



Ms. Anna Barford
Canada Shipping Campaigner
STAND Environmental Society
[REDACTED]

Dear Ms. Barford:

Thank you for your correspondence of April 12 and May 12, 2023, forwarded by your legal counsel, Dr. Benjamin Isitt, concerning Environment and Climate Change Canada's enforcement activities under subsection 36(3) of the *Fisheries Act* as it pertains to cruise ships operating along the Pacific Coast. I regret the delay in responding.

Protecting our oceans from pollution is of the utmost importance to Environment and Climate Change Canada. As noted correctly in your correspondence, Canada has a strong legislative and regulatory framework to prevent pollution and protect the environment and our oceans, which includes the *Canadian Environmental Protection Act, 1999* (CEPA), and the *Fisheries Act*. However, the protection of the environment is a shared responsibility of several authorities. Transport Canada is the lead department for ship source pollution and is responsible for the administration and enforcement of the *Canada Shipping Act, 2001*, and its regulations, which regulate marine transportation. Environment and Climate Change Canada's Enforcement Branch is responsible for enforcing the pollution prevention provisions of the *Fisheries Act* and associated regulations.

The pollution prevention provisions of the *Fisheries Act* include subsection 36(3), which prohibits the deposit of any deleterious substances in water frequented by fish or to any place where it may enter water frequented by fish, unless authorized by federal regulations. There are currently no regulations under this act that authorize the deposit of deleterious substances from cruise ship operators into water frequented by fish. Environment and Climate Change Canada has not received any applications for the discharge of deleterious substances from cruise ship operators, and the Department does not have such an application process.

Environment and Climate Change Canada enforcement actions are conducted in a fair, predictable and consistent manner. Enforcement activities are conducted in accordance with the Compliance and Enforcement Policy for the *Canadian*

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Environmental Protection Act, 1999, and the Compliance and Enforcement Policy for the Habitat Protection and Pollution Prevention Provisions of the *Fisheries Act* (www.canada.ca/en/environment-climate-change/services/environmental-enforcement/compliance-policies.html). As such, enforcement action is taken on a case-by-case basis with careful consideration of the criteria outlined in this policy. Environment and Climate Change Canada's enforcement priorities and inspection plans are developed using a risk-based approach. This approach allows the Department to focus its enforcement resources on areas with the greatest risks to the environment and human health.

If deposits from cruise ships were determined to be deleterious, they would be subject to subsection 36(3) of the *Fisheries Act*, unless authorized by regulations made under another act of Parliament. Between January 1, 2018, and December 31, 2022, two Environment and Climate Change Canada enforcement investigations related to cruise ship operations were initiated under subsection 36(3) of the Act and are now closed. Neither resulted in enforcement action.

As your correspondence touches on the mandate of other federal departments, I am providing a copy of my response to the Honourable Pablo Rodriguez, Minister of Transport, and the Honourable Diane Lebouthillier, Minister of Fisheries, Oceans and the Canadian Coast Guard, for consideration.

I trust that this information is helpful, and I appreciate your efforts and commitment to protect Canada's environment and oceans.

Please accept my best regards.

Sincerely,



The Honourable Steven Guilbeault, P.C., M.P. (il/lui/he/him)

c.c.: The Honourable Pablo Rodriguez, P.C., M.P.
The Honourable Diane Lebouthillier, P.C., M.P.