

115TH CONGRESS  
1ST SESSION

# H. R. 1154

To provide for the establishment of nationally uniform and environmentally sound standards governing discharges incidental to the normal operation of a commercial vessel.

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## IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 16, 2017

Mr. HUNTER (for himself, Mr. CUMMINGS, Mr. GIBBS, Mr. KING of New York, Mr. BYRNE, Mr. FARENTHOLD, Mr. LOBIONDO, Mr. RICHMOND, Mr. BOST, Mr. HARPER, Mr. JENKINS of West Virginia, Mr. BABIN, Mr. GRAVES of Louisiana, and Mr. LEWIS of Minnesota) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To provide for the establishment of nationally uniform and environmentally sound standards governing discharges incidental to the normal operation of a commercial vessel.

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 “Commercial Vessel Incidental Discharge Act”.

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. Definitions.
- Sec. 3. Existing ballast water regulations.
- Sec. 4. Ballast water discharge requirements.
- Sec. 5. Review of ballast water discharge standard.
- Sec. 6. Alternative compliance program.
- Sec. 7. Reception facilities.
- Sec. 8. Requirements for discharges incidental to the normal operation of a commercial vessel.
- Sec. 9. Judicial review.
- Sec. 10. State enforcement.
- Sec. 11. Effect on State authority.
- Sec. 12. Effect on other laws.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) ADMINISTRATOR.—The term “Adminis-  
4 trator” means the Administrator of the Environ-  
5 mental Protection Agency.

6 (2) AQUATIC NUISANCE SPECIES.—The term  
7 “aquatic nuisance species” means a nonindigenous  
8 species (including a pathogen) that threatens the di-  
9 versity or abundance of native species or the ecologi-  
10 cal stability of navigable waters of the United  
11 States, or commercial, agricultural, aquacultural, or  
12 recreational activities dependent on such waters.

13 (3) BALLAST WATER.—The term “ballast  
14 water” means any water and suspended matter  
15 taken on board a commercial vessel to control or  
16 maintain trim, draught, stability, or stresses of the  
17 commercial vessel, regardless of how it is carried.

18 (4) BALLAST WATER DISCHARGE STANDARD.—  
19 The term “ballast water discharge standard” means

1 the numerical ballast water discharge standard set  
2 forth in section 151.2030 of title 33, Code of Fed-  
3 eral Regulations, or section 151.1511 of title 33,  
4 Code of Federal Regulations, or a revised numerical  
5 ballast water discharge standard established under  
6 section 5, as applicable.

7 (5) BALLAST WATER MANAGEMENT SYSTEM.—

8 The term “ballast water management system”  
9 means any system (including all ballast water treat-  
10 ment equipment and all associated control and moni-  
11 toring equipment) that processes ballast water to  
12 kill, render harmless, or remove organisms.

13 (6) COMMERCIAL VESSEL.—

14 (A) IN GENERAL.—The term “commercial  
15 vessel” means a vessel (as defined in section 3  
16 of title 1, United States Code) that is engaged  
17 in commercial service (as defined in section  
18 2101 of title 46, United States Code).

19 (B) EXCLUSION.—The term “commercial  
20 vessel” does not include a recreational vessel.

21 (7) DISCHARGE INCIDENTAL TO THE NORMAL  
22 OPERATION OF A COMMERCIAL VESSEL.—

23 (A) IN GENERAL.—The term “discharge  
24 incidental to the normal operation of a commer-  
25 cial vessel” means—

1 (i) a discharge into navigable waters  
2 of the United States from a commercial  
3 vessel of—

4 (I)(aa) graywater, bilge water,  
5 cooling water, oil water separator ef-  
6 fluent, anti-fouling hull coating leach-  
7 ate, boiler or economizer blowdown,  
8 byproducts from cathodic protection,  
9 controllable pitch propeller and  
10 thruster hydraulic fluid, distillation  
11 and reverse osmosis brine, elevator pit  
12 effluent, firemain system effluent,  
13 freshwater layup effluent, gas turbine  
14 wash water, motor gasoline and com-  
15 pensating effluent, refrigeration and  
16 air condensate effluent, seawater pip-  
17 ing biofouling prevention substances,  
18 boat engine wet exhaust, sonar dome  
19 effluent, exhaust gas scrubber  
20 washwater, or stern tube packing  
21 gland effluent; or

22 (bb) any other pollutant associ-  
23 ated with the operation of a marine  
24 propulsion system, shipboard maneu-  
25 vering system, habitability system, or

1 installed major equipment, or from a  
2 protective, preservative, or absorptive  
3 application to the hull of a commercial  
4 vessel;

5 (II) deck runoff, deck washdown,  
6 above the waterline hull cleaning ef-  
7 fluent, aqueous film forming foam ef-  
8 fluent, chain locker effluent, non-oily  
9 machinery wastewater, underwater  
10 ship husbandry effluent, welldeck ef-  
11 fluent, or fish hold and fish hold  
12 cleaning effluent; or

13 (III) any effluent from a properly  
14 functioning marine engine; or

15 (ii) a discharge of a pollutant into  
16 navigable waters of the United States in  
17 connection with the testing, maintenance,  
18 or repair of a system, equipment, or engine  
19 described in subclause (I)(bb) or (III) of  
20 clause (i) whenever the commercial vessel  
21 is waterborne.

22 (B) EXCLUSIONS.—The term “discharge  
23 incidental to the normal operation of a commer-  
24 cial vessel” does not include—

1 (i) a discharge into navigable waters  
2 of the United States from a commercial  
3 vessel of—

4 (I) ballast water;

5 (II) rubbish, trash, garbage, in-  
6 cinerator ash, or other such material  
7 discharged overboard;

8 (III) oil or a hazardous sub-  
9 stance, as those terms are defined in  
10 section 311 of the Federal Water Pol-  
11 lution Control Act (33 U.S.C. 1321);  
12 or

13 (IV) sewage, as defined in section  
14 312(a)(6) of the Federal Water Pollu-  
15 tion Control Act (33 U.S.C.  
16 1322(a)(6));

17 (ii) any emission of an air pollutant  
18 resulting from the operation onboard a  
19 commercial vessel of a commercial vessel  
20 propulsion system, motor driven equip-  
21 ment, or incinerator; or

22 (iii) any discharge into navigable  
23 waters of the United States from a com-  
24 mercial vessel when the commercial vessel

1 is operating in a capacity other than as a  
2 means of transportation on water.

3 (8) GENERAL PERMIT.—The term “General  
4 Permit” means the Final National Pollutant Dis-  
5 charge Elimination System Vessel General Permit  
6 for Discharges Incidental to the Normal Operation  
7 of a Vessel noticed in the Federal Register on April  
8 12, 2013 (78 Fed. Reg. 21938).

9 (9) GEOGRAPHICALLY LIMITED AREA.—The  
10 term “geographically limited area” means an area—

11 (A) with a physical limitation that prevents  
12 a commercial vessel from operating outside the  
13 area, such as the Great Lakes and Saint Law-  
14 rence River, as determined by the Secretary; or

15 (B) that is ecologically homogeneous, as  
16 determined by the Secretary in consultation  
17 with the heads of other Federal departments or  
18 agencies the Secretary considers appropriate.

19 (10) MAJOR CONVERSION.—The term “major  
20 conversion” has the meaning given that term in sec-  
21 tion 2101(14a) of title 46, United States Code.

22 (11) NAVIGABLE WATERS OF THE UNITED  
23 STATES.—The term “navigable waters of the United  
24 States” has the meaning given that term in section  
25 2101(17a) of title 46, United States Code.

1           (12) OWNER OR OPERATOR.—The term “owner  
2           or operator” means a person owning, operating, or  
3           chartering by demise a commercial vessel.

4           (13) POLLUTANT.—The term “pollutant” has  
5           the meaning given that term in section 502(6) of the  
6           Federal Water Pollution Control Act (33 U.S.C.  
7           1362(6)).

8           (14) RECREATIONAL VESSEL.—The term “rec-  
9           reational vessel” has the meaning given that term in  
10          section 2101(25) of title 46, United States Code.

11          (15) SECRETARY.—The term “Secretary”  
12          means the Secretary of the department in which the  
13          Coast Guard is operating.

14   **SEC. 3. EXISTING BALLAST WATER REGULATIONS.**

15          (a) EFFECT ON EXISTING REGULATIONS.—Any reg-  
16          ulation issued pursuant to the Nonindigenous Aquatic  
17          Nuisance Prevention and Control Act of 1990 that is in  
18          effect on the date immediately preceding the effective date  
19          of this Act, and that relates to a matter subject to regula-  
20          tion under this Act, shall remain in full force and effect  
21          unless or until superseded by a new regulation issued  
22          under this Act relating to such matter.

23          (b) APPLICATION OF OTHER REGULATIONS.—The  
24          regulations issued pursuant to the Nonindigenous Aquatic  
25          Nuisance Prevention and Control Act of 1990 relating to



1 sanctions for violating a regulation under that Act shall  
2 apply to violations of a regulation issued under this Act.

3 **SEC. 4. BALLAST WATER DISCHARGE REQUIREMENTS.**

4 (a) IN GENERAL.—

5 (1) REQUIREMENTS.—Except as provided in  
6 paragraph (3), and subject to sections 151.2035 and  
7 151.2036 of title 33, Code of Federal Regulations  
8 (as in effect on the date of enactment of this Act),  
9 an owner or operator may discharge ballast water  
10 into navigable waters of the United States from a  
11 commercial vessel covered under subsection (b) only  
12 if—

13 (A) the discharge meets the ballast water  
14 discharge standard; and

15 (B) the owner or operator discharges the  
16 ballast water in accordance with other require-  
17 ments established by the Secretary.

18 (2) COMMERCIAL VESSELS ENTERING THE  
19 GREAT LAKES SYSTEM.—In the case of a commercial  
20 vessel that enters the Great Lakes through the Saint  
21 Lawrence River after operating outside the exclusive  
22 economic zone of the United States or Canada, the  
23 owner or operator shall—

24 (A) comply with the requirements of—

25 (i) paragraph (1);

1 (ii) subpart C of part 151 of title 33,  
2 Code of Federal Regulations; and

3 (iii) section 401.30 of title 33, Code of  
4 Federal Regulations; and

5 (B) conduct a complete ballast water ex-  
6 change in an area that is 200 nautical miles or  
7 more from any shore before the owner or oper-  
8 ator may discharge ballast water while oper-  
9 ating in the Saint Lawrence River or the Great  
10 Lakes, subject to any requirements the Sec-  
11 retary determines necessary with regard to such  
12 exchange, or any ballast water management  
13 system that is to be used in conjunction with  
14 such exchange, to ensure that any discharge of  
15 ballast water complies with the requirements of  
16 paragraph (1).

17 (3) SAFETY EXEMPTION.—Notwithstanding  
18 paragraphs (1) and (2), an owner or operator may  
19 discharge any ballast water into navigable waters of  
20 the United States from a commercial vessel if—

21 (A) the ballast water is discharged solely  
22 to ensure the safety of life at sea;

23 (B) the ballast water is discharged acci-  
24 dentally as the result of damage to the commer-  
25 cial vessel or its equipment and—

1 (i) all reasonable precautions to pre-  
2 vent or minimize the discharge have been  
3 taken; and

4 (ii) the owner or operator did not will-  
5 fully or recklessly cause such damage; or

6 (C) the ballast water is discharged solely  
7 for the purpose of avoiding or minimizing a dis-  
8 charge from the commercial vessel of a pollut-  
9 ant that would violate an applicable Federal or  
10 State law.

11 (4) LIMITATION ON REQUIREMENTS.—In estab-  
12 lishing requirements under this subsection, the Sec-  
13 retary may not require the installation of a ballast  
14 water management system on a commercial vessel  
15 that—

16 (A) carries all of its ballast water in sealed  
17 tanks that are not subject to discharge; or

18 (B) discharges ballast water solely into a  
19 reception facility described in section 7.

20 (b) APPLICABILITY.—

21 (1) COVERED VESSELS.—Except as provided in  
22 paragraph (2), subsection (a) shall apply to any  
23 commercial vessel that is designed, constructed, or  
24 adapted to carry ballast water while such commer-

1        cial vessel is operating in navigable waters of the  
2        United States.

3            (2) EXEMPTED VESSELS.—Subsection (a) shall  
4        not apply to a commercial vessel—

5            (A) that continuously takes on and dis-  
6        charges ballast water in a flow-through system,  
7        if such system does not introduce aquatic nui-  
8        sance species into navigable waters of the  
9        United States, as determined by the Secretary;

10          (B) that operates exclusively within a geo-  
11        graphically limited area;

12          (C) that operates pursuant to a geographic  
13        restriction issued as a condition under section  
14        3309 of title 46, United States Code, or an  
15        equivalent restriction issued by the country of  
16        registration of the commercial vessel;

17          (D) in the National Defense Reserve Fleet  
18        that is scheduled to be disposed of through  
19        scrapping or sinking;

20          (E) that discharges ballast water con-  
21        sisting solely of water taken aboard from a pub-  
22        lic or commercial source that, at the time the  
23        water is taken aboard, meets the applicable reg-  
24        ulations or permit requirements for such source

1 under the Safe Drinking Water Act (42 U.S.C.  
2 300f et seq.); or

3 (F) in an alternative compliance program  
4 established pursuant to section 6.

5 (c) TYPE APPROVAL OF BALLAST WATER MANAGE-  
6 MENT SYSTEMS THAT RENDER BALLAST WATER ORGA-  
7 NISMS INCAPABLE OF REPRODUCTION.—

8 (1) IN GENERAL.—Notwithstanding chapter 5  
9 of title 5, United States Code, part 151 of title 33,  
10 Code of Federal Regulations, and part 162 of title  
11 46, Code of Federal Regulations, a ballast water  
12 management system that renders organisms in bal-  
13 last water incapable of reproduction at the con-  
14 centrations prescribed in the ballast water discharge  
15 standard shall be type approved by the Secretary,  
16 if—

17 (A) such system—

18 (i) undergoes type approval testing at  
19 an independent laboratory designated by  
20 the Secretary under such regulations; and

21 (ii) meets the requirements of subpart  
22 162.060 of title 46, Code of Federal Regu-  
23 lations, other than the requirements re-  
24 lated to staining methods or measuring the  
25 concentration of living organisms; and

1 (B) such laboratory uses a type approval  
2 testing method described in a final policy letter  
3 published under paragraph (2).

4 (2) TYPE APPROVAL TESTING METHODS.—

5 (A) DRAFT POLICY.—Not later than 60  
6 days after the date of enactment of this Act,  
7 the Secretary shall publish a draft policy letter  
8 describing type approval testing methods capa-  
9 ble of measuring the concentration of organisms  
10 in ballast water that are capable of reproduc-  
11 tion.

12 (B) PUBLIC COMMENT.—The Secretary  
13 shall provide for a period of not more than 60  
14 days for the public to comment on the draft  
15 policy letter published under paragraph (1).

16 (C) FINAL POLICY.—Not later than 150  
17 days after the date of enactment of this Act,  
18 the Secretary shall publish a final policy letter  
19 describing type approval testing methods capa-  
20 ble of measuring the concentration of organisms  
21 in ballast water that are capable of reproduc-  
22 tion.

23 (D) REVISIONS.—The Secretary shall re-  
24 vise such policy letter as additional testing  
25 methods are determined by the Secretary to be

1 capable of measuring the concentration of orga-  
2 nisms in ballast water that are capable of re-  
3 production.

4 (E) CONSIDERATIONS.—In developing a  
5 policy letter under this paragraph, the Sec-  
6 retary—

7 (i) shall consider a type approval test-  
8 ing method that uses organism grow out  
9 and most probable number statistical anal-  
10 ysis to determine the concentration of or-  
11 ganisms in ballast water that are capable  
12 of reproduction; and

13 (ii) shall not consider a type approval  
14 testing method that relies on a staining  
15 method that measures the concentration of  
16 organisms greater than or equal to 10 mi-  
17 crometers and organisms less than or  
18 equal to 50 micrometers.

19 **SEC. 5. REVIEW OF BALLAST WATER DISCHARGE STAND-**  
20 **ARD.**

21 (a) EFFECTIVENESS REVIEW.—

22 (1) IN GENERAL.—The Secretary shall conduct  
23 reviews in accordance with this section to determine  
24 whether revising the ballast water discharge stand-  
25 ard would result in a reduction in the risk of the in-

1 introduction or establishment of aquatic nuisance spe-  
2 cies.

3 (2) REQUIRED REVIEWS.—Not later than Janu-  
4 ary 1, 2022, and every 10 years thereafter, the Sec-  
5 retary, in consultation with the Administrator, shall  
6 complete a review under paragraph (1).

7 (3) STATE PETITIONS FOR REVIEW.—

8 (A) IN GENERAL.—The Governor of a  
9 State may submit a petition requesting that the  
10 Secretary conduct a review under paragraph (1)  
11 if there is significant new information that  
12 could reasonably indicate the ballast water dis-  
13 charge standard could be revised to result in a  
14 reduction in the risk of the introduction or es-  
15 tablishment of aquatic nuisance species.

16 (B) TIMING.—A Governor may not submit  
17 a petition under subparagraph (A) during the  
18 1-year period following the date of completion  
19 of a review under paragraph (1).

20 (C) REQUIRED INFORMATION.—A petition  
21 submitted to the Secretary under subparagraph  
22 (A) shall include—

23 (i) a proposed ballast water discharge  
24 standard that would result in a reduction



1 in the risk of the introduction or establish-  
2 ment of aquatic nuisance species;

3 (ii) information regarding any ballast  
4 water management systems that may  
5 achieve the proposed ballast water dis-  
6 charge standard;

7 (iii) the scientific and technical infor-  
8 mation on which the petition is based, in-  
9 cluding a description of the risk reduction  
10 that would result from the proposed ballast  
11 water discharge standard included under  
12 clause (i); and

13 (iv) any additional information the  
14 Secretary considers appropriate.

15 (D) PUBLIC AVAILABILITY.—Upon receipt  
16 of a petition under subparagraph (A), the Sec-  
17 retary shall make publicly available a copy of  
18 the petition, including the information included  
19 under subparagraph (C).

20 (E) TREATMENT OF MORE THAN ONE PE-  
21 TITION AS A SINGLE PETITION.—The Secretary  
22 may treat more than one petition submitted  
23 under subparagraph (A) as a single such peti-  
24 tion.

1 (F) AUTHORITY TO REVIEW.—After receiv-  
2 ing a petition that meets the requirements of  
3 this paragraph, the Secretary, in consultation  
4 with the Administrator, may conduct a review  
5 under paragraph (1).

6 (b) PRACTICABILITY REVIEW.—

7 (1) IN GENERAL.—If the Secretary determines  
8 under subsection (a) that revision of the ballast  
9 water discharge standard would result in a reduction  
10 in the risk of the introduction or establishment of  
11 aquatic nuisance species, the Secretary, in consulta-  
12 tion with the Administrator, shall conduct a prac-  
13 ticability review to determine whether—

14 (A) a ballast water management system  
15 that is capable of achieving the ballast water  
16 discharge standard as proposed to be revised is  
17 economically achievable and operationally prac-  
18 ticable; and

19 (B) testing protocols that can assure accu-  
20 rate measurement of compliance with the bal-  
21 last water discharge standard as proposed to be  
22 revised can be practicably implemented.

23 (2) CRITERIA FOR PRACTICABILITY REVIEW.—

24 In conducting a practicability review under para-  
25 graph (1), the Secretary shall consider—

1 (A) improvements in the scientific under-  
2 standing of biological and ecological processes  
3 that lead to the introduction or establishment of  
4 aquatic nuisance species;

5 (B) improvements in ballast water manage-  
6 ment systems, including—

7 (i) the capability of such systems to  
8 achieve the ballast water discharge stand-  
9 ard as proposed to be revised;

10 (ii) the effectiveness and reliability of  
11 such systems in the shipboard environ-  
12 ment;

13 (iii) the compatibility of such systems  
14 with the design and operation of a com-  
15 mercial vessel by class, type, and size;

16 (iv) the commercial availability of  
17 such systems; and

18 (v) the safety of such systems;

19 (C) improvements in the capabilities to de-  
20 tect, quantify, and assess whether aquatic nui-  
21 sance species are capable of reproduction under  
22 the ballast water discharge standard as pro-  
23 posed to be revised;

24 (D) the impact of ballast water manage-  
25 ment systems on water quality;

1 (E) the costs, cost-effectiveness, and ef-  
2 fects of—

3 (i) a revised ballast water discharge  
4 standard; and

5 (ii) maintaining the existing ballast  
6 water discharge standard; and

7 (F) other criteria that the Secretary con-  
8 siders appropriate.

9 (3) INFORMATION FROM STATES.—In con-  
10 ducting a practicability review under paragraph (1),  
11 the Secretary shall solicit information from the  
12 States concerning matters the Secretary is required  
13 to consider under paragraph (2).

14 (c) REVISED BALLAST WATER DISCHARGE STAND-  
15 ARD.—The Secretary shall issue a rule to revise the ballast  
16 water discharge standard if the Secretary, in consultation  
17 with the Administrator, determines on the basis of the  
18 practicability review under subsection (b) that—

19 (1) a ballast water management system that is  
20 capable of achieving the ballast water discharge  
21 standard as proposed to be revised is economically  
22 achievable and operationally practicable; and

23 (2) testing protocols that can assure accurate  
24 measurement of compliance with the ballast water

1 discharge standard as proposed to be revised can be  
2 practicably implemented.

3 (d) REVISED BALLAST WATER DISCHARGE STAND-  
4 ARD EFFECTIVE DATE AND COMPLIANCE DEADLINE.—

5 (1) IN GENERAL.—If the Secretary issues a  
6 rule to revise the ballast water discharge standard  
7 under subsection (c), the Secretary shall include in  
8 such rule—

9 (A) an effective date for the revised ballast  
10 discharge standard that is three years after the  
11 date on which such rule is published in the Fed-  
12 eral Register; and

13 (B) for the owner or operator of a com-  
14 mercial vessel that is constructed or completes  
15 a major conversion on or after the date that is  
16 three years after the date on which the rule is  
17 published in the Federal Register, a deadline to  
18 comply with the revised ballast water discharge  
19 standard that is the first day on which such  
20 commercial vessel operates in navigable waters  
21 of the United States.

22 (2) EXTENSIONS.—The Secretary shall estab-  
23 lish a process for an owner or operator to submit a  
24 petition to the Secretary for an extension of a com-  
25 pliance deadline under paragraph (1)(B).

1           (3) FACTORS.—In reviewing a petition under  
2           this subsection, the Secretary shall consider, with re-  
3           spect to the ability of an owner or operator to meet  
4           a compliance deadline, the following factors:

5                   (A) Whether the ballast water management  
6                   system to be installed, if applicable, is available  
7                   in sufficient quantities to meet the compliance  
8                   deadline.

9                   (B) Whether there is sufficient shipyard or  
10                  other installation facility capacity.

11                  (C) Whether there is sufficient availability  
12                  of engineering and design resources.

13                  (D) Commercial vessel characteristics, such  
14                  as engine room size, layout, or a lack of in-  
15                  stalled piping.

16                  (E) Electric power generating capacity  
17                  aboard the commercial vessel.

18                  (F) Safety of the commercial vessel and  
19                  crew.

20                  (G) Any other factor that the Secretary de-  
21                  termines appropriate.

22           (4) CONSIDERATION OF PETITIONS.—

23                   (A) DETERMINATIONS.—The Secretary  
24                   shall approve or deny a petition for an exten-

1 sion of a compliance deadline submitted by an  
2 owner or operator under this subsection.

3 (B) DEADLINE.—If the Secretary does not  
4 approve or deny a petition referred to in sub-  
5 paragraph (A) on or before the last day of the  
6 90-day period beginning on the date of submis-  
7 sion of the petition, the petition shall be deemed  
8 approved.

9 (5) PERIOD OF USE OF INSTALLED BALLAST  
10 WATER MANAGEMENT SYSTEM.—

11 (A) IN GENERAL.—Subject to subpara-  
12 graph (B), an owner or operator shall be con-  
13 sidered to be in compliance with the ballast  
14 water discharge standard if the ballast water  
15 management system installed on the commercial  
16 vessel complies with the ballast water discharge  
17 standard in effect at the time of installation,  
18 notwithstanding any revisions to the ballast  
19 water discharge standard occurring after the in-  
20 stallation, so long as—

21 (i) the owner or operator maintains  
22 the ballast water management system in  
23 proper working condition, as determined by  
24 the Secretary; and

1 (ii) the ballast water management sys-  
2 tem continues to meet the ballast water  
3 discharge standard applicable to the com-  
4 mercial vessel at the time of installation,  
5 as determined by the Secretary.

6 (B) LIMITATION.—Subparagraph (A) shall  
7 cease to apply with respect to a commercial ves-  
8 sel after the first to occur of the following:

9 (i) The expiration of the service life of  
10 the ballast water management system of  
11 the commercial vessel, as determined by  
12 the Secretary.

13 (ii) The expiration of the service life  
14 of the commercial vessel, as determined by  
15 the Secretary.

16 (iii) The completion of a major con-  
17 version of the commercial vessel.

18 **SEC. 6. ALTERNATIVE COMPLIANCE PROGRAM.**

19 The Secretary, in consultation with the Adminis-  
20 trator, may issue a rule establishing one or more compli-  
21 ance programs as that may be used by an owner or oper-  
22 ator as an alternative to compliance with the requirements  
23 of section 4(a) for a commercial vessel that—

24 (1) has a maximum ballast water capacity of  
25 less than 8 cubic meters; or



1           (2) is less than 3 years from the end of the  
2           service life of the commercial vessel, as determined  
3           by the Secretary.

4 **SEC. 7. RECEPTION FACILITIES.**

5           (a) IN GENERAL.—Notwithstanding the require-  
6           ments of section 4(a), an owner or operator may discharge  
7           ballast water into an onshore or offshore facility for the  
8           reception of ballast water that meets the standards estab-  
9           lished by the Administrator, in consultation with the Sec-  
10          retary, under subsection (b).

11          (b) ISSUANCE OF STANDARDS.—Not later than 1  
12          year after the date of enactment of this Act, the Adminis-  
13          trator, in consultation with the Secretary, shall publish in  
14          the Federal Register a rule establishing reasonable and  
15          practicable standards for reception facilities to mitigate  
16          adverse effects of aquatic nuisance species on navigable  
17          waters of the United States.

18 **SEC. 8. REQUIREMENTS FOR DISCHARGES INCIDENTAL TO**  
19                               **THE NORMAL OPERATION OF A COMMERCIAL**  
20                               **VESSEL.**

21           (a) IN GENERAL.—Not later than 2 years after the  
22           date of enactment of this Act, the Secretary, in consulta-  
23           tion with the Administrator, shall publish in the Federal  
24           Register a rule establishing best management practices for

1 discharges incidental to the normal operation of a com-  
2 mercial vessel for commercial vessels that are—

3 (1) greater than or equal to 79 feet in length;

4 and

5 (2) not fishing vessels, including fish processing  
6 vessels and fish tender vessels (as such terms are de-  
7 fined in section 2101 of title 46, United States  
8 Code).

9 (b) TRANSITION.—

10 (1) IN GENERAL.—Notwithstanding the expira-  
11 tion date for the General Permit, any practice, limi-  
12 tation, or concentration applicable to any discharge  
13 incidental to the normal operation of a commercial  
14 vessel that is required by the General Permit on the  
15 date of enactment of this Act, and any reporting re-  
16 quirement required by the General Permit on such  
17 date of enactment, shall remain in effect until the  
18 effective date of a rule issued by the Secretary under  
19 subsection (a).

20 (2) PART 6 CONDITIONS.—Notwithstanding  
21 paragraph (1) and any other provision of law, the  
22 terms and conditions of Part 6 of the General Per-  
23 mit (relating to specific requirements for individual  
24 States or Indian country lands) shall expire on the  
25 date of enactment of this Act.

1 (c) APPLICATION TO CERTAIN VESSELS.—

2 (1) APPLICATION OF FEDERAL WATER POLLU-  
3 TION CONTROL ACT.—No permit shall be required  
4 under section 402 of the Federal Water Pollution  
5 Control Act (33 U.S.C. 1342) or prohibition en-  
6 forced under any other provision of law for, nor shall  
7 any best management practice regarding a discharge  
8 incidental to the normal operation of a commercial  
9 vessel under this Act apply to, a discharge incidental  
10 to the normal operation of a commercial vessel if the  
11 commercial vessel is—

12 (A) less than 79 feet in length; or

13 (B) a fishing vessel, including a fish proc-  
14 essing vessel and a fish tender vessel (as such  
15 terms are defined in section 2101 of title 46,  
16 United States Code).

17 (2) APPLICATION OF GENERAL PERMIT.—The  
18 terms and conditions of the General Permit shall  
19 cease to apply to vessels described in subparagraphs  
20 (A) and (B) of paragraph (1) on the date of enact-  
21 ment of this Act.

22 (d) STATE PETITION FOR REVISION OF BEST MAN-  
23 AGEMENT PRACTICES.—

24 (1) IN GENERAL.—The Governor of a State  
25 may submit a petition requesting that the Secretary

1       revise a best management practice established under  
2       subsection (a) if there is significant new information  
3       that could reasonably indicate that—

4               (A) revising the best management practice  
5       would substantially reduce the adverse effects  
6       on navigable waters of the United States of dis-  
7       charges incidental to the normal operation of a  
8       commercial vessel; and

9               (B) the revised best management practice  
10       would be economically achievable and operation-  
11       ally practicable.

12       (2) REQUIRED INFORMATION.—A petition sub-  
13       mitted to the Secretary under paragraph (1) shall  
14       include—

15              (A) the scientific and technical information  
16       on which the petition is based; and

17              (B) any additional information the Sec-  
18       retary considers appropriate.

19       (3) PUBLIC AVAILABILITY.—Upon receipt of a  
20       petition under paragraph (1), the Secretary shall  
21       make publicly available a copy of the petition, in-  
22       cluding the information included under paragraph  
23       (2).

24       (4) TREATMENT OF MORE THAN ONE PETITION  
25       AS A SINGLE PETITION.—The Secretary may treat

1 more than one petition submitted under paragraph  
2 (1) as a single such petition.

3 (5) REVISION OF BEST MANAGEMENT PRAC-  
4 TICES.—If, after reviewing a petition submitted by a  
5 Governor under paragraph (1), the Secretary, in  
6 consultation with the Administrator, determines that  
7 revising a best management practice would substan-  
8 tially reduce the adverse effects on navigable waters  
9 of the United States of discharges incidental to the  
10 normal operation of a commercial vessel, and the re-  
11 vised best management practice would be economi-  
12 cally achievable and operationally practicable, the  
13 Secretary may, in consultation with the Adminis-  
14 trator, issue a rule to revise the best management  
15 practice established under subsection (a).

16 **SEC. 9. JUDICIAL REVIEW.**

17 (a) IN GENERAL.—A person may file a petition for  
18 review of a final rule issued under this Act in the United  
19 States Court of Appeals for the District of Columbia Cir-  
20 cuit.

21 (b) DEADLINE.—

22 (1) IN GENERAL.—A petition under this section  
23 shall be filed not later than 120 days after the date  
24 on which the rule is published in the Federal Reg-  
25 ister.

1           (2) EXCEPTION.—Notwithstanding paragraph  
2           (1), a petition that is based solely on grounds that  
3           arise after the deadline to file a petition under para-  
4           graph (1) has passed may be filed not later than  
5           120 days after the date on which such grounds first  
6           arise.

7   **SEC. 10. STATE ENFORCEMENT.**

8           The Secretary may enter into an agreement with the  
9   Governor of a State to allow the State to enforce the provi-  
10   sions of this Act, as the Secretary considers appropriate.

11   **SEC. 11. EFFECT ON STATE AUTHORITY.**

12           (a) IN GENERAL.—Except as provided in subsection  
13   (b) and as necessary to implement an agreement entered  
14   into under section 10, no State or political subdivision  
15   thereof may adopt or enforce any statute, regulation, or  
16   other requirement of the State or political subdivision with  
17   respect to—

18           (1) a discharge into navigable waters of the  
19   United States from a commercial vessel of ballast  
20   water; or

21           (2) a discharge incidental to the normal oper-  
22   ation of a commercial vessel.

23           (b) PRESERVATION OF AUTHORITY.—Nothing in this  
24   Act affects the authority of a State or political subdivision  
25   thereof to adopt or enforce any statute, regulation, or

1 other requirement with respect to any water or other sub-  
2 stance discharged or emitted from a vessel in preparation  
3 for transport of the vessel by land from one body of water  
4 to another.

5 **SEC. 12. EFFECT ON OTHER LAWS.**

6 (a) APPLICATION OF FEDERAL WATER POLLUTION  
7 CONTROL ACT.—

8 (1) IN GENERAL.—Except as provided in sec-  
9 tion 8(b), on or after the date of enactment of this  
10 Act, the Federal Water Pollution Control Act (33  
11 U.S.C. 1251 et seq.) shall not apply to a discharge  
12 into navigable waters of the United States of ballast  
13 water from a commercial vessel or a discharge inci-  
14 dental to the normal operation of a commercial ves-  
15 sel.

16 (2) OIL AND HAZARDOUS SUBSTANCE LIABIL-  
17 ITY; MARINE SANITATION DEVICES.—Nothing in this  
18 Act shall affect the application to a commercial ves-  
19 sel of—

20 (A) section 311 of the Federal Water Pol-  
21 lution Control Act (33 U.S.C. 1321); or

22 (B) section 312 of the Federal Water Pol-  
23 lution Control Act (33 U.S.C. 1322).

1 (b) ESTABLISHED REGIMES.—Notwithstanding any  
2 other provision of this Act, nothing in this Act shall affect  
3 the authority of the Federal Government under—

4 (1) the Act to Prevent Pollution from Ships (33  
5 U.S.C. 1901 et seq.) with respect to the regulation  
6 by the Federal Government of any discharge or  
7 emission that, on or after the date of enactment of  
8 this Act, is covered under the International Conven-  
9 tion for the Prevention of Pollution from Ships,  
10 1973, as modified by the Protocol of 1978; and

11 (2) title X of the Coast Guard Authorization  
12 Act of 2010 (33 U.S.C. 3801 et seq.) with respect  
13 to the regulation by the Federal Government of any  
14 anti-fouling system that, on or after the date of en-  
15 actment of this Act, is covered under the Inter-  
16 national Convention on the Control of Harmful Anti-  
17 Fouling Systems on Ships, 2001.

18 (c) INTERNATIONAL LAW.—

19 (1) IN GENERAL.—Any action taken under this  
20 Act shall be taken in accordance with international  
21 law.

22 (2) STANDARDS.—This Act shall not be con-  
23 strued to impose any design, equipment, or oper-  
24 ation standard on a commercial vessel not docu-  
25 mented under the laws of the United States and en-



1 gaged in innocent passage unless the standard im-  
2 plements a generally accepted international rule, as  
3 determined by the Secretary.

4 (d) OTHER AUTHORITIES.—Nothing in this Act shall  
5 affect the authority of the Secretary of Commerce or the  
6 Secretary of the Interior, as the case may be, to admin-  
7 ister those lands or waters under such Secretary’s admin-  
8 istrative control.

9 (e) CONFORMING AMENDMENT.—Section 1205 of the  
10 Nonindigenous Aquatic Nuisance Prevention and Control  
11 Act of 1990 (16 U.S.C. 4725) is amended by adding at  
12 the end the following: “Ballast water and discharges inci-  
13 dental to the normal operation of a commercial vessel, as  
14 those terms are defined in the Commercial Vessel Inci-  
15 dental Discharge Act, shall be regulated pursuant to such  
16 Act.”.

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