

3 (C) Lake Michigan;

4 (D) Lake Ontario; and

5 (E) Lake Superior.

6 (7) CRUISE VESSEL.—

7 (A) IN GENERAL.—The term “cruise ves-  
8 sel” means a passenger vessel (as defined in  
9 section 2101(22) of title 46, United States  
10 Code), that—

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—

17 (i) a vessel of the United States oper-  
18 ated by the Federal Government; or

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.

1 (B) INCLUSIONS.—The term “passenger”  
2 includes—

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.—

1           (1) SCOPE OF EXCEPTION.—Subsection (a)  
2 shall not apply in any case in which—

3           (A) a discharge is made solely for the pur-  
4 pose of securing the safety of the cruise vessel  
5 or saving a human life at sea; and

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.—

14 (1) IN GENERAL.—Not later than 3 years after  
15 the date of enactment of this Act, the Commandant  
16 and the Administrator shall jointly promulgate efflu-  
17 ent limits for sewage and graywater discharges from  
18 cruise vessels entering ports of the United States.

19 (2) REQUIREMENTS.—The effluent limits  
20 shall—

21 (A) require the application of the best  
22 available technology that will result in the  
23 greatest level of effluent reduction achievable,  
24 recognizing that the national goal is the elimi-  
25 nation of the discharge of all pollutants in sew-

1 age and graywater by cruise vessels into the wa-  
2 ters of the United States by 2015; and

3 (B) require compliance with all relevant  
4 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:

10 (1) IN GENERAL.—The discharge satisfies the  
11 minimum level of effluent quality specified in section  
12 133.102 of title 40, Code of Regulations (or a suc-  
13 cessor regulation).

14 (2) FECAL COLIFORM.—With respect to the  
15 samples from the discharge during any 30-day pe-  
16 riod—

17 (A) the geometric mean of the samples  
18 shall not exceed 20 fecal coliform per 100 milli-  
19 liters; and

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

23 (3) RESIDUAL CHLORINE.—Concentrations of  
24 total residual chlorine in samples shall not exceed 10  
25 milligrams per liter.

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.

1           (2) INSPECTIONS.—The program shall require  
2           that—

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

8                   (B) each cruise vessel that calls on a port  
9                   of the United States shall be subject to an un-  
10                  announced 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—

15                   (1) require the owner, operator, or master, or  
16                   other individual in charge, of a cruise vessel to main-  
17                   tain and produce a logbook detailing the times,  
18                   types, volumes, and flow rates, origins, and locations  
19                   of any discharges from the cruise vessel;

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 equip-  
2           ment shall include equipment intended to treat  
3           sewage, graywater, or bilge water);

4           (3) require the sampling and testing of cruise  
5           vessel discharges that require the owner, operator,  
6           or master, or other individual in charge, of a cruise  
7           vessel—

8                   (A) to conduct that sampling or testing;  
9           and

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

12           (4) require any owner, operator, or master, or  
13           other individual in charge, of a cruise vessel who has  
14           knowledge of a discharge from the cruise vessel in  
15           violation of this Act (including regulations promul-  
16           gated under this Act) to immediately report that dis-  
17           charge to the Commandant (who shall provide notifi-  
18           cation of the discharge to the Administrator); and

19           (5) require the owner, operator, or master, or  
20           other individual in charge, of a cruise vessel to pro-  
21           vide to the Commandant and Administrator a blue-  
22           print of each cruise vessel that includes the location  
23           of every discharge pipe and valve.

24           (c) EVIDENCE OF COMPLIANCE.—

25                   (1) VESSEL OF THE UNITED STATES.—



1           (A) IN GENERAL.—A cruise vessel reg-  
2 istered in the United States to which this Act  
3 applies shall have a certificate of inspection  
4 issued by the Commandant.

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.—

7 (A) IN GENERAL.—A cruise vessel reg-  
8 istered in a country other than the United  
9 States to which this Act applies may operate in  
10 the waters of the United States, or visit a port  
11 or place under the jurisdiction of the United  
12 States, only if the cruise vessel has been issued  
13 a certificate of compliance by the Commandant.

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 DOCU-  
23 MENTATION.—The Commandant may consider  
24 a certificate, endorsement, or document issued  
25 by the government of a foreign country under

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 2005  
25 through 2007, 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

1 (D) immediately report any known or sus-  
2 pected violation of this Act or any other appli-  
3 cable Federal law or international agreement  
4 to—

5 (i) the Coast Guard; and

6 (ii) the Environmental Protection  
7 Agency.

8 (3) REPORT.—Not later than January 31,  
9 2007, the Commandant shall submit to Congress a  
10 report describing the results, and recommendations  
11 for continuance, of the program under this sub-  
12 section.

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

15 (1) IN GENERAL.—Not later than 1 year after  
16 the date of enactment of this Act, the Administrator  
17 of the National Oceanic and Atmospheric Adminis-  
18 tration, in consultation with the Administrator and  
19 the Commandant, shall establish, and for each of fis-  
20 cal years 2005 through 2010, shall carry out, with  
21 industry partners as necessary, a pilot program to  
22 develop and promote commercialization of tech-  
23 nologies to provide real-time data to Federal agen-  
24 cies regarding—

1 (A) graywater and sewage discharges from  
2 cruise vessels; and

3 (B) functioning of cruise vessel compo-  
4 nents relating to pollution control.

5 (2) TECHNOLOGY REQUIREMENTS.—Tech-  
6 nologies developed under the program under this  
7 subsection—

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           2007, 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

1           (2) has testified or is about to testify in any  
2 proceeding resulting from the administration or en-  
3 forcement of the provisions of this Act.

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

6           (1) IN GENERAL.—An employee or a represent-  
7 ative of employees who believes that the termination  
8 of the employment of the employee has occurred, or  
9 that the employee has been discriminated against, as  
10 a result of the actions of any person in violation of  
11 subsection (a) may, not later than 30 days after the  
12 date on which the alleged violation occurred, apply  
13 to the Secretary of Labor for a review of the alleged  
14 termination of employment or discrimination.

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—



1 (i) provide an opportunity for a public  
2 hearing at the request of any party to the  
3 review to enable the parties to present in-  
4 formation relating to the alleged violation;

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

9 (iii) ensure that the hearing is on the  
10 record and subject to section 554 of title  
11 5, United States Code.

12 (C) FINDINGS OF COMMANDANT.—On  
13 completion of an investigation under this para-  
14 graph, the Secretary of Labor shall—

15 (i) make findings of fact;

16 (ii) if the Secretary of Labor deter-  
17 mines that a violation did occur, issue a  
18 decision, incorporating an order and the  
19 findings, requiring the person that com-  
20 mitted the violation to take such action as  
21 is necessary to abate the violation, includ-  
22 ing the rehiring or reinstatement, with  
23 compensation, of an employee or represent-  
24 ative of employees to the former position of  
25 the employee or representative; and

1 (iii) if the Secretary of Labor deter-  
2 mines that there was no violation, issue an  
3 order denying the application.

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; or

13 (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; or

22 (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.

1           (2) CIVIL AND CRIMINAL ENFORCEMENT PRO-  
2           CEEDINGS.—An action of the Commandant or Ad-  
3           ministrators with respect to which review could have  
4           been obtained under paragraph (1) shall not be sub-  
5           ject to judicial review in any civil or criminal pro-  
6           ceeding for enforcement.

7           (3) AWARD OF FEES.—In any judicial pro-  
8           ceeding under this subsection, a court may award  
9           costs of litigation (including reasonable attorney and  
10          expert witness fees) to any prevailing or substan-  
11          tially prevailing party in any case in which the court  
12          determines such an award to be appropriate.

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          ditional 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.—

1           (1) CLASS I.—The amount of a class I civil  
2 penalty under subsection (a)(1) shall not exceed—

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—

8                   (A) \$10,000 per day for each day during  
9 which the violation continues; or

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.

15           (4) DETERMINATION OF AMOUNT.—In deter-  
16 mining the amount of a civil penalty under sub-  
17 section (a)(1), the Commandant or the court, as the  
18 case may be, shall consider—

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.—

6 (A) IN GENERAL.—Before assessing a civil  
7 penalty under this subsection, the Commandant  
8 shall provide to the person to be assessed the  
9 penalty—

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

13 (ii) the opportunity to request, not  
14 later than 30 days after the date on which  
15 the notice is received by the person, a  
16 hearing on the proposed penalty.

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.

18          (ii) NEW EVIDENCE.—If any evidence  
 19          presented by a petitioner in support of the  
 20          petition under clause (i) is material and  
 21          was not considered in the issuance of the  
 22          order, as determined by the Commandant,  
 23          the Commandant shall immediately—

24                       (I) set aside the order; and

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

3 (iii) DENIAL OF HEARING.—If the  
4 Commandant denies a hearing under this  
5 subparagraph, the Commandant shall pro-  
6 vide to the petitioner, and publish in the  
7 Federal Register, notice of and the reasons  
8 for the denial.

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.

1           (9) EFFECT OF ACTION ON COMPLIANCE.—No  
2           action by the Commandant under this subsection  
3           shall affect the obligation of any person to comply  
4           with any provision of this Act.

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

17                 (ii) simultaneously sending a copy of  
18                 the notice by certified mail to the Com-  
19                 mandant and the Attorney General.

20          (B) COURTS OF JURISDICTION.—Review of  
21          an assessment under subparagraph (A) may be  
22          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

6 (ii) in the case of assessment of a  
7 class II civil penalty, in—

8 (I) the United States Court of  
9 Appeals for the District of Columbia  
10 Circuit; 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 subpara-  
8           graph (A), the validity, amount, and appro-  
9           priateness 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.—

2 (A) IN GENERAL.—The Commandant may  
3 issue subpoenas for the attendance and testi-  
4 mony of witnesses and the production of rel-  
5 evant papers, books, or documents in connec-  
6 tion with hearings under this subsection.

7 (B) REFUSAL TO OBEY.—In case of contu-  
8 macy or refusal to obey a subpoena issued  
9 under this paragraph and served on any per-  
10 son—

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  $\frac{1}{2}$  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.

18          (2) PAYMENTS TO STATES OR INDIAN  
19          TRIBES.—The Commandant or the court, as the  
20          case may be, may order payment, from a civil pen-  
21          alty or criminal fine collected under this section, to  
22          a State or Indian tribe providing information or in-  
23          vestigative assistance that leads to payment of the  
24          penalty or fine, of an amount that reflects the level  
25          of information or investigative assistance provided.

1           (3) PAYMENTS DIVIDED AMONG STATES, IN-  
2           DIAN TRIBES, AND INDIVIDUALS.—In a case in  
3           which a State or Indian tribe and an individual  
4           under paragraph (1) are eligible to receive a reward  
5           payment under this subsection, the Commandant or  
6           the court shall divide the amount available for the  
7           reward equitably among those recipients.

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.—

17           (1) IN GENERAL.—If the Commandant deter-  
18           mines that any person is in violation of section 4 or  
19           any regulation promulgated under this Act, the  
20           Commandant shall—

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.—

1 (A) CORPORATE ORDERS.—In any case in  
2 which an order under this subsection is issued  
3 to a corporation, a copy of the order shall be  
4 served on any appropriate corporate officer.

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—

1 (A) the conditions imposed by section 4;

2 (B) an effluent limit or management  
3 standard under this Act; or

4 (C) an order issued by the Administrator  
5 or Commandant with respect to such a condi-  
6 tion, effluent limit, or performance standard; or

7 (2) against the Administrator or Commandant,  
8 in a case in which there is alleged a failure by the  
9 Administrator or Commandant to perform any non-  
10 discretionary act or duty under this Act.

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—

1           (1) before the date that is 60 days after the  
2           date on which the plaintiff gives notice of the alleged  
3           violation—

4                   (A) to the Administrator or Commandant;

5           and

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

8           (2) if the Administrator or Commandant has  
9           commenced and is diligently prosecuting a civil or  
10          criminal action on the same matter in a court of the  
11          United States (but in any such action, a citizen may  
12          intervene as a matter of right).

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.—

1 (A) SERVICE.—In any case in which a civil  
2 action is brought under this section in a court  
3 of the United States, the plaintiff shall serve a  
4 copy of the complaint on—

- 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.—

18 (1) IN GENERAL.—A court of jurisdiction, in  
19 issuing any final order in any civil action brought in  
20 accordance with this section, may award costs of liti-  
21 gation (including reasonable attorney's and expert  
22 witness fees) to any prevailing or substantially pre-  
23 vailing party, in any case in which the court deter-  
24 mines that such an award is appropriate.

1           (2) SECURITY.—In any civil action under this  
2 section, the court of jurisdiction may, if a temporary  
3 restraining order or preliminary injunction is sought,  
4 require the filing of a bond or equivalent security in  
5 accordance with the Federal Rules of Civil Proce-  
6 dure.

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 ernor 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—

20           (1) an adverse effect on the public health or  
21 welfare in the State; or

22           (2) a violation of any water quality requirement  
23 in the State.



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)

1           until the date that is 3 years after the date of  
2           enactment of this Act;

3           (B) shall not be subject to effluent limits  
4           promulgated under section 5(a) or 5(e) until  
5           the date that is 6 years after the date of enact-  
6           ment of this Act; and

7           (C) shall be prohibited from discharging  
8           sewage, graywater, and bilge water in the terri-  
9           torial sea, in accordance with this Act, as of the  
10          date of enactment of this Act.

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 2005 through 2009.

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”).

1           (2) APPROPRIATION OF AMOUNTS.—There are  
2           appropriated to the Fund such amounts as are de-  
3           posited in the Fund under subsection (c)(5).

4           (3) USE OF AMOUNTS IN FUND.—The Adminis-  
5           trator and the Commandant may use amounts in the  
6           fund, without further appropriation, to carry out  
7           this Act.

8           (c) FEES ON CRUISE VESSELS.—

9           (1) IN GENERAL.—The Commandant shall es-  
10          tablish and collect from each cruise vessel a reason-  
11          able and appropriate fee, in an amount not to exceed  
12          \$10 for each paying passenger on a cruise vessel  
13          voyage, for use in carrying out this Act.

14          (2) ADJUSTMENT OF FEE.—

15                (A) IN GENERAL.—The Commandant shall  
16                biennially adjust the amount of the fee estab-  
17                lished under paragraph (1) to reflect changes in  
18                the Consumer Price Index for All Urban Con-  
19                sumers published by the Department of Labor  
20                during each 2-year period.

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.—

1 (A) IN GENERAL.—In establishing fees  
2 under paragraph (1), the Commandant may es-  
3 tablish lower levels of fees and the maximum  
4 amount of fees for certain classes of cruise ves-  
5 sels based on—

- 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.

19 (4) COLLECTION OF FEES.—A fee established  
20 under paragraph (1) shall be collected by the Com-  
21 mandant from the owner or operator of each cruise  
22 vessel to which this Act applies.

23 (5) DEPOSITS TO FUND.—Notwithstanding any  
24 other provision of law, all fees collected under this  
25 subsection, and all penalties and payments collected

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—

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

5           (B) impairs or in any manner affects any  
6           right or jurisdiction of the State with respect to  
7           the waters of the State.

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