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State Regulation of Cruise Ship Pollution: Alaska's Commercial Passenger Vessel Compliance Program as a Model for Florida

Stephen Thomas Jr.

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Cover Page Footnote

Stephen Thomas is a 2005 J.D. candidate at The Florida State University College of Law, and Recent Developments Editor for the Journal of Transnational Law and Policy, Volume 13.

STATE REGULATION OF CRUISE SHIP POLLUTION: ALASKA'S COMMERCIAL PASSENGER VESSEL COMPLIANCE PROGRAM AS A MODEL FOR FLORIDA

STEPHEN THOMAS, JR.*

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I. INTRODUCTION

> [T]he [Florida-Caribbean Cruise Association] and [International Council of Cruise Lines] have acted in "good faith" working with the [Florida Department of Environmental Protection] and the [United States Coast Guard] to develop waste management practices which preserve a clean and healthy environment and which demonstrate the cruise industry's commitment

* Stephen Thomas is a 2005 J.D. candidate at The Florida State University College of Law, and Recent Developments Editor for the Journal of Transnational Law and Policy, Volume 13.

> to be a steward of the environment and set policies that make the industry a leader in environmental performance. . . .[1]
>
> Between 1994 and 1998, at least eight ships owned and operated by Royal Caribbean Cruises Ltd. were involved in hundreds of separate incidents of illegally discharging oily waste and wastewater contaminated by pollutants through ships' gray water systems. In many cases, Coast Guard CVE inspectors were misled by false oil record books and deceptive statements from ships' crews. Some ships' engineers installed temporary pipes to bypass oil-water separators, allowing unprocessed oily bilge water to be discharged directly to the sea. These pipes were disassembled and stored away during scheduled Coast Guard inspections.[2]

Florida is the busiest North American port of call for cruise ships.[3] A major tourist destination in its own right, Florida also enjoys close proximity to the Bahamas and the Caribbean, making the Sunshine State an ideal hub for cruise ship operations.[4] But the natural attributes that make Florida an ideal tourist destination — beaches and coastal waters on the Atlantic Ocean and the Gulf of Mexico, the Everglades, and North America's largest coral reef, to name a few — make Florida particularly vulnerable to pollution generated by giant cruise ships that are often described as "floating cities."[5]

All of the major cruise lines operating in the waters of Florida are owned by foreign corporations and their ships fly so-called "flags of convenience" from countries such as Liberia, Panama, and the Bahamas. [6] This allows them to take advantage of the lower taxes

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1. Memorandum of Understanding between the Fla. Dep't of Envtl. Prot. (FDEP), the Fla. Caribbean Cruise Assoc.(FCCA), and the Int'l Council of Cruise Lines (ICCL) (2001) [hereinafter FDEP Memo], *available at* http://www.iccl.org/resources/fdep_mou.cfm.

2. The Ocean Conservancy, Cruise Control: A Report on How Cruise Ships Affect the Marine Environment 39-40 (May 2002), *available at* http://www.oceanconservancy.org/dynamic/learn/publications/cruiseControl.pdf.

3. *See* U.S. ENVTL. PROT. AGENCY, CRUISE SHIP WHITE PAPER 3 (Aug. 22, 2000)[hereinafter EPA], *available at* http://www.epa.gov/owow/oceans/cruise_ships/white_paper.pdf.

4. BUS. RESEARCH & ECON. ADVISORS, INT'L COUNCIL OF CRUISE LINES, THE CONTRIBUTION OF THE NORTH AMERICAN CRUISE INDUSTRY TO THE U.S. ECONOMY IN 2002 2 (August 2003), *available at* http://www.iccl.org/resources/USEconomicImpactStudy2002.doc.

5. *See, e.g.*, THE OCEAN CONSERVANCY, *supra* note 2, at 3.

6. *Id.* at 9. *See also* discussion *infra* Part II.

and more lenient safety and employment standards of their "home" country.[7] Flying foreign colors may confer an additional benefit on the cruise industry. In *United States v. Locke*, the United States Supreme Court struck down a Washington statute imposing strict state regulations on oil tankers operating in state waters, holding that federal law preempted the state regulations.[8] The United States Environmental Protection Agency (EPA), suggested in its *Cruise Ship White Paper* that the *Locke* decision may indicate that state efforts to regulate foreign-flagged cruise ships may also be preempted by federal law.[9]

The State of Florida, under the administration of Governor Jeb Bush, has responded to this situation by closely working with the cruise industry to create a regime of voluntary standards and self-monitoring. On December 6, 2001, the Florida Department of Environmental Protection (FDEP) and the cruise ship industry interest groups the Florida-Caribbean Cruise Association (FCCA) and the International Council of Cruise Lines (ICCL), which represent sixteen cruise lines that operate in Florida's waters, signed a Memorandum of Understanding[10] "in which the industry pledged to comply with laws and regulations pertaining to waste streams consistent with ICCL waste management guidelines."[11] ICCL industry standards have been commended by some environmentalists as exceeding "state, national, and international standards," but these standards are voluntary and the Memorandum of Understanding contains no enforcement mechanisms.[12] Instead, the Memorandum relies on the U.S. Coast Guard (Coast Guard), the enforcer of federal shipping regulations, "to provide reasonable assurances that [a] cruise vessel is following management practices and industry standards. . . ."[13]

Critics are skeptical, pointing to the cruise industry's recent record of environmental violations and circumvention of Coast Guard inspection efforts.[14] Environmental groups such as Oceana and the Ocean Conservancy have called for stricter state and federal regulation of the cruise industry and enforcement mechanisms to replace voluntary compliance and self-monitoring.[15]

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7. *Id.*
8. 529 U.S. 89 (2000).
9. EPA, *supra* note 3, at 7.
10. FDEP Memo, *supra* note 1.
11. THE OCEAN CONSERVANCY, *supra* note 2, at 33.
12. *Id.* at 25.
13. FDEP Memo, *supra* note 1, at ¶ 2.
14. *See, e.g.*, THE OCEAN CONSERVANCY, *supra* note 2, at 35-42.
15. *Id.*

Other states with a major cruise industry presence have been more aggressive in regulating cruise ship pollution. In 1999, Alaska instituted a steering committee, the Alaska Cruise Ship Initiative, "to review the cruise ship industry's waste management and disposal practices."[16] Subsequently, Alaska passed a series of state laws creating the Commercial Passenger Vessel Environmental Protection (CPVEC) Program, a state program that regulates pollution from cruise ships in state waters.[17] California and Hawaii have also recently considered similar measures.[18]

As demonstrated by the introductory quotations at the beginning of this article, there is a disconnect between the actions of the cruise industry, demonstrated by bad faith attempts to circumvent basic pollution-control measures required by federal law,[19] and the reactions of Florida environmental officials, which rely on the cruise industry to monitor itself in good faith.[20] This Article is written with the hope that Florida will adopt legislation similar to Alaska's CPVEC Program rather than continuing to rely on the "good faith" of an industry that has demonstrated the opposite. The article compares the strategies used by Alaska and Florida to control pollution from cruise ships, evaluates the viability of these strategies in light of recent federal preemption decisions, and proposes a framework for evaluating future state legislation. Part II is an introduction of the cruise industry and pollution from cruise ships. Part III discusses "flags of convenience," the practice of registering ships for economic reasons in countries other than that of the beneficial owner.[21] Part IV examines two U.S. Supreme Court preemption decisions: *Ray v. Atlantic Richfield*[22] and *Locke*,[23] and evaluates their potential affects on state efforts to regulate pollution from cruise ships. Part V examines different strategies employed by two major cruise industry states, Alaska and Florida, to control pollution from cruise ships. Part VI discusses federal law relating to cruise ship pollution and how it might present preemption problems for states. Finally, Part VII will suggest a framework for

16. EPA, *supra* note 3, at 6. For details about the Alaska Cruise Ship Initiative, *see* Alaska Department of Environmental Conservation, Cruise Ship Waste Disposal and Management, Alaska Cruise Ship Initiative, *at* http://www.state.ak.us/dec/press/cruise/documents/cruiseshipinitiative.htm (last visited Feb. 27, 2004).

17. ALASKA STAT. §§ 46.03.460-46.03.490 (Michie 2002).

18. *See* THE OCEAN CONSERVANCY, *supra* note 2, at 33.

19. *See, e.g.*, U.S. v. Royal Caribbean Cruises, Ltd., 11 F. Supp. 2d 1358 (1998).

20. *See* FDEP Memo, *supra* note 1.

21. *See, e.g.*, H. Edwin Anderson, III, *The Nationality of Ships and Flags of Convenience*, 21 TUL. MAR. L.J. 139, 156-57(1996).

22. 435 U.S. 151 (1978).

23. 529 U.S. at 89.

evaluating state cruise ship legislation to help lawmakers identify and avoid potential federal preemption challenges.

II. THE CRUISE INDUSTRY AND POLLUTION

According to the ICCL, the cruise industry contributed over twenty billion dollars to the United States economy in 2002.[24] Globally, over 9.2 million passengers sailed on cruise ships in 2002 despite a weak global economy, the increased threat of terrorism, and health concerns raised by highly publicized outbreaks of the Norwalk virus.[25] This represented a 9.8 percent increase from 2001.[26] 6.5 million passengers embarked from ports in the United States, an increase of 10.2 percent.[27] Florida accounted for sixty-eight percent of the U.S. embarkations, with 4.4 million passengers sailing from Florida ports in 2002.[28] The ICCL predicts similar growth in 2003.[29]

In 2002, ICCL reported that 176 ships operated in North American waters with a total of 196,694 passenger berths.[30] *Voyager of the Seas*, a Royal Caribbean Cruise Line ship, was the "largest cruise ship in the world" as of 2002.[31] Built in Finland by Kvaener Masa, *Voyager of the Seas* is a 142,000 ton, 1,017 foot behemoth with a top speed of twenty-two knots.[32] 1,648 cabins hold up to 3,840 passengers.[33] The ship is manned by a crew of almost 1,200.[34]

The Ocean Conservancy describes *Voyager of the Seas* and other cruise ships as "floating cities" with huge environmental impact:

> Some of the pollutants generated by these giant ships daily include as much as 37,000 gallons of oily bilge water; 30,000 gallons of sewage (or black water); 255,000 gallons of non-sewage wastewater from showers, sinks, laundries, baths, and galleys (or gray water); 15 gallons of toxic chemicals from photo processing, dry cleaning and paints; tens of thousands of gallons of ballast water, bearing

24. BUS. RESEARCH & ECON. ADVISORS, *supra* note 4, at 5.
25. *Id.* at 2.
26. *Id.*
27. *Id.*
28. *Id.*
29. BUS. RESEARCH & ECON. ADVISORS, *supra* note 4, at 3.
30. *Id.* at 2.
31. THE OCEAN CONSERVANCY, *supra* note 2, at 59.
32. *Id.*
33. *Id.*
34. *Id.*

> pathogens and invasive species from foreign ports; seven tons of garbage and solid waste; and air pollution from diesel engines at a level equivalent to thousands of automobiles.[35]

The ICCL cruise industry standards for disposal of this waste, accepted by Florida in the Memorandum of Understanding, call for the disposal of "graywater" and treated "blackwater" while ships are "proceeding at a speed of not less than six knots," which must be in compliance "with all applicable laws and regulations."[36] Similarly, bilge and oily water residues, trash, and other solid and liquid wastes are to be disposed of in accordance with applicable laws and regulations as well as international treaty requirements.[37] U.S. federal laws and international treaties regulating pollution from cruise ships will be discussed in depth below.

Three foreign corporations: Carnival Corp. (incorporated in Panama);[38] Royal Caribbean Cruises, Ltd. (incorporated in Liberia);[39] and Star Cruises, Ltd. (incorporated in Hong Kong, China),[40] control a solid majority of the North American cruise market.[41] Each owns several major cruise lines and fleets of ships registered, or flagged, in various countries.[42]

On April 17, 2003, Carnival and P&O Princess Cruises merged into a dual-listed company, comprised of separate legal entities with a single economic entity.[43] This created the largest cruise line group in the world with over sixty ships operating world-wide, including Carnival Cruise Lines, P&O Princess, Holland-America Line, Costa Cruises, Cunard Line, and other brand names.[44]

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35. *Id.* at 3.

36. FDEP Memo, *supra*, note 1, *citing* ICCL Industry Standard, *Cruise Industry Waste Management Practices and Procedures*, ¶¶ 11-12 (Revision 1), *available at* http://www.iccl.org/resources/exhibit_a.pdf (last modified Dec. 1, 2001).

37. FDEP Memo, *supra*, note 1, *citing* ICCL Industry Standard, *Cruise Industry Waste Management Practices and Procedures*, ¶¶ 1-9 (Revision 1), *available at* http://www.iccl.org/resources/exhibit_a.pdf (last modified Dec. 1, 2001).

38. The McGraw-Hill Co., Inc., Standard & Poor's Corp. Descriptions plus News, *Carnival Corp.* (Oct. 25, 2003) [hereinafter Standard & Poor's: Carnival Corp.] *at* http://www.lexis.com.

39. The McGraw-Hill Co., Inc., Standard & Poor's Corp. Descriptions plus News, *Royal Caribbean Cruises, Ltd.* (Oct. 25, 2003) [hereinafter Standard & Poor's: Royal Caribbean] *at* http://www.lexis.com.

40. Hoover's Inc., Hoover's Company Fact Sheet Database - World Companies, Star Cruise Lines, Ltd.(2003)[hereinafter Hoover's], *at* www.lexis.com.

41. ROSS A. KLEIN, CRUISE SHIP BLUES 4 (2002).

42. *See, e.g.*, *id.* at 3-4.

43. The McGraw-Hill Co., Inc., Standard & Poor's Corp. Descriptions plus News, *Carnival plc* (Oct. 25, 2003) [hereinafter Standard & Poor's: Carnival plc] *at* http://www.lexis.com.

44. Standard and Poor's: Carnival Corp., *supra* note 38.

Royal Caribbean Cruises, Ltd. is the next biggest player in the cruise industry with twenty-five cruise ships operating under the Royal Caribbean International and Celebrity Cruises brand names.[45] Star Cruises is the other major player in the world cruise market, having acquired Norwegian Cruise Lines in 2001.[46] Star Cruises operates over twenty ships under the brand names: Star Cruises, Norwegian Cruise Lines, and Orient Lines.[47]

III. FLAGS OF CONVENIENCE

The practice of registering, or flagging, ships in countries other than that of their beneficial owner is often referred to as using a "flag of convenience."[48] Modern use of "flags of convenience" began during the U.S. prohibition era, aboard cruise ships, when some U.S. ship owners reflagged their vessels in Panama in order to circumvent "the U.S. law forbidding the sale of alcohol aboard U.S. ships."[49] Since then, the term "flag of convenience" has been used to refer to registration of a vessel for "primarily economic reasons in a country with an open registry."[50]

In 1970, the United Kingdom published the Rochdale Report which listed:

> six criteria for determining the status of a 'flag of convenience': 1) The country of registry allows ownership and/or control of its merchant vessels by non-citizens; 2) Access to the registry is easy; ship may usually be registered at a consulate abroad. Equally important, transfer from the registry at the owner's option is not restricted; 3) Taxes on the income from the ships are not levied locally, or are very low. A registry fee and an annual fee, based on tonnage, are normally the only charges made. A guarantee or acceptable understanding regarding future freedom from taxation may also be given; 4) The country of registry is a small power with no national requirement under any foreseeable circumstances for all the shipping registered, but receipts from very small charges on a large tonnage may produce a substantial effect on its national

45. Standard and Poor's: Royal Caribbean, *supra* note 39.
46. Hoover's, *supra* note 40.
47. *Id.*
48. *See, e.g.*, Anderson, 21 TUL. MAR. L.J. at 156-57.
49. *Id.* at 156.
50. *Id.* at 157.

> income and balance of payments; 5) Manning of ships by non-nationals is freely permitted; and 6) The country of registry has neither the power nor the administrative machinery effectively to impose any governmental or international regulations; nor has the country even the wish or the power to control the companies themselves.[51]

Until recently, Panama, Liberia, and Honduras were the primary nations of registry for "flags of convenience."[52] Honduras is no longer a major "flag of convenience" provider, but many other developing nations are getting into the business.[53]

Registering ships under "flags of convenience" often confers the same types of benefits that offshore tax havens provide for corporations: an international legal identity, a corporate shield from tax, and environmental and labor laws in a country other than the one where most of the company's business is conducted.[54]

All of the major cruise lines operating in the North American market from ports in the U.S. register their ships with "flags of convenience."[55] This practice allows cruise lines to take advantage of lower taxes, lenient labor and safety standards, and fewer inspections.[56] Carnival's fleet includes ships registered in Liberia, Panama, Bahamas, Netherlands, United Kingdom, Bermuda, and Italy.[57] Royal Caribbean registers its ships in Liberia, Norway, and Panama.[58] Star Cruises, Norwegian Cruise Lines, and Orient Lines ships are flagged in the Bahamas.[59]

In addition to the tax and regulatory benefits companies enjoy when employing "flags of convenience," there are also potential legal benefits. According to international law, a ship is under the jurisdiction of its nation of registry while at sea, and under joint jurisdiction of the flag country and the host country when in port.[60]

In *United States v. Royal Caribbean Cruises, Ltd.* the U.S. Department of Justice charged Royal Caribbean with falsifying

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51. *Id.* at 157-58 (citing Committee of Inquiry into Shipping: London, H.M.S.O. 1970, Cmnd 4337 (Rochdale Report)).

52. Herbert R. Northrup & Peter B. Scrase, *The International Transport Workers' Federation Flag of Convenience Shipping Campaign: 1983-1995*, 23 U. Denv. TRANSP. L.J. 369, 372 (1996).

53. *Id.*

54. *See* THE OCEAN CONSERVANCY, *supra* note 2, at 9.

55. Klein, *supra* note 41, at 141-43.

56. *Id.* at 142.

57. *Id.* at 141.

58. *Id.*

59. *Id.*

60. *See, e.g.*, Lauritzen v. Larsen, 345 U.S. 571 (1953).

pollution records required by law and intentionally bypassing pollution control devices.[61] Attorneys for Royal Caribbean, armed with a diplomatic note from Liberia, asked for the case to be dismissed, arguing that because the ship in question was registered in Liberia, the U.S. had no jurisdiction.[62] The trial court rejected this argument in this case involving violation of international and federal standards.[63] Other cases, however, suggest that *state* regulation of shipping in excess of U.S. federal regulation might be federally preempted where a foreign vessel is involved.[64] For example, a "flag of convenience" could shield a ship whose beneficial ownership is headquartered in Florida, as most of the major cruise ship companies are, from any Florida statute or regulation that exceeds federal standards. The potential for the federal preemption doctrine to hamper state regulation of foreign-flagged cruise ships is discussed in the next section.

IV. STATE REGULATION OF SHIPPING AND THE PREEMPTION DOCTRINE

Since nearly all of the cruise ship fleet is flagged in countries other than the U.S., federal preemption is a potential obstacle to any state wishing to regulate pollution from cruise ships.[65] At least two major Supreme Court decisions, *Ray*[66] and *Locke*,[67] have held that federal law relating to oil tankers and the pollution they can potentially cause, preempts much state regulation of oil tankers.

While the pollution from an oil spill — as evidenced by the *Exxon Valdez* spill[68] and the more recent *Prestige* spill off of the coasts of Spain, Portugal, and France[69] — is potentially devastating, consider that oil tankers are designed to *prevent* oil spills.[70] Whereas, in contrast, while a cruise ship may employ pollution control methods, much of the waste it produces is intentionally

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61. 11 F. Supp. 2d at 1358-1359.
62. *Id.* at 1358-1362.
63. *Id.*
64. *See Ray*, 435 U.S. at 15; *Locke*, 529 U.S. at 89.
65. *See* EPA, *supra* note 3, at 7.
66. 435 U.S. at 151.
67. 529 U.S. at 89.
68. *See Id.* at 94.
69. *See* World Wildlife Fund, *Oil Spill Off Spain's NW Coast* (Nov. 2002) *at* http://www.panda.org/news_facts/crisis/spain_oil_spill/index.cfm (providing detailed information on the *Prestige* spill)(last visited Mar. 2, 2004).
70. *See, e.g.*, Australian Marine Safety Authority, Comparison of Single and Double Hull Tankers, *available at* http://www.amsa.gov.au/amsa/pub/tankers.pdf (last visited on Mar. 2, 2004)

discharged into the sea.[71] Legally, the two classes of ships are more analogous. The federal law, regulations, and treaties cited in the oil tanker federal preemption cases (the Oil Tanker Cases) are often applicable to all commercial shipping — cruise ships, as well as oil tankers.[72] Thus, a state wishing to regulate cruise ships would be wise to pay close attention to the Oil Tanker Cases.

A. Ray v. Atlantic Richfield

In response to the *Torrey Canyon* oil spill off the English coast in 1967, both Congress and the State of Washington passed legislation regulating oil tankers.[73] In *Ray*, the U.S. Supreme Court overturned Washington state laws regulating "the design, size, and movement of oil tankers in Puget Sound."[74] The unanimous court held that federal law preempted Washington requirements that required tankers to use a Washington-licensed pilot, limited tanker size, and regulated tanker design and construction.[75]

According to the *Ray* Court, Title I of the Port and Waterways Safety Act of 1972 (PWSA) allows states to regulate their ports and waterways as long as the regulation pertains to "the peculiarities of local waters that call for special precautionary measures,"[76] and the Coast Guard has not adopted regulations on the subject or determined that regulation is unnecessary or inappropriate.[77]

The *Ray* court upheld a Federal District Court decision holding "that under the Supremacy Clause . . . which declares that the federal law 'shall be the supreme Law of the Land,' the [Washington] Tanker Law could not coexist with the PWSA and was totally invalid."[78] The discussion of the Supremacy Clause in *Ray* is important because it was relied upon as the appropriate analysis in *Locke*,[79] below. It reads:

> [W]hen a State's exercise of its police power is challenged under the Supremacy Clause, "we start with the assumption that the historic police powers of the States were not to be superseded by the Federal Act unless that was the clear and manifest

71. *See* THE OCEAN CONSERVANCY, *supra* note 2, at 11-19.
72. *See* EPA, *supra* note 3, at 7-12.
73. *Locke*, 529 U.S. at 95.
74. 435 U.S. at 151.
75. *Id.* at 154-155.
76. *Id.* at 171.
77. *See id.* at 151-155.
78. *Id.* at 155.
79. 529 U.S. at 89.

> purpose of Congress." (citations omitted) Under the relevant cases, one of the legitimate inquiries is whether Congress has either explicitly or implicitly declared that the States are prohibited from regulating the various aspects of oil-tanker operations and design with which the Tanker Law is concerned. As the Court noted in [*Rice v. Santa Fe Elevator Corp.*] (citation omitted). "[The congressional] purpose may be evidenced in several ways. The scheme of federal regulation may be so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it. (citations omitted) Or the Act of Congress may touch a field in which the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject. (citations omitted) Likewise, the object sought to be obtained by the federal law and the character of obligations imposed by it may reveal the same purpose." (citations omitted) Even if Congress has not completely foreclosed state legislation in a particular area, a state statute is void to the extent that it actually conflicts with a valid federal statute. A conflict will be found "where compliance with both federal and state regulations is a physical impossibility . . . ," (citations omitted) or where the state "law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." (citations omitted)[80]

This framework was upheld and expanded upon in *Locke*.[81] It is likely that any state law regulating cruise ships would be challenged in court under the same analysis, where federal law already covers the same ground.

B. U.S. v. Locke

In *Locke*, the United States Supreme Court struck down regulations promulgated by the State of Washington's Office of Marine Safety, created in the wake of the 1989 *Exxon Valdez* oil spill off of the Alaskan coast, to establish "best achievable protection" (BAP) standards for the prevention of oil spills in

80. *Ray*, 435 U.S. at 157-58.
81. 529 U.S. at 89.

Washington waters.[82] The Washington regulations included tanker design, equipment, reporting, and operating requirements for oil tankers operating in Washington's state waters, with sanctions for non-compliance including "statutory penalties, restrictions of the vessel's operation in state waters, and a denial of entry into state waters."[83]

The Washington regulations were challenged in Federal District Court by the International Association of Independent Tanker Owners (Intertanko), a trade association representing most of the world's independent oil tanker fleet.[84] Intertanko sued for declaratory and injunctive relief against the Washington officials tasked with implementing the new standards, arguing:

> Washington's BAP standards invaded areas long occupied by the Federal Government and imposed unique requirements in an area where national uniformity was mandated. Intertanko further contended that if local political subdivisions of every maritime nation were to impose differing regulatory regimes on tanker operations, the goal of national governments to develop effective international environmental and safety standards would be defeated.[85]

The District Court received diplomatic notes from thirteen maritime countries in support of Intertanko.[86] The Danish note stated that the Washington legislation:

> [W]ould cause inconsistency between the regulatory regime of the U.S. Government and that of an individual State of the U.S. Differing regimes in different parts of the U.S. would create uncertainty and confusion. This would also set an unwelcome precedent for other Federally administered countries.[87]

The District Court upheld the Washington regulations despite the diplomatic protests.[88]

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82. *Id.* at 97.
83. *Id.*
84. *Id.*
85. *Locke*, 529 U.S. at 97.
86. *Id.* at 98.
87. *Id.*
88. *Id.*

On appeal, the U.S. intervened on behalf of Intertanko, claiming "that the District Court's ruling failed to give sufficient weight to the substantial foreign affairs interests of the Federal Government."[89] The Ninth Circuit upheld all of the Washington regulations except for requirements "for vessels to install navigation and towing equipment," which were struck down on the authority of *Ray*.[90]

The U.S. Supreme Court heard the case and reversed the Ninth Circuit decision, also relying heavily on *Ray*, striking down some of the Washington regulations and remanding others to the District Court. Justice Kennedy, for a unanimous Court, wrote that the Washington regulations were enacted:

> [I]n an area where the federal interest has been manifest since the beginning of our Republic and is now well established. The authority of Congress to regulate interstate navigation, without embarrassment from intervention of the separate States and resulting difficulties with foreign nations, was cited in the Federalist Papers as one of the reasons for adopting the Constitution.[91]

The Court cited provisions of the Tank Vessel Act of 1936, the PWSA, and the Oil Pollution Act of 1990 (OPA) that covered the same substance as the Washington regulations.[92]

V. STATE CRUISE SHIP POLLUTION CONTROL STRATEGIES

States with a major cruise industry presence have employed different strategies to address the problem of cruise ship pollution. Between 1999 and 2001, Alaska passed a series of laws regulating cruise ships and created the Alaska Cruise Ship Initiative which created a committee that reviews cruise ship industry waste management and disposal plans.[93] On the other end of the regulatory spectrum, Florida signed a Memorandum of Understanding with the cruise industry, a strategy of self-monitoring and voluntary compliance.[94] Other cruise industry states have also passed or proposed statutes or regulations. This

89. *Id.*
90. *Locke*, 529 U.S. at 98.
91. *Id.* at 99.
92. *Id.* at 100-03.
93. EPA, *supra* note 3, at 6.
94. *See* FDEP Memo, *supra* note 1.

section will contrast the very different approaches to regulating cruise ship pollution employed by Alaska and Florida.

A. Alaska

In 1999, The Alaska Cruise Ship Initiative, a steering committee with representation from the U.S. Coast Guard, the Environmental Protection Agency, the Alaska Department of Environmental Conservation, and the cruise ship industry, was created "to review the cruise ship industry's waste management and disposal practices."[95] As a result, the cruise industry has voluntarily agreed: to not release waste in international "doughnut holes" surrounded by state waters; "to not discharge gray or black water within ten miles of Alaskan embarkation or destination ports;" to create and maintain spill response vessels; to undergo limited gray and black water sampling and analysis; and to conduct "Cruise Ship Awareness Days."[96]

As a result of the Cruise Ship Initiative's work, Alaska has produced significant environmental legislation to protect its state waters from cruise ship pollution. Alaska's Commercial Passenger Vessel Environmental Compliance Program (CPVEC),[97] a comprehensive scheme of monitoring and registration specifically targeting pollution from cruise ships, went into effect on July 1, 2001.[98] CPVEC provides for:

> 1) terms and conditions of vessel discharges; 2) independent verification of environmental compliance; and 3) allowing the [Alaska Department of Environmental Conservation (ADEC)] to monitor and supervise discharges from commercial passenger vessels through a registration system.[99]

CPVEC registration requirements call for annual registration of all commercial passenger vessels operating in Alaska state waters.[100] Vessel owners must provide their business and vessel registration information, maintain a registered agent in the State of Alaska for the purpose of process service, and agree to comply with CPVEC discharge terms and conditions.[101]

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95. EPA, *supra* note 3, at 6.
96. *Id.*
97. ALASKA STAT. §§ 46.03.460-46.03.490 (Michie 2002).
98. *Id.* § 46.03.460(a).
99. *Id.*
100. *Id.* § 46.03.461.
101. *Id.*

CPVEC requires commercial passenger vessel operators to comply with certain terms and conditions for waste discharges in Alaska state waters. The standard terms and conditions under CPVEC are:

> [T]he owner or operator [of a commercial passenger vessel regulated under CPVEC]: 1) may not discharge untreated sewage, treated sewage, graywater or other wastewater in a manner that violates [CPVEC discharge limits and prohibitions]; 2) shall maintain records and provide the reports required under [CPVEC]; 3) shall collect and test samples as required under [CPVEC] and provide the reports with respect to those samples required by [CPVEC]; 4) shall report discharges in accordance with [CPVEC requirements]; 5) shall allow [ADEC] access to the vessel at the time samples are taken . . . for purposes of taking the samples or for purposes of verifying the integrity of the sampling process; and 6) shall submit records, notices, and reports to [ADEC] in accordance with [CPVEC requirements].[102]

CPVEC allows ADEC, in certain circumstances, to create alternate standards for owners and operators of vessels "who cannot practically comply with the standard terms and conditions," or who wish to employ or test alternative equipment or procedures.[103]

CPVEC also limits and prohibits certain types of discharges from commercial passenger vessels in Alaska state waters.[104] The discharge of untreated sewage is prohibited.[105] Treated sewage, gray water, and other wastewater must meet standards mandated by the CPVEC statutes[106] or, alternatively, the standards set by ADEC using the "best available scientific information on the environmental effects of the regulated discharges, the materials and substances handled on the vessels, vessel movement effects, and the availability of new technologies for wastewater."[107] CPVEC also sets standards for the manner in which vessels may discharge waste, requiring discharges to be performed: underway, and at a speed of

102. ALASKA STAT. § 46.03.462(b)(1)-(6) (Michie 2002).
103. *Id.* § 46.03.462(c).
104. ALASKA STAT. § 46.03.463 (Michie 2002).
105. *Id.* § 46.03.463(a).
106. *Id.* § 46.03.463(b)-(c).
107. *Id.* § 46.03.463(d).

not less than six knots; at least one nautical mile from shore, except in areas designated by ADEC; compliant with all applicable federal law; and in an area where discharge is not prohibited.[108] Exceptions to these discharge regulations are made where discharges are permitted under federal cruise ship legislation or where the safety of the ship's passengers and crew require a discharge of waste.[109]

Finally, CPVEC requires cruise ship owners and operators to collect data about discharges from their ships;[110] maintain records of the collected data for three years;[111] report data collected under CPVEC, as well as any other federally mandated data;[112] report any discharges in violation of CPVEC;[113] and file a plan with ADEC, prior to operating in Alaska state waters, for disposal of hazardous and nonhazardous waste other than sewage.[114] CPVEC also created a trust fund to pay for the program.[115] The CPVEC Fund is funded through user fees charged each time a cruise ship or other commercial passenger vessel enters Alaska state waters,[116] fines assessed for CPVEC violations,[117] and legislative allocations.[118]

In addition to CPVEC, Alaska has also passed other legislation that regulates cruise ship pollution; examples include a law banning from Alaska state waters vessels painted with TBT-based paint,[119] and legislation requiring owners and operators of large non-tank vessels to prove financial responsibility to respond to a spill for large non-tank vessels such as cruise ships.[120]

Civil, administrative, and criminal penalties for violating Alaska's pollution laws give CPVEC teeth for compliance enforcement.[121] Additionally, as security to ensure payment of fines, Alaska statutes allow ADEC to seize ships that discharge petroleum products or bilge water in violation of Alaska law.[122]

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108. *Id.* § 46.03.463(e).
109. *Id.* § 46.03.463(g)-(h).
110. ALASKA STAT. § 46.03.465 (Michie 2002).
111. *Id.* § 46.03.470.
112. *Id.* § 46.03.475(b).
113. *Id.* § 46.03.475(a).
114. *Id.* § 46.03.475(e).
115. ALASKA STAT. § 46.03.482 (Michie 2002).
116. *Id.* § 46.03.480.
117. *Id.* § 46.03.480(b).
118. *Id.*
119. *Id.* § 46.03.715.
120. ALASKA STAT. § 46.04.055 (Michie 2002).
121. *Id.* §§ 46.03.759-790.
122. *Id.* § 46.03.770.

B. Florida

In contrast to Alaska's regulatory approach, Florida's Memorandum of Understanding[123] with the cruise industry relies on voluntary compliance to reduce cruise ship pollution. The Memorandum of Understanding was signed on December 6, 2001 by David Struhs, the Secretary of the Florida Department of Environmental Protection (FDEP), and representatives of two interest groups representing the cruise industry in Florida: the Florida-Caribbean Cruise Association (FCCA), and the International Council of Cruise Lines (ICCL).[124] The agreement accepts industry waste management standards, voluntarily adopted by the cruise industry, and relies on the Coast Guard for reporting, inspection, and enforcement.[125]

The substantive part of the Memorandum outlines nine "environmental policy goal attainments" agreed upon by the parties, of which seven are outlined here: 1) cruise industry waste management standards are accepted and the cruise industry agrees to discharge waste water outside Florida territorial waters;[126] 2) jurisdiction over environmental matters in navigable waters, inspection of passenger ships, and corresponding documentation is the responsibility of the Coast Guard, and "the [Coast Guard] is the proper U.S. agency to provide reasonable assurances that the cruise vessel is following" the agreed upon waste management standards;[127] 3) the parties accept Coast Guard inspection standards and agree that "FDEP may request, from the [Coast Guard], and inspect all records for cruise vessels entering Florida territorial waters";[128] 4) cruise vessels will be registered using a national identification system to be created by the EPA;[129] 5) FDEP accepts the cruise industry plan for compliance with the Resource Conservation Recovery Act, "as the appropriate process for vendor selection and management of hazardous wastes in Florida;"[130] 6) "all records required by RCRA for cruise vessels entering Florida territorial waters shall be available to FDEP upon written request to the cruise vessel operator;"[131] and 7) the parties agree to work in

123. FDEP Memo, *supra* note 1.
124. *Id.*
125. *Id.*
126. *Id.* at ¶ 1.
127. *Id.* at ¶ 2.
128. FDEP Memo, *supra* note 1, at ¶ 3.
129. *Id.* at ¶ 4.
130. *Id.* at ¶ 5.
131. *Id.* at ¶ 6.

"good faith" to achieve the agreed upon waste management standards.[132]

While it is certainly admirable that the cruise industry has agreed to the standards outlined in the Memorandum of Understanding, there is no mechanism for enforcing the agreement. Instead, Florida relies on the cruise industry to monitor itself and relies on the Coast Guard "to provide reasonable assurances" that the cruise industry is following their own standards.[133] Given the cruise industry's history of bad faith efforts to circumvent federal regulations,[134] it would seem that the "trust but verify"[135] approach employed by the Alaska CPVEC Program, backed by serious penalties for violations, warrants serious consideration by Florida lawmakers.

VI. FEDERAL LAWS AND REGULATIONS

As demonstrated in *Locke*, the United States Supreme Court has struck down state environmental laws affecting oil tankers where federal law addresses the same substantive area regulated by the state law, there is no specific saving clause authorizing additional state regulation, and the state law does not address a specific local need.[136]

The EPA published the *Cruise Ship White Paper* in August 2000; the report suggested that the holding in *Locke* might be used to strike down any state law regulating cruise ship pollution.[137] The *Cruise Ship White Paper* also lists federal legislation and treaties that regulate pollution from cruise ships.[138] Under *Locke*, federal law and regulation of cruise ship pollution would preempt any state legislation attempting to cover the same ground, absent a saving clause specifically authorizing further state regulation or a special need unique to the local circumstances of the state.[139] Federal legislation and treaties that might preempt state regulation in this field include: the Clean Water Act (CWA);[140] the Oil Pollution Act of 1990 (OPA);[141] the International Convention for the Prevention of

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132. *Id.* at ¶ 7.
133. FDEP Memo, *supra* note 1, at ¶ 2.
134. *See, e.g., Royal Caribbean*, 11 F. Supp. 2d at 1358; *see also* THE OCEAN CONSERVANCY, *supra* note 2, at 39-40.
135. Former President Ronald Reagan is attributed with using this oft-quoted Russian expression in his arms treaty negotiations with former Soviet Premier Mikhail Gorbachev.
136. 529 U.S. at 89.
137. 137. EPA, *supra* note 3, at 7.
138. *Id.* at 7-12.
139. 529 U.S. at 89.
140. 33 U.S.C. § 1311 (2002).
141. *Id.* § 2701-2720.

Pollution from Ships (MARPOL);[142] the Act to Prevent Pollution from Ships;[143] the International Convention for the Safety of Life at Sea (SOLAS);[144] the Resource Conservation and Recovery Act (RCRA);[145] the Marine Protection, Research, and Sanctuaries Act (MPRSA);[146] and the Shore Protection Act (SPA).[147]

A. The Clean Water Act

Section 301 of the Clean Water Act (CWA) prohibits the discharge of pollutants from point sources, including vessels, except under certain circumstances.[148] Section 312 of the CWA establishes standards for marine sanitation devices that treat or store ship sewage before discharge and procedures for designating "no discharge zones" to protect environmentally sensitive areas designated by individual states.[149] "Section 402 establishes the National Pollutant Discharge Elimination System (NPDES) permit program to regulate the discharge of pollutants from point sources to waters of the United States."[150]

The Oil Pollution Act (OPA)[151] amends Section 311 of the CWA[152] to expand federal and industry spill prevention, preparedness, and response capabilities.[153] "OPA applies to cruise ships and prohibits the discharge of oil or hazardous substances" in harmful quantities in U.S. territorial waters and the U.S. Exclusive Economic Zone (EEZ).[154]

B. MARPOL and the Act to Prevent Pollution from Ships

MARPOL was originally signed in 1973 and was amended in 1978.[155] MARPOL contains international regulations for the release of oil, waste, and hazardous materials into the marine environment.[156] The Act to Prevent Pollution from Ships (APPS) implemented the MARPOL Convention domestically.[157] The

142. 17 I.L.M. 546 (1978).
143. 143. 33 U.S.C. §§ 1901-1915 (2002)(implementing MARPOL).
144. Nov. 1, 1974, 32 U.S.T. 47.
145. 42 U.S.C. §§ 6901-6992k (2002).
146. 33 U.S.C. §§ 1401-1445 (2002).
147. *Id.* §§ 2601-2623.
148. *Id.* § 1311.
149. *Id.* § 1322.
150. EPA, *supra* note 3, at 11; *see also* 33 U.S.C. § 1342.
151. 33 U.S.C. §§ 2701-2720.
152. *Id.* § 1321.
153. EPA, *supra* note 3, at 8.
154. *Id.*
155. 33 U.S.C. §§ 2701-2720.
156. *Id.*
157. *Id.* §§ 1901-1915.

provisions of APPS apply to any "ship of United States registry or nationality, or . . . operated under the authority of the United States, wherever located," as well as any ship in a U.S. port, U.S. territorial waters, or the U.S. EEZ.[158] APPS is administered by "the Secretary of the department in which the Coast Guard is operating,"[159] currently the Department of Homeland Security.[160] APPS requires seagoing ships, including cruise ships, to limit discharges of oil and noxious substances, maintain monitoring equipment, and record and report discharges.[161] APPS also implements MARPOL garbage and plastics disposal requirements.[162] MARPOL Annex IV, which calls for regulation of sewage discharges from ships, has not been ratified as part of APPS.[163] APPS contains no saving clauses reserving the right of individual states to promulgate additional regulations.

C. Safety of Life at Sea Convention (SOLAS)

SOLAS, originally adopted in response to the *Titanic* disaster, is considered the most important international treaty regarding merchant ship safety.[164] The current version of SOLAS was adopted in 1974 and went into effect in 1980.[165] Under SOLAS, the International Maritime Organization (IMO) "specifies minimum standards for the construction, equipment, and operation of ships," including cruise ships.[166] SOLAS flag states are required to ensure their ships meet SOLAS requirements.[167] Member states are allowed to inspect foreign flagged ships and refer violations to the flag state for action. [168]

D. Other Federal Regulations

The Resource Conservation and Recovery Act (RCRA) imposes federal management requirements for generators and transporters

158. *Id.* at § 1902.
159. *Id.* at § 1903.
160. *See generally* U.S. Department of Homeland Security,. U.S. Coast Guard, *at* http://www.uscg.mil (last visited Mar. 3, 2004).
161. EPA, *supra* note 3, at 8-9.
162. *Id.*
163. *Id.* at 9.
164. International Maritime Organization, International Convention for the Safety of Life at Sea, Introduction and History, *available at* http://www.imo.org/conventions/contents.asp?topic_id =257&doc_id=647 (last visited Mar. 3, 2004); *see also* SOLAS, *supra* note 146, at 147.
165. SOLAS, *supra* note 146, at 147.
166. EPA *supra* note 3, at 9-10.
167. *Id.* at 9.
168. *Id.* at 9-10.

of hazardous waste, including cruise ships.[169] The Marine Protection, Research, and Sanctuaries Act (MPRSA) prohibits unlicensed transportation of materials for disposal from the U.S. and unlicensed dumping in U.S. territorial waters. [170] Effluents incidental to the propulsion of vessels are explicitly excluded.[171] The Shore Protection Act (SPA)[172], administered by the EPA and the Department of Transportation (DOT), regulates the disposal of "trash, medical debris, and other unsightly and potentially harmful materials" in the territorial waters of the United States.[173]

E. Oversight

Although the EPA and DOT administrate many of the federal programs relating to cruise ship pollution, the primary responsibility for ensuring compliance of cruise ships with U.S. laws and international agreements belongs to the Coast Guard. The Coast Guard has recently been reorganized under the Department of Homeland Security; its mission is now more acutely focused on border control and counter-terrorism.[174] It is unclear how this change of mission and organization will affect other functions performed by the USCG, but it is easy to imagine where environmental inspections of cruise ships falls on the Department's list of priorities.

Considering the USCG's important enforcement role in all of the federal and international schemes discussed above, it is important that state and federal policy-makers consider means to ensure that enforcement of pollution regulations is not lost to the demands of a more pressing mission. Even before it moved to the Department of Homeland Security, the USCG demonstrated that environmental regulation was a low priority. The D.C. Circuit recently issued a writ of mandamus in *In Re: Blue Water Network*, compelling the Coast Guard to announce regulations required by the OPA, holding, "[OPA] is now more than ten-years old, but the Coast Guard, the enforcing agency, still has failed to promulgate regulations required by the Act."[175] The FDEP Memo defers all inspection and enforcement of regulations affecting cruise ships to the Coast

169. 42 U.S.C. §§ 6901-6992k; *see also* EPA, *supra* note 3, at 10.
170. 33 U.S.C. §§ 1401-1445 (2002); *see also* EPA, *supra* note 3, at 10-11.
171. *Id.*
172. 33 U.S.C. §§ 2601-2623 (2002).
173. EPA, *supra* note 3, at 11.
174. *See* U.S. Department of Homeland Secuiry, U.S. Coast Guard, *at* http://www.uscg.mil /hq/g-cp/comrel/factfile/Factcards/Homeland.htm (last visited Mar. 5, 2004).
175. 234 F. 3d 1305, 1307 (D.C. Cir. 2000).

Guard,[176] while Alaska statutes employ additional state monitoring and reporting requirements.[177]

VII. FRAMEWORK FOR STATE REGULATION

Assuming that *Locke* will extend federal preemption to state laws regulating cruise ship pollution, states seeking to pass new laws in this area must first consider the preemption analysis from *Ray* which was subsequently upheld by the U.S. Supreme Court in *Locke*.[178] The *Ray/Locke* preemption analysis (hereinafter *Ray/Locke*) can be summarized as seven factors that state regulators must consider to avoid preemption: 1) the state regulation must not be expressly preempted by federal law; 2) "the scheme of federal regulation [must not] be so pervasive as to make reasonable the inference that Congress left no room for the states to supplement it;"[179] 3) "the federal interest [must not be] so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject;"[180] 4) the state law must not actually conflict with a valid federal law; 5) compliance with both the state and federal regulations must be physically possible; 6) state law must not stand "as an obstacle to the accomplishment and execution of the full purposes of Congress;"[181] 7) where a saving clause authorizes a state to promulgate further legislation or regulation, states must stay within the parameters of the saving clause.[182]

In order to test this analysis, I will examine a portion of Section 46.03.463 of the Alaska Statutes, a section of CPVEC which prohibits and limits certain discharges from commercial passenger vessels.[183] For sake of brevity, I will only examine the first part of this statute, even though the analysis could be equally applicable to all of the CPVEC statutes.

Section 46.03.463(a) prohibits the discharge of "untreated sewage from a commercial passenger vessel into the marine waters of the state,"[184] except when the discharge is "made for the purpose of securing the safety of the commercial passenger vessel or saving life at sea if all reasonable precautions have been taken for the purpose of preventing or minimizing the discharge."[185]

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176. FDEP Memo, *supra* note 1.
177. ALASKA STAT. §§ 46.03.460-46.03.490 (Michie 2002).
178. 435 U.S. at 157-58 (1978).
179. *Id.* at 157.
180. *Id.*
181. *Id.* at 158.
182. *Id.* at 171; *see also*, *Locke*, 529 U.S. at 104-112.
183. ALASKA STAT. § 46.03.463 (Michie 2000).
184. *Id. at* § 46.03.463(a).
185. *Id.* § 46.03.463(h).

In order to analyze this statute for potential federal preemption using the *Ray/Locke* analysis, it is first necessary to determine if any federal legislation covers the same subject matter as the state legislation. This can be done by referring to the EPA list of federal programs and treaties that relate to the control of pollution from cruise ships (*see infra* Part VI).

In this case, the Clean Water Act (CWA) is the relevant federal legislation. Section 312 of the CWA specifically authorizes states to "completely prohibit the discharge from all vessels of any sewage, whether treated or not," into some or all state waters determined by the state to require greater environmental protection.[186]

The next step is to determine if state regulation in this area is preempted by federal law. In this case, Section 312 of the CWA specifically contemplates state prohibition on the discharge of raw sewage,[187] therefore, there is no express federal preemption.

Express federal authorization also seems to dispose of the next five steps of the *Ray/Locke* analysis — federal regulations so pervasive that there is no room for state regulation,[188] dominant federal interest,[189] conflict with a valid federal law,[190] possibility of compliance with both the state and federal regulations,[191] and accomplishment and execution of Congressional goals.[192] However, in order to find the type of federal regulation that might preclude a state statute under these steps in the analysis, one need only look at another provision of Section 312 that specifically prohibits states from adopting and enforcing statutes and regulations of "the design, manufacture, installation or use of any marine sanitation device."[193] A hypothetical Alaska Statute of this nature would likely fail the *Ray/Locke* test.

Finally, the *Ray/Locke* analysis addresses saving clauses in federal legislation that authorize further regulation by states.[194] A state must stay within the parameters of the saving clause.[195] In the case of the Alaska Statutes, Section 46.03.463, the state regulation is authorized by a saving clause in the federal legislation, Section 312(f)(3)of the CWA, which reads:

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186. 33 U.S.C. § 1322(f)(3)(2002).
187. *Id.*
188. 435 U.S. at 157-58.
189. *Id.*
190. *Id.*
191. *Id.*
192. *Id.* at 158.
193. 33 U.S.C. § 1322(f)(1)(a) (2002).
194. *Locke*, 529 U.S. at 104-112.
195. *Id.*

> [A]fter the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such State require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such water to which such prohibition would apply. Upon application of the State, the Administrator shall make such determination within 90 days of the date of such application.[196]

This saving clause allows states to completely prohibit the discharge of sewage from vessels, subject to approval of the EPA Administrator's determination that the facilities for treatment and removal of sewage are available before such a prohibition takes effect. Assuming the EPA Administrator has made such a determination and approved the Alaska statutory prohibition, Section 46.03.463 passes this part of the *Ray / Locke* analysis. If not, the statute would be invalid until Alaska received such approval.

VIII. CONCLUSION

Although Florida and Alaska are separated by thousands of miles and several climate zones, the two states have at least two things in common: vast, sensitive coastlines and the cruise ship industry.

After learning its pollution lessons the hard way, Alaska responded to the challenges of cruise ship pollution by working with the cruise industry to a certain extent, while simultaneously reinforcing the cooperative effort with comprehensive state laws that exceed federal regulatory levels where possible and carry real negative consequences for violators. Florida, by contrast, has worked with the cruise industry to produce a Memorandum of Understanding that accepts cruise industry standards for pollution control and relies on the Coast Guard to ensure industry compliance. Because Florida has a greater cruise industry presence than Alaska, it arguably needs additional state regulation as much,

196. 33 U.S.C. § 1322(f)(3).

if not more than, Alaska. This article can assist Florida lawmakers in achieving this important next step to protect the fragile coastal environment of the Sunshine State.