

109TH CONGRESS
1ST SESSION

S. 793

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

IN THE SENATE OF THE UNITED STATES

APRIL 14, 2005

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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 pas-
5 sengers 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;

19 (C) oily water;

1 (D) toxic chemicals from photo processing,
2 dry cleaning, and paints;

3 (E) ballast water;

4 (F) solid wastes; and

5 (G) emissions of air pollutants;

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

12 (6) laws in effect as of the date of enactment
13 of this Act do not provide adequate controls, moni-
14 toring, or enforcement of certain discharges from
15 cruise vessels into the waters of the United States;
16 and

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

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

24 (1) to prevent the discharge of any untreated
25 sewage or graywater from a cruise vessel entering

1 ports of the United States into the waters of the
2 United States;

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

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

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

17 **SEC. 3. DEFINITIONS.**

18 In this Act:

19 (1) **COMMANDANT.**—The term “Commandant”
20 means the Commandant of the Coast Guard.

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

24 (3) **TERRITORIAL SEA.**—The term “territorial
25 sea”—

1 (A) means the belt of the sea measured
2 from the baseline of the United States deter-
3 mined in accordance with international law, as
4 set forth in Presidential Proclamation number
5 5928, dated December 27, 1988; and

6 (B) includes the waters lying seaward of
7 the line of ordinary low water and extending to
8 the baseline of the United States, as determined
9 under subparagraph (A).

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

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

19 (6) GREAT LAKE.—The term “Great Lake”
20 means—

21 (A) Lake Erie;

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

24 (C) Lake Michigan;

25 (D) Lake Ontario; and

1 (E) Lake Superior.

2 (7) CRUISE VESSEL.—The term “cruise ves-
3 sel”—

4 (A) means a passenger vessel (as defined
5 in section 2101(22) of title 46, United States
6 Code), that—

7 (i) is authorized to carry at least 250
8 passengers; and

9 (ii) has onboard sleeping facilities for
10 each passenger; and

11 (B) does not include—

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

14 (ii) a vessel owned and operated by
15 the government of a State.

16 (8) PASSENGER.—The term “passenger”—

17 (A) means any person on board a cruise
18 vessel for the purpose of travel; and

19 (B) includes—

20 (i) a paying passenger; and

21 (ii) a staffperson, such as a crew
22 member, captain, or officer.

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

24 (A) an individual;

25 (B) a corporation;

- 1 (C) a partnership;
- 2 (D) a limited liability company;
- 3 (E) an association;
- 4 (F) a State;
- 5 (G) a municipality;
- 6 (H) a commission or political subdivision
- 7 of a State; and
- 8 (I) an Indian tribe.

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

12 (11) DISCHARGE.—The term “discharge”—

13 (A) means a release of any substance, how-
14 ever caused, from a cruise vessel; and

15 (B) includes any escape, disposal, spilling,
16 leaking, pumping, emitting or emptying of any
17 substance.

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

19 (A) human body wastes;

20 (B) the wastes from toilets and other re-
21 ceptacles intended to receive or retain human
22 body wastes; and

23 (C) sewage sludge.

1 (13) GRAYWATER.—The term “graywater”
2 means galley, dishwasher, bath, and laundry waste
3 water.

4 (14) BILGE WATER.—The term “bilge water”
5 means wastewater that includes lubrication oils,
6 transmission oils, oil sludge or slops, fuel or oil
7 sludge, used oil, used fuel or fuel filters, or oily
8 waste.

9 (15) SEWAGE SLUDGE.—The term “sewage
10 sludge”—

11 (A) means any solid, semi-solid, or liquid
12 residue removed during the treatment of munic-
13 ipal waste water or domestic sewage;

14 (B) includes—

15 (i) solids removed during primary,
16 secondary, or advanced waste water treat-
17 ment;

18 (ii) scum;

19 (iii) septage;

20 (iv) portable toilet pumpings;

21 (v) type III marine sanitation device
22 pumpings (as defined in part 159 of title
23 33, Code of Federal Regulations); and

24 (vi) sewage sludge products; and

25 (C) does not include—

- 1 (i) grit or screenings; or
2 (ii) ash generated during the inciner-
3 ation of sewage sludge.

4 (16) INDIAN TRIBE.—The term “Indian tribe”
5 has the meaning given in section 4 of the Indian
6 Self-Determination and Education Assistance Act
7 (25 U.S.C. 450b).

8 **SEC. 4. PROHIBITIONS AND CONDITIONS REGARDING THE**
9 **DISCHARGE OF SEWAGE, GRAYWATER, OR**
10 **BILGE WATER.**

11 (a) PROHIBITION.—

12 (1) IN GENERAL.—Except as provided in para-
13 graph (2) and section 11, no cruise vessel entering
14 a port of the United States may discharge sewage,
15 graywater, or bilge water into the waters of the
16 United States.

17 (2) EXCEPTION.—A cruise vessel described in
18 paragraph (1) may not discharge sewage, graywater,
19 or bilge water into the exclusive economic zone but
20 outside the territorial sea, or, in the case of the
21 Great Lakes, beyond any point that is 12 miles from
22 the shore unless—

23 (A)(i) in the case of a discharge of sewage
24 or graywater, the discharge meets all applicable

1 effluent limits established under this Act and is
2 in accordance with all other applicable laws; or

3 (ii) in the case of a discharge of bilge
4 water, the discharge is in accordance with all
5 applicable laws;

6 (B) the cruise vessel meets all applicable
7 management standards established under this
8 Act; and

9 (C) the cruise vessel is not discharging in
10 an area in which the discharge is otherwise pro-
11 hibited.

12 (b) SAFETY EXCEPTION.—

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

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

18 (B) all reasonable precautions have been
19 taken for the purpose of preventing or mini-
20 mizing the discharge.

21 (2) NOTIFICATION OF COMMANDANT.—

22 (A) IN GENERAL.—If the owner, operator,
23 or master, or other individual in charge, of a
24 cruise vessel authorizes a discharge described in
25 paragraph (1), the individual shall notify the

1 Commandant of the decision to authorize the
2 discharge as soon as practicable, but not later
3 than 24 hours, after authorizing the discharge.

4 (B) REPORT.—Not later than 7 days after
5 the date on which an individual described in
6 subparagraph (A) notifies the Commandant of
7 an authorization of a discharge under the safety
8 exception under this paragraph, the individual
9 shall submit to the Commandant a report that
10 includes—

11 (i) the quantity and composition of
12 each discharge made under the safety ex-
13 ception;

14 (ii) the reason for authorizing each
15 discharge;

16 (iii) the location of the vessel during
17 the course of each discharge; and

18 (iv) such other supporting information
19 and data as are requested by the Com-
20 mandant.

21 **SEC. 5. EFFLUENT LIMITS FOR DISCHARGES OF SEWAGE**
22 **AND GRAYWATER.**

23 (a) EFFLUENT LIMITS.—

24 (1) IN GENERAL.—Not later than 3 years after
25 the date of enactment of this Act, the Commandant

1 and the Administrator shall jointly promulgate efflu-
2 ent limits for sewage and graywater discharges from
3 cruise vessels entering ports of the United States.

4 (2) REQUIREMENTS.—The effluent limits
5 shall—

6 (A) require the application of the best
7 available technology that will result in the
8 greatest level of effluent reduction achievable,
9 recognizing that the national goal is the elimi-
10 nation of the discharge of all pollutants in sew-
11 age and graywater by cruise vessels into the wa-
12 ters of the United States by 2015; and

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

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

20 (1) IN GENERAL.—The discharge satisfies the
21 minimum level of effluent quality specified in section
22 133.102 of title 40, Code of Regulations (or a suc-
23 cessor regulation).

1 (2) **FECAL COLIFORM.**—With respect to the
2 samples from the discharge during any 30-day pe-
3 riod—

4 (A) the geometric mean of the samples
5 shall not exceed 20 fecal coliform per 100 milli-
6 liters; and

7 (B) not more than 10 percent of the sam-
8 ples shall exceed 40 fecal coliform per 100 milli-
9 liters.

10 (3) **RESIDUAL CHLORINE.**—Concentrations of
11 total residual chlorine in samples shall not exceed 10
12 milligrams per liter.

13 (c) **REVIEW AND REVISION OF EFFLUENT LIMITS.**—
14 The Commandant and the Administrator shall jointly—

15 (1) review the effluent limits required by sub-
16 section (a) at least once every 3 years; and

17 (2) revise the effluent limits as necessary to in-
18 corporate technology available at the time of the re-
19 view in accordance with subsection (a)(2).

20 **SEC. 6. INSPECTION AND SAMPLING.**

21 (a) **DEVELOPMENT AND IMPLEMENTATION OF IN-**
22 **SPECTION PROGRAM.**—

23 (1) **IN GENERAL.**—The Commandant, in con-
24 sultation with the Administrator, shall promulgate
25 regulations to implement an inspection, sampling,

1 and testing program sufficient to verify that cruise
2 vessels calling on ports of the United States are in
3 compliance with—

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

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

9 (C) other applicable Federal laws and reg-
10 ulations; and

11 (D) all applicable requirements of inter-
12 national agreements.

13 (2) INSPECTIONS.—The program shall require
14 that—

15 (A) regular announced and unannounced
16 inspections be conducted of any relevant aspect
17 of cruise vessel operations, equipment, or dis-
18 charges, including sampling and testing of
19 cruise vessel discharges; and

20 (B) each cruise vessel that calls on a port
21 of the United States shall be subject to an un-
22 announced inspection at least annually.

23 (b) REGULATIONS.—Not later than 1 year after the
24 date of enactment of this Act, the Commandant, in con-

1 sultation with the Administrator, shall promulgate regula-
2 tions that, at a minimum—

3 (1) require the owner, operator, or master, or
4 other individual in charge, of a cruise vessel to main-
5 tain and produce a logbook detailing the times,
6 types, volumes, and flow rates, origins, and locations
7 of any discharges from the cruise vessel;

8 (2) provide for routine announced and unan-
9 nounced inspections of—

10 (A) cruise vessel environmental compliance
11 records and procedures; and

12 (B) the functionality and proper operation
13 of installed equipment for abatement and con-
14 trol of any cruise vessel discharge (which equip-
15 ment shall include equipment intended to treat
16 sewage, graywater, or bilge water);

17 (3) require the sampling and testing of cruise
18 vessel discharges that require the owner, operator,
19 or master, or other individual in charge, of a cruise
20 vessel—

21 (A) to conduct that sampling or testing;

22 and

23 (B) to produce any records of the sampling
24 or testing;

1 (4) require any owner, operator, or master, or
2 other individual in charge, of a cruise vessel who has
3 knowledge of a discharge from the cruise vessel in
4 violation of this Act (including regulations promul-
5 gated under this Act) to immediately report that dis-
6 charge to the Commandant (who shall provide notifi-
7 cation of the discharge to the Administrator); and

8 (5) require the owner, operator, or master, or
9 other individual in charge, of a cruise vessel to pro-
10 vide to the Commandant and Administrator a blue-
11 print of each cruise vessel that includes the location
12 of every discharge pipe and valve.

13 (c) EVIDENCE OF COMPLIANCE.—

14 (1) VESSEL OF THE UNITED STATES.—

15 (A) IN GENERAL.—A cruise vessel reg-
16 istered in the United States to which this Act
17 applies shall have a certificate of inspection
18 issued by the Commandant.

19 (B) ISSUANCE OF CERTIFICATE.—The
20 Commandant may issue a certificate described
21 in subparagraph (A) only after the cruise vessel
22 has been examined and found to be in compli-
23 ance with this Act, including prohibitions on
24 discharges and requirements for effluent limits,
25 as determined by the Commandant.

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

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

6 (ii) may be renewed as specified by
7 the Commandant; and

8 (iii) shall be suspended or revoked if
9 the Commandant determines that the
10 cruise vessel for which the certificate was
11 issued is not in compliance with the condi-
12 tions under which the certificate was
13 issued.

14 (D) SPECIAL CERTIFICATES.—The Com-
15 mandant may issue special certificates to cer-
16 tain vessels that exhibit compliance with this
17 Act and other best practices, as determined by
18 the Commandant.

19 (2) FOREIGN VESSEL.—

20 (A) IN GENERAL.—A cruise vessel reg-
21 istered in a country other than the United
22 States to which this Act applies may operate in
23 the waters of the United States, or visit a port
24 or place under the jurisdiction of the United

1 States, only if the cruise vessel has been issued
2 a certificate of compliance by the Commandant.

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

11 (C) ACCEPTANCE OF FOREIGN DOCU-
12 MENTATION.—The Commandant may consider
13 a certificate, endorsement, or document issued
14 by the government of a foreign country under
15 a treaty, convention, or other international
16 agreement to which the United States is a
17 party, in issuing a certificate of compliance
18 under this paragraph. Such a certificate, en-
19 dorsement, or document shall not serve as a
20 proxy for certification of compliance with this
21 Act.

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

1 (i) shall be valid for a period of not
2 more than 24 months, beginning on the
3 date of issuance of the certificate;

4 (ii) may be renewed as specified by
5 the Commandant; and

6 (iii) shall be suspended or revoked if
7 the Commandant determines that the
8 cruise vessel for which the certificate was
9 issued is not in compliance with the condi-
10 tions under which the certificate was
11 issued.

12 (d) CRUISE OBSERVER PILOT PROGRAM.—

13 (1) IN GENERAL.—Not later than 1 year after
14 the date of enactment of this Act, the Commandant
15 shall establish, and for each of fiscal years 2006
16 through 2008, shall carry out, a program for the
17 placement of 2 or more independent observers on
18 cruise vessels for the purpose of monitoring and in-
19 specting cruise vessel operations, equipment, and
20 discharges to ensure compliance with—

21 (A) this Act (including regulations promul-
22 gated under this Act); and

23 (B) all other relevant Federal laws and
24 international agreements.

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

3 (A) observe and inspect—

4 (i) onboard environmental treatment
5 systems;

6 (ii) use of shore-based treatment and
7 storage facilities;

8 (iii) discharges and discharge prac-
9 tices; and

10 (iv) blueprints, logbooks, and other
11 relevant information;

12 (B) have the authority to interview and
13 otherwise query any crew member with knowl-
14 edge of vessel operations;

15 (C) have access to all data and information
16 made available to government officials under
17 this section; and

18 (D) immediately report any known or sus-
19 pected violation of this Act or any other appli-
20 cable Federal law or international agreement
21 to—

22 (i) the Coast Guard; and

23 (ii) the Environmental Protection
24 Agency.

1 (3) REPORT.—Not later than January 31,
2 2008, the Commandant shall submit to Congress a
3 report describing the results, and recommendations
4 for continuance, of the program under this sub-
5 section.

6 (e) ONBOARD MONITORING SYSTEM PILOT PRO-
7 GRAM.—

8 (1) IN GENERAL.—Not later than 1 year after
9 the date of enactment of this Act, the Administrator
10 of the National Oceanic and Atmospheric Adminis-
11 tration, in consultation with the Administrator and
12 the Commandant, shall establish, and for each of fis-
13 cal years 2006 through 2011, shall carry out, with
14 industry partners as necessary, a pilot program to
15 develop and promote commercialization of tech-
16 nologies to provide real-time data to Federal agen-
17 cies regarding—

18 (A) graywater and sewage discharges from
19 cruise vessels; and

20 (B) functioning of cruise vessel compo-
21 nents relating to pollution control.

22 (2) TECHNOLOGY REQUIREMENTS.—Tech-
23 nologies developed under the program under this
24 subsection—

25 (A) shall have the ability to record—

1 (i) the location and time of discharges
2 from cruise vessels;

3 (ii) the source, content, and volume of
4 those discharges; and

5 (iii) the state of components relating
6 to pollution control at the time of the dis-
7 charges, including whether the components
8 are operating correctly; and

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

13 (3) PARTICIPATION OF INDUSTRY.—

14 (A) COMPETITIVE SELECTION PROCESS.—

15 Industry partners willing to participate in the
16 program may do so through a competitive selec-
17 tion process conducted by the Administrator of
18 the National Oceanic and Atmospheric Admin-
19 istration.

20 (B) CONTRIBUTION.—A selected industry
21 partner shall contribute not less than 20 per-
22 cent of the cost of the project in which the in-
23 dustry partner participates.

24 (4) REPORT.—Not later than January 31,
25 2008, the Administrator of the National Oceanic

1 and Atmospheric Administration shall submit to
2 Congress a report describing the results, and rec-
3 ommendations for continuance, of the program
4 under this subsection.

5 **SEC. 7. EMPLOYEE PROTECTION.**

6 (a) PROHIBITION OF DISCRIMINATION AGAINST PER-
7 SONS FILING, INSTITUTING, OR TESTIFYING IN PRO-
8 CEEDINGS UNDER THIS ACT.—No person shall terminate
9 the employment of, or in any other way discriminate
10 against (or cause the termination of employment of or dis-
11 crimination against), any employee or any authorized rep-
12 resentative of employees by reason of the fact that the em-
13 ployee or representative—

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

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

19 (b) APPLICATION FOR REVIEW; INVESTIGATION;
20 HEARINGS; REVIEW.—

21 (1) IN GENERAL.—An employee or a represent-
22 ative of employees who believes that the termination
23 of the employment of the employee has occurred, or
24 that the employee has been discriminated against, as
25 a result of the actions of any person in violation of

1 subsection (a) may, not later than 30 days after the
2 date on which the alleged violation occurred, apply
3 to the Secretary of Labor for a review of the alleged
4 termination of employment or discrimination.

5 (2) APPLICATION.—A copy of an application for
6 review filed under paragraph (1) shall be sent to the
7 respondent.

8 (3) INVESTIGATION.—

9 (A) IN GENERAL.—On receipt of an appli-
10 cation for review under paragraph (1), the Sec-
11 retary of Labor shall carry out an investigation
12 of the complaint.

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

15 (i) provide an opportunity for a public
16 hearing at the request of any party to the
17 review to enable the parties to present in-
18 formation relating to the alleged violation;

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

23 (iii) ensure that the hearing is on the
24 record and subject to section 554 of title
25 5, United States Code.

1 (C) FINDINGS OF COMMANDANT.—On
2 completion of an investigation under this para-
3 graph, the Secretary of Labor shall—

4 (i) make findings of fact;

5 (ii) if the Secretary of Labor deter-
6 mines that a violation did occur, issue a
7 decision, incorporating an order and the
8 findings, requiring the person that com-
9 mitted the violation to take such action as
10 is necessary to abate the violation, includ-
11 ing the rehiring or reinstatement, with
12 compensation, of an employee or represent-
13 ative of employees to the former position of
14 the employee or representative; and

15 (iii) if the Secretary of Labor deter-
16 mines that there was no violation, issue an
17 order denying the application.

18 (D) ORDER.—An order issued by the Sec-
19 retary of Labor under subparagraph (C) shall
20 be subject to judicial review in the same man-
21 ner as orders and decisions of the Adminis-
22 trator are subject to judicial review under this
23 Act.

24 (e) COSTS AND EXPENSES.—In any case in which an
25 order is issued under this section to abate a violation, at

1 the request of the applicant, a sum equal to the aggregate
2 amount of all costs and expenses (including attorney's
3 fees), as determined by the Secretary of Labor, to have
4 been reasonably incurred by the applicant for, or in con-
5 nection with, the institution and prosecution of the pro-
6 ceedings, shall be assessed against the person committing
7 the violation.

8 (d) DELIBERATE VIOLATIONS BY EMPLOYEE ACTING
9 WITHOUT DIRECTION FROM EMPLOYER OR AGENT.—

10 This section shall not apply to any employee that, without
11 direction from the employer of the employee (or agent of
12 the employer), deliberately violates any provision of this
13 Act.

14 **SEC. 8. JUDICIAL REVIEW.**

15 (a) REVIEW OF ACTIONS BY ADMINISTRATOR OR
16 COMMANDANT; SELECTION OF COURT; FEES.—

17 (1) REVIEW OF ACTIONS.—

18 (A) IN GENERAL.—Any interested person
19 may petition for a review, in the United States
20 circuit court for the circuit in which the person
21 resides or transacts business directly affected
22 by the action of which review is requested—

23 (i) of an action of the Commandant in
24 promulgating any effluent limit under sec-
25 tion 5; or

1 (ii) of an action of the Commandant
2 in carrying out an inspection, sampling, or
3 testing under section 6.

4 (B) DEADLINE FOR REVIEW.—A petition
5 for review under subparagraph (A) shall be
6 made—

7 (i) not later than 120 days after the
8 date of promulgation of the limit or stand-
9 ard relating to the review sought; or

10 (ii) if the petition for review is based
11 solely on grounds that arose after the date
12 described in clause (i), as soon as prac-
13 ticable after that date.

14 (2) CIVIL AND CRIMINAL ENFORCEMENT PRO-
15 CEEDINGS.—An action of the Commandant or Ad-
16 ministrator with respect to which review could have
17 been obtained under paragraph (1) shall not be sub-
18 ject to judicial review in any civil or criminal pro-
19 ceeding for enforcement.

20 (3) AWARD OF FEES.—In any judicial pro-
21 ceeding under this subsection, a court may award
22 costs of litigation (including reasonable attorney and
23 expert witness fees) to any prevailing or substan-
24 tially prevailing party in any case in which the court
25 determines such an award to be appropriate.

1 (b) ADDITIONAL EVIDENCE.—

2 (1) IN GENERAL.—In any judicial proceeding
3 instituted under subsection (a) in which review is
4 sought of a determination under this Act required to
5 be made on the record after notice and opportunity
6 for hearing, if any party applies to the court for
7 leave to adduce additional evidence, and dem-
8 onstrates to the satisfaction of the court that the ad-
9 ditional evidence is material and that there were rea-
10 sonable grounds for the failure to adduce the evi-
11 dence in the proceeding before the Commandant or
12 Administrator, the court may order the additional
13 evidence (and evidence in rebuttal of the additional
14 evidence) to be taken before the Commandant or Ad-
15 ministrator, in such manner and on such terms and
16 conditions as the court determines to be appropriate.

17 (2) MODIFICATION OF FINDINGS.—On admis-
18 sion of additional evidence under paragraph (1), the
19 Commandant or Administrator—

20 (A) may modify findings of fact of the
21 Commandant or Administrator, as the case may
22 be, relating to a judicial proceeding, or make
23 new findings of fact, by reason of the additional
24 evidence so admitted; and

1 (B) shall file with the return of the addi-
 2 tional evidence any modified or new findings,
 3 and any related recommendations, for the modi-
 4 fication or setting aside of any original deter-
 5 minations of the Commandant or Adminis-
 6 trator.

7 **SEC. 9. ENFORCEMENT.**

8 (a) IN GENERAL.—Any person that violates section
 9 4 or any regulation promulgated under this Act may be
 10 assessed—

11 (1) a class I or class II penalty described in
 12 subsection (b); or

13 (2) a civil penalty in a civil action under sub-
 14 section (c).

15 (b) AMOUNT OF ADMINISTRATIVE PENALTY.—

16 (1) CLASS I.—The amount of a class I civil
 17 penalty under subsection (a)(1) may not exceed—

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

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

21 (2) CLASS II.—The amount of a class II civil
 22 penalty under subsection (a)(1) may not exceed—

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

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

3 (3) SEPARATE VIOLATIONS.—Each day on
4 which a violation continues shall constitute a sepa-
5 rate violation.

6 (4) DETERMINATION OF AMOUNT.—In deter-
7 mining the amount of a civil penalty under sub-
8 section (a)(1), the Commandant or the court, as ap-
9 propriate, shall consider—

10 (A) the seriousness of the violation;

11 (B) any economic benefit resulting from
12 the violation;

13 (C) any history of violations;

14 (D) any good-faith efforts to comply with
15 the applicable requirements;

16 (E) the economic impact of the penalty on
17 the violator; and

18 (F) such other matters as justice may re-
19 quire.

20 (5) PROCEDURE FOR CLASS I PENALTY.—

21 (A) IN GENERAL.—Before assessing a civil
22 penalty under this subsection, the Commandant
23 shall provide to the person to be assessed the
24 penalty—

1 (i) written notice of the proposal of
2 the Commandant to assess the penalty;
3 and

4 (ii) the opportunity to request, not
5 later than 30 days after the date on which
6 the notice is received by the person, a
7 hearing on the proposed penalty.

8 (B) HEARING.—A hearing described in
9 subparagraph (A)(ii)—

10 (i) shall not be subject to section 554
11 or 556 of title 5, United States Code; but

12 (ii) shall provide a reasonable oppor-
13 tunity to be heard and to present evidence.

14 (6) PROCEDURE FOR CLASS II PENALTY.—

15 (A) IN GENERAL.—Except as otherwise
16 provided in this subsection, a class II civil pen-
17 alty shall be assessed and collected in the same
18 manner, and subject to the same provisions, as
19 in the case of civil penalties assessed and col-
20 lected after notice and an opportunity for a
21 hearing on the record in accordance with sec-
22 tion 554 of title 5, United States Code.

23 (B) RULES.—The Commandant may pro-
24 mulgate rules for discovery procedures for hear-
25 ings under this subsection.

1 (7) RIGHTS OF INTERESTED PERSONS.—

2 (A) PUBLIC NOTICE.—Before issuing an
3 order assessing a class II civil penalty under
4 this subsection, the Commandant shall provide
5 public notice of and reasonable opportunity to
6 comment on the proposed issuance of each
7 order.

8 (B) PRESENTATION OF EVIDENCE.—

9 (i) IN GENERAL.—Any person that
10 comments on a proposed assessment of a
11 class II civil penalty under this subsection
12 shall be given notice of—

13 (I) any hearing held under this
14 subsection; and

15 (II) any order assessing the pen-
16 alty.

17 (ii) HEARING.—In any hearing de-
18 scribed in clause (i)(I), a person described
19 in clause (i) shall have a reasonable oppor-
20 tunity to be heard and to present evidence.

21 (C) RIGHTS OF INTERESTED PERSONS TO
22 A HEARING.—

23 (i) IN GENERAL.—If no hearing is
24 held under subparagraph (B) before the
25 date of issuance of an order assessing a

1 class II civil penalty under this subsection,
2 any person that commented on the pro-
3 posed assessment may, not later than 30
4 days after the date of issuance of the
5 order, petition the Commandant—

6 (I) to set aside the order; and

7 (II) to provide a hearing on the
8 penalty.

9 (ii) NEW EVIDENCE.—If any evidence
10 presented by a petitioner in support of the
11 petition under clause (i) is material and
12 was not considered in the issuance of the
13 order, as determined by the Commandant,
14 the Commandant shall immediately—

15 (I) set aside the order; and

16 (II) provide a hearing in accord-
17 ance with subparagraph (B)(ii).

18 (iii) DENIAL OF HEARING.—If the
19 Commandant denies a hearing under this
20 subparagraph, the Commandant shall pro-
21 vide to the petitioner, and publish in the
22 Federal Register, notice of and the reasons
23 for the denial.

24 (8) FINALITY OF ORDER.—

1 (A) IN GENERAL.—An order assessing a
2 class II civil penalty under this subsection shall
3 become final on the date that is 30 days after
4 the date of issuance of the order unless, before
5 that date—

6 (i) a petition for judicial review is
7 filed under paragraph (10); or

8 (ii) a hearing is requested under para-
9 graph (7)(C).

10 (B) DENIAL OF HEARING.—If a hearing is
11 requested under paragraph (7)(C) and subse-
12 quently denied, an order assessing a class II
13 civil penalty under this subsection shall become
14 final on the date that is 30 days after the date
15 of the denial.

16 (9) EFFECT OF ACTION ON COMPLIANCE.—No
17 action by the Commandant under this subsection
18 shall affect the obligation of any person to comply
19 with any provision of this Act.

20 (10) JUDICIAL REVIEW.—

21 (A) IN GENERAL.—Any person against
22 which a civil penalty is assessed under this sub-
23 section, or that commented on the proposed as-
24 sessment of such a penalty in accordance with
25 paragraph (7), may obtain review of the assess-

1 ment in a court described in subparagraph (B)
2 by—

3 (i) filing a notice of appeal with the
4 court within the 30-day period beginning
5 on the date on which the civil penalty
6 order is issued; and

7 (ii) simultaneously sending a copy of
8 the notice by certified mail to the Com-
9 mandant and the Attorney General.

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

13 (i) in the case of assessment of a class
14 I civil penalty, in—

15 (I) the United States District
16 Court for the District of Columbia; or

17 (II) the United States district
18 court for the district in which the vio-
19 lation occurred; or

20 (ii) in the case of assessment of a
21 class II civil penalty, in—

22 (I) the United States Court of
23 Appeals for the District of Columbia
24 Circuit; or

1 (II) the United States circuit
2 court for any other circuit in which
3 the person resides or transacts busi-
4 ness.

5 (C) COPY OF RECORD.—On receipt of no-
6 tice under subparagraph (A)(ii), the Com-
7 mandant, shall promptly file with the appro-
8 priate court a certified copy of the record on
9 which the order assessing a civil penalty that is
10 the subject of the review was issued.

11 (D) SUBSTANTIAL EVIDENCE.—A court
12 with jurisdiction over a review under this para-
13 graph—

14 (i) shall not set aside or remand an
15 order described in subparagraph (C) un-
16 less—

17 (I) there is not substantial evi-
18 dence in the record, taken as a whole,
19 to support the finding of a violation;
20 or

21 (II) the assessment by the Com-
22 mandant of the civil penalty con-
23 stitutes an abuse of discretion; and

24 (ii) shall not impose additional civil
25 penalties for the same violation unless the

1 assessment by the Commandant of the civil
2 penalty constitutes an abuse of discretion.

3 (11) COLLECTION.—

4 (A) IN GENERAL.—If any person fails to
5 pay an assessment of a civil penalty after the
6 assessment has become final, or after a court in
7 a proceeding under paragraph (10) has entered
8 a final judgment in favor of the Commandant,
9 the Commandant shall request the Attorney
10 General to bring a civil action in an appropriate
11 district court to recover—

12 (i) the amount assessed; and

13 (ii) interest that has accrued on the
14 amount assessed, as calculated at currently
15 prevailing rates beginning on the date of
16 the final order or the date of the final
17 judgment, as the case may be.

18 (B) NONREVIEWABILITY.—In an action to
19 recover an assessed civil penalty under subpara-
20 graph (A), the validity, amount, and appro-
21 priateness of the civil penalty shall not be sub-
22 ject to judicial review.

23 (C) FAILURE TO PAY PENALTY.—Any per-
24 son that fails to pay, on a timely basis, the
25 amount of an assessment of a civil penalty

1 under subparagraph (A) shall be required to
2 pay, in addition to the amount of the civil pen-
3 alty and accrued interest—

4 (i) attorney’s fees and other costs for
5 collection proceedings; and

6 (ii) for each quarter during which the
7 failure to pay persists, a quarterly non-
8 payment penalty in an amount equal to 20
9 percent of the aggregate amount of the as-
10 sessed civil penalties and nonpayment pen-
11 alties of the person that are unpaid as of
12 the beginning of the quarter.

13 (12) SUBPOENAS.—

14 (A) IN GENERAL.—The Commandant may
15 issue subpoenas for the attendance and testi-
16 mony of witnesses and the production of rel-
17 evant papers, books, or documents in connec-
18 tion with hearings under this subsection.

19 (B) REFUSAL TO OBEY.—In case of contu-
20 macy or refusal to obey a subpoena issued
21 under this paragraph and served on any per-
22 son—

23 (i) the United States district court for
24 any district in which the person is found,
25 resides, or transacts business, on applica-

1 tion by the United States and after notice
2 to the person, shall have jurisdiction to
3 issue an order requiring the person to ap-
4 pear and give testimony before the Com-
5 mandant or to appear and produce docu-
6 ments before the Commandant; and

7 (ii) any failure to obey such an order
8 of the court may be punished by the court
9 as a contempt of the court.

10 (c) CIVIL ACTION.—The Commandant may com-
11 mence, in the United States district court for the district
12 in which the defendant is located, resides, or transacts
13 business, a civil action to impose a civil penalty under this
14 subsection in an amount not to exceed \$25,000 for each
15 day of violation.

16 (d) CRIMINAL PENALTIES.—

17 (1) NEGLIGENT VIOLATIONS.—A person that
18 negligently violates section 4 or any regulation pro-
19 mulgated under this Act commits a Class A mis-
20 demeanor.

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

24 (3) FALSE STATEMENTS.—Any person that
25 knowingly makes any false statement, representa-

1 tion, or certification in any record, report, or other
2 document filed or required to be maintained under
3 this Act or any regulation promulgated under this
4 Act, or that falsifies, tampers with, or knowingly
5 renders inaccurate any testing or monitoring device
6 or method required to be maintained under this Act
7 or any regulation promulgated under this Act, com-
8 mits a Class D felony.

9 (e) REWARDS.—

10 (1) PAYMENTS TO INDIVIDUALS.—

11 (A) IN GENERAL.—The Commandant or
12 the court, as the case may be, may order pay-
13 ment, from a civil penalty or criminal fine col-
14 lected under this section, of an amount not to
15 exceed $\frac{1}{2}$ of the civil penalty or fine, to any in-
16 dividual who furnishes information that leads to
17 the payment of the civil penalty or criminal
18 fine.

19 (B) MULTIPLE INDIVIDUALS.—If 2 or
20 more individuals provide information described
21 in subparagraph (A), the amount available for
22 payment as a reward shall be divided equitably
23 among the individuals.

24 (C) INELIGIBLE INDIVIDUALS.—No officer
25 or employee of the United States, a State, or an

1 Indian tribe who furnishes information or ren-
2 ders service in the performance of the official
3 duties of the officer or employee shall be eligible
4 for a reward payment under this subsection.

5 (2) PAYMENTS TO STATES OR INDIAN
6 TRIBES.—The Commandant or the court, as the
7 case may be, may order payment, from a civil pen-
8 alty or criminal fine collected under this section, to
9 a State or Indian tribe providing information or in-
10 vestigative assistance that leads to payment of the
11 penalty or fine, of an amount that reflects the level
12 of information or investigative assistance provided.

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

20 (f) LIABILITY IN REM.—A cruise vessel operated in
21 violation of this Act or any regulation promulgated under
22 this Act—

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

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

4 (g) COMPLIANCE ORDERS.—

5 (1) IN GENERAL.—If the Commandant deter-
6 mines that any person is in violation of section 4 or
7 any regulation promulgated under this Act, the
8 Commandant shall—

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

11 (B) bring a civil action in accordance with
12 subsection (b).

13 (2) COPIES OF ORDER, SERVICE.—

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

18 (B) METHOD OF SERVICE; SPECIFICA-
19 TIONS.—An order issued under this subsection
20 shall—

21 (i) be by personal service;

22 (ii) state with reasonable specificity
23 the nature of the violation for which the
24 order was issued; and

1 (iii) specify a deadline for compliance
2 that is not later than—

3 (I) 30 days after the date of
4 issuance of the order, in the case of a
5 violation of an interim compliance
6 schedule or operation and mainte-
7 nance requirement; and

8 (II) such date as the Com-
9 mandant, taking into account the seri-
10 ousness of the violation and any good
11 faith efforts to comply with applicable
12 requirements, determines to be rea-
13 sonable, in the case of a violation of
14 a final deadline.

15 (h) CIVIL ACTIONS.—

16 (1) IN GENERAL.—The Commandant may com-
17 mence a civil action for appropriate relief, including
18 a permanent or temporary injunction, for any viola-
19 tion for which the Commandant is authorized to
20 issue a compliance order under this subsection.

21 (2) COURT OF JURISDICTION.—

22 (A) IN GENERAL.—A civil action under
23 this subsection may be brought in the United
24 States district court for the district in which

1 the defendant is located, resides, or is doing
2 business.

3 (B) JURISDICTION.—A court described in
4 subparagraph (A) shall have jurisdiction to
5 grant injunctive relief to address a violation,
6 and require compliance, by the defendant.

7 **SEC. 10. CITIZEN SUITS.**

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

11 (1) against any person (including the United
12 States and any other governmental instrumentality
13 or agency to the extent permitted by the eleventh
14 amendment of the Constitution) that is alleged to be
15 in violation of—

16 (A) the conditions imposed by section 4;

17 (B) an effluent limit or management
18 standard under this Act; or

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

22 (2) against the Administrator or Commandant,
23 in a case in which there is alleged a failure by the
24 Administrator or Commandant to perform any non-
25 discretionary act or duty under this Act.

1 (b) JURISDICTION.—The United States district
2 courts shall have jurisdiction, without regard to the
3 amount in controversy or the citizenship of the parties—

4 (1) to enforce a condition, effluent limit, per-
5 formance standard, or order described in subsection
6 (a)(1);

7 (2) to order the Administrator or Commandant
8 to perform a nondiscretionary act or duty described
9 in subsection (a)(2); and

10 (3) to apply any appropriate civil penalties
11 under section 9(b).

12 (c) NOTICE.—No action may be commenced under
13 this section—

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

17 (A) to the Administrator or Commandant;
18 and

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

21 (2) if the Administrator or Commandant has
22 commenced and is diligently prosecuting a civil or
23 criminal action on the same matter in a court of the
24 United States (but in any such action, a citizen may
25 intervene as a matter of right).

1 (d) VENUE.—

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

4 (A) the United States District Court for
5 the District of Columbia; or

6 (B) any other United States district court
7 for any judicial district in which a cruise vessel
8 or the owner or operator of a cruise vessel are
9 located.

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

13 (3) PROCEDURES.—

14 (A) SERVICE.—In any case in which a civil
15 action is brought under this section in a court
16 of the United States, the plaintiff shall serve a
17 copy of the complaint on—

18 (i) the Attorney General;

19 (ii) the Administrator; and

20 (iii) the Commandant.

21 (B) CONSENT JUDGMENTS.—No consent
22 judgment shall be entered in a civil action
23 under this section to which the United States is
24 not a party before the date that is 45 days after

1 the date of receipt of a copy of the proposed
2 consent judgment by—

- 3 (i) the Attorney General;
4 (ii) the Administrator; and
5 (iii) the Commandant.

6 (e) LITIGATION COSTS.—

7 (1) IN GENERAL.—A court of jurisdiction, in
8 issuing any final order in any civil action brought in
9 accordance with this section, may award costs of liti-
10 gation (including reasonable attorney’s and expert
11 witness fees) to any prevailing or substantially pre-
12 vailing party, in any case in which the court deter-
13 mines that such an award is appropriate.

14 (2) SECURITY.—In any civil action under this
15 section, the court of jurisdiction may, if a temporary
16 restraining order or preliminary injunction is sought,
17 require the filing of a bond or equivalent security in
18 accordance with the Federal Rules of Civil Proce-
19 dure.

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

1 (g) CIVIL ACTION BY STATE GOVERNORS.—A Gov-
2 ernor of a State may commence a civil action under sub-
3 section (a) of this section, without regard to the limitation
4 under subsection (c), against the Administrator or Com-
5 mandant in any case in which there is alleged a failure
6 of the Administrator or Commandant to enforce an efflu-
7 ent limit or performance standard under this Act, the vio-
8 lation of which is causing—

9 (1) an adverse effect on the public health or
10 welfare in the State; or

11 (2) a violation of any water quality requirement
12 in the State.

13 **SEC. 11. ALASKAN CRUISE VESSELS.**

14 (a) DEFINITION OF ALASKAN CRUISE VESSEL.—In
15 this section, the term “Alaskan cruise vessel” means a
16 cruise vessel—

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

19 (2) in which is installed, not later than the date
20 of enactment of this Act (or, at the option of the
21 Commandant, not later than September 30 of the
22 fiscal year in which this Act is enacted), and cer-
23 tified by the State of Alaska for continuous dis-
24 charge and operation in accordance with all applica-
25 ble Federal and State law (including regulations), an

1 advanced treatment system for the treatment and
2 discharge of graywater and sewage; and

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

4 (b) APPLICABILITY.—

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

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

11 (A) shall not be subject to the minimum
12 effluent limits prescribed under section 5(b)
13 until the date that is 3 years after the date of
14 enactment of this Act;

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

19 (C) shall be prohibited from discharging
20 sewage, graywater, and bilge water in the terri-
21 torial sea, in accordance with this Act, as of the
22 date of enactment of this Act.

23 **SEC. 12. BALLAST WATER.**

24 It is the sense of Congress that action should be
25 taken to enact legislation requiring strong, mandatory

1 standards for ballast water to reduce the threat of aquatic
2 invasive species.

3 **SEC. 13. FUNDING.**

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

8 (b) CRUISE VESSEL POLLUTION CONTROL FUND.—

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

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

16 (3) USE OF AMOUNTS IN FUND.—The Adminis-
17 trator and the Commandant may use amounts in the
18 fund, without further appropriation, to carry out
19 this Act.

20 (c) FEES ON CRUISE VESSELS.—

21 (1) IN GENERAL.—The Commandant shall es-
22 tablish and collect from each cruise vessel a reason-
23 able and appropriate fee, in an amount not to exceed
24 \$10 for each paying passenger on a cruise vessel
25 voyage, for use in carrying out this Act.

1 (2) ADJUSTMENT OF FEE.—

2 (A) IN GENERAL.—The Commandant shall
3 biennially adjust the amount of the fee estab-
4 lished under paragraph (1) to reflect changes in
5 the Consumer Price Index for All Urban Con-
6 sumers published by the Department of Labor
7 during each 2-year period.

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

11 (3) FACTORS IN ESTABLISHING FEES.—

12 (A) IN GENERAL.—In establishing fees
13 under paragraph (1), the Commandant may es-
14 tablish lower levels of fees and the maximum
15 amount of fees for certain classes of cruise ves-
16 sels based on—

- 17 (i) size;
- 18 (ii) economic share; and
- 19 (iii) such other factors as are deter-
20 mined to be appropriate by the Com-
21 mandant and Administrator.

22 (B) FEE SCHEDULES.—Any fee schedule
23 established under paragraph (1), including the
24 level of fees and the maximum amount of fees,
25 shall take into account—

- 1 (i) cruise vessel routes;
- 2 (ii) the frequency of stops at ports of
- 3 call by cruise vessels; and
- 4 (iii) other relevant considerations.

5 (4) COLLECTION OF FEES.—A fee established

6 under paragraph (1) shall be collected by the Com-

7 mandant from the owner or operator of each cruise

8 vessel to which this Act applies.

9 (5) DEPOSITS TO FUND.—Notwithstanding any

10 other provision of law, all fees collected under this

11 subsection, and all penalties and payments collected

12 for violations of this Act, shall be deposited into the

13 Fund.

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

15 (a) UNITED STATES.—Nothing in this Act restricts,

16 affects, or amends any other law or the authority of any

17 department, instrumentality, or agency of the United

18 States.

19 (b) STATES AND INTERSTATE AGENCIES.—

20 (1) IN GENERAL.—Except as provided in para-

21 graph (2), nothing in this Act precludes or denies

22 the right of any State (including a political subdivi-

23 sion of a State) or interstate agency to adopt or en-

24 force—

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

3 (B) any requirement relating to the control
4 or abatement of pollution.

5 (2) EXCEPTION.—If an effluent limit, perform-
6 ance standard, water quality standard, or any other
7 prohibition or limitation is in effect under Federal
8 law, a State (including a political subdivision of a
9 State) or interstate agency described in paragraph
10 (1) may not adopt or enforce any effluent limit, per-
11 formance standard, water quality standard, or any
12 other prohibition that—

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

17 (B) impairs or in any manner affects any
18 right or jurisdiction of the State with respect to
19 the waters of the State.

○