

**PART A: TEXT OF AMENDMENT TO BE MADE IN
ORDER AS ORIGINAL TEXT**

**AMENDMENT IN THE NATURE OF A SUBSTITUTE
TO H.R. 2830
OFFERED BY MR. OBERSTAR OF MINNESOTA**

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Coast Guard Author-
3 ization Act of 2008”.

4 SEC. 2. TABLE OF CONTENTS.

5 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

TITLE I—AUTHORIZATION

- Sec. 101. Authorization of appropriations.
- Sec. 102. Authorized levels of military strength and training.
- Sec. 103. Transfer of bridge administration program authority and functions.

TITLE II—COAST GUARD

- Sec. 201. Appointment of civilian Coast Guard judges.
- Sec. 202. Industrial activities.
- Sec. 203. Reimbursement for medical-related travel expenses.
- Sec. 204. Commissioned officers.
- Sec. 205. Coast Guard participation in the Armed Forces Retirement Home (AFRH) system.
- Sec. 206. Grants to international maritime organizations.
- Sec. 207. Emergency leave retention authority.
- Sec. 208. Enforcement authority.
- Sec. 209. Repeal.
- Sec. 210. Admirals and Vice Admirals.
- Sec. 211. Merchant Mariner Medical Advisory Committee.
- Sec. 212. Reserve commissioned warrant officer to lieutenant program.
- Sec. 213. Enhanced status quo officer promotion system.
- Sec. 214. Laser Training System.
- Sec. 215. Coast Guard vessels and aircraft.
- Sec. 216. Coast Guard District Ombudsmen.

- Sec. 217. Ensuring contracting with small business concerns and disadvantaged business concerns.
- Sec. 218. Assistant Commandant for Port and Waterway Security.
- Sec. 219. Small business procurements.
- Sec. 220. Enforcement of coastwise trade laws.
- Sec. 221. Nomination and appointment of cadets at the Coast Guard Academy.

TITLE III—SHIPPING AND NAVIGATION

- Sec. 301. Vessel size limits.
- Sec. 302. Goods and services.
- Sec. 303. Seaward extension of anchorage grounds jurisdiction.
- Sec. 304. Maritime Drug Law Enforcement Act amendment-simple possession.
- Sec. 305. Technical amendments to tonnage measurement law.
- Sec. 306. Cold weather survival training.
- Sec. 307. Fishing vessel safety.
- Sec. 308. Mariner records.
- Sec. 309. Deletion of exemption of license requirement for operators of certain towing vessels.
- Sec. 310. Adjustment of liability limits for natural gas deepwater ports.
- Sec. 311. Period of limitations for claims against Oil Spill Liability Trust Fund.
- Sec. 312. Log books.
- Sec. 313. Unsafe operation.
- Sec. 314. Approval of survival craft.
- Sec. 315. Safety management.
- Sec. 316. Protection against discrimination.
- Sec. 317. Dry bulk cargo residue.
- Sec. 318. Oil fuel tank protection.
- Sec. 319. Registry endorsement for LNG vessels.
- Sec. 320. Oaths.
- Sec. 321. Duration of credentials.
- Sec. 322. Fingerprinting.
- Sec. 323. Authorization to extend the duration of licenses, certificates of registry, and merchant mariners' documents.
- Sec. 324. Merchant mariner documentation.
- Sec. 325. Merchant mariner assistance report.
- Sec. 326. Merchant mariner shortage report.
- Sec. 327. Merchant mariner document standards.
- Sec. 328. Report on Coast Guard determinations.
- Sec. 329. Pilot required.
- Sec. 330. Offshore supply vessels.
- Sec. 331. Recreational vessel operator education and training.
- Sec. 332. Ship emission reduction technology demonstration project.

TITLE IV—MISCELLANEOUS PROVISIONS

- Sec. 401. Certificate of documentation for GALLANT LADY.
- Sec. 402. Waiver.
- Sec. 403. Great Lakes Maritime Research Institute.
- Sec. 404. Conveyance.
- Sec. 405. Crew wages on passenger vessels.
- Sec. 406. Technical corrections.
- Sec. 407. Conveyance of decommissioned Coast Guard Cutter STORIS.
- Sec. 408. Repeal of requirement of license for employment in the business of salvaging on the coast of Florida.

- Sec. 409. Right-of-first-refusal for Coast Guard property on Jupiter Island, Florida.
- Sec. 410. Conveyance of Coast Guard HU-25 Falcon Jet aircraft.
- Sec. 411. Decommissioned Coast Guard vessels for Haiti.
- Sec. 412. Extension of period of operation of vessel for setting, relocation, or recovery of anchors or other mooring equipment.
- Sec. 413. Vessel traffic risk assessments.
- Sec. 414. Vessel MARYLAND INDEPENDENCE.
- Sec. 415. Study of relocation of Coast Guard Sector Buffalo facilities.
- Sec. 416. Conveyance of Coast Guard vessel to Coahoma County, Mississippi.
- Sec. 417. Conveyance of Coast Guard vessel to Warren County, Mississippi.
- Sec. 418. Conveyance of Coast Guard vessel to Washington County, Mississippi.
- Sec. 419. Coast Guard assets for United States Virgin Islands.
- Sec. 420. Conveyance of the Presque Isle Light Station fresnel lens to Presque Isle Township, Michigan.
- Sec. 421. Fishing in South Pacific tuna treaty convention area.
- Sec. 422. Assessment of needs for additional Coast Guard presence in high latitude regions.
- Sec. 423. Study of regional response vessel and salvage capability for Olympic Peninsula coast, Washington.
- Sec. 424. Report on projected workload at the Coast Guard Yard in Curtis Bay, Maryland.
- Sec. 425. Study of bridges over navigable waters.
- Sec. 426. Limitation on jurisdiction of States to tax certain seamen.
- Sec. 427. Decommissioned Coast Guard vessels for Bermuda.
- Sec. 428. Recreational marine industry.
- Sec. 429. Conveyance of Coast Guard vessels to Nassau County, New York.

TITLE V—BALLAST WATER TREATMENT

- Sec. 501. Short title.
- Sec. 502. Declaration of goals and purposes.
- Sec. 503. Ballast water management.
- Sec. 504. National ballast water management information.
- Sec. 505. Ballast water management evaluation and demonstration program.
- Sec. 506. Rapid response plan.
- Sec. 507. Authorization of appropriations.

TITLE VI—MARITIME POLLUTION PREVENTION

- Sec. 601. Short title.
- Sec. 602. References.
- Sec. 603. Definitions.
- Sec. 604. Applicability.
- Sec. 605. Administration and enforcement.
- Sec. 606. Certificates.
- Sec. 607. Reception facilities.
- Sec. 608. Inspections.
- Sec. 609. Amendments to the protocol.
- Sec. 610. Penalties.
- Sec. 611. Effect on other laws.

TITLE VII—PORT SECURITY

- Sec. 701. Maritime homeland security public awareness program.
- Sec. 702. Transportation Worker Identification Credential.

- Sec. 703. Study to identify redundant background records checks.
- Sec. 704. Review of interagency operational centers.
- Sec. 705. Maritime security response teams.
- Sec. 706. Coast Guard detection canine team program expansion.
- Sec. 707. Coast Guard port assistance program.
- Sec. 708. Maritime biometric identification.
- Sec. 709. Review of potential threats.
- Sec. 710. Port security pilot.
- Sec. 711. Advance notice of port arrival of significant or fatal incidents involving U.S. persons.
- Sec. 712. Safety and security assistance for foreign ports.
- Sec. 713. Seasonal workers.
- Sec. 714. Comparative risk assessment of vessel-based and facility-based liquefied natural gas regasification processes.
- Sec. 715. Pilot Program for fingerprinting of maritime workers.
- Sec. 716. Transportation security cards on vessels.
- Sec. 717. International labor study.
- Sec. 718. Maritime security advisory committees.
- Sec. 719. Seamen's shoreside access.
- Sec. 720. Waterside security around liquefied natural gas terminals and liquefied natural gas tankers.

TITLE VIII—COAST GUARD INTEGRATED DEEPWATER PROGRAM

- Sec. 801. Short title.
- Sec. 802. Implementation of Coast Guard Integrated Deepwater Acquisition Program.
- Sec. 803. Chief Acquisition Officer.
- Sec. 804. Testing and certification.
- Sec. 805. National Security Cutters.
- Sec. 806. Miscellaneous reports.
- Sec. 807. Use of the Naval Sea Systems Command, the Naval Air Systems Command, and the Space and Naval Warfare Systems Command to assist the Coast Guard in exercising technical authority for the Deepwater Program and other Coast Guard acquisition programs.
- Sec. 808. Definitions.

TITLE IX—MINORITY SERVING INSTITUTIONS

- Sec. 901. MSI Management Internship Program.
- Sec. 902. MSI initiatives.
- Sec. 903. Coast Guard-MSI Cooperative Technology Program.
- Sec. 904. Definition.

TITLE X—APPEALS TO NATIONAL TRANSPORTATION SAFETY BOARD

- Sec. 1001. Rights of appeal regarding licenses, certificates of registry, and merchant mariners' documents.
- Sec. 1002. Authorities of National Transportation Safety Board.
- Sec. 1003. Transfer of pending appeals to the National Transportation Safety Board.
- Sec. 1004. Rulemaking requirements.
- Sec. 1005. Administrative Law Judge recruiting program.

TITLE XI—MARINE SAFETY

- Sec. 1101. Marine safety.
- Sec. 1102. Marine safety staff.
- Sec. 1103. Marine safety mission priorities and long term goals.
- Sec. 1104. Powers and duties.
- Sec. 1105. Appeals and waivers.
- Sec. 1106. Coast Guard Academy.
- Sec. 1107. Geographic stability.
- Sec. 1108. Apprentice program.
- Sec. 1109. Report regarding civilian marine inspectors.

1 **TITLE I—AUTHORIZATION**

2 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

3 Funds are authorized to be appropriated for fiscal
4 year 2008 for necessary expenses of the Coast Guard as
5 follows:

6 (1) For the operation and maintenance of the
7 Coast Guard, \$5,965,742,000, of which—

8 (A) \$24,500,000 is authorized to be de-
9 rived from the Oil Spill Liability Trust Fund to
10 carry out the purposes of section 1012(a)(5) of
11 the Oil Pollution Act of 1990 (33 U.S.C.
12 2712(a)(5));

13 (B) \$631,000,000 shall be available only
14 for paying for search and rescue programs;

15 (C) \$527,000,000 shall be available only
16 for paying for marine safety programs;

17 (D) \$80,500,000 shall be available only for
18 paying for operating expenses of the Integrated
19 Deepwater System program; and

1 (E) \$1,523,000,000 shall be available only
2 for paying for ports, waterways, and coastal se-
3 curity.

4 (2) For the acquisition, construction, rebuild-
5 ing, and improvement of aids to navigation, shore
6 and offshore facilities, vessels, and aircraft, includ-
7 ing equipment related thereto, \$1,125,083,000, of
8 which—

9 (A) \$20,000,000 shall be derived from the
10 Oil Spill Liability Trust Fund to carry out the
11 purposes of section 1012(a)(5) of the Oil Pollu-
12 tion Act of 1990, to remain available until ex-
13 pended;

14 (B) \$990,444,000 is authorized for the In-
15 tegrated Deepwater System Program; and

16 (C) \$44,597,000 is authorized for shore fa-
17 cilities and aids to navigation.

18 (3) To the Commandant of the Coast Guard for
19 research, development, test, and evaluation of tech-
20 nologies, materials, and human factors directly relat-
21 ing to improving the performance of the Coast
22 Guard's mission in search and rescue, aids to navi-
23 gation, marine safety, marine environmental protec-
24 tion, enforcement of laws and treaties, ice oper-
25 ations, oceanographic research, and defense readi-

1 ness, \$25,000,000, to remain available until ex-
2 pended, of which \$2,000,000 shall be derived from
3 the Oil Spill Liability Trust Fund to carry out the
4 purposes of section 1012(a)(5) of the Oil Pollution
5 Act of 1990.

6 (4) For retired pay (including the payment of
7 obligations otherwise chargeable to lapsed appropria-
8 tions for this purpose), payments under the Retired
9 Serviceman's Family Protection and Survivor Ben-
10 efit Plans, and payments for medical care of retired
11 personnel and their dependents under chapter 55 of
12 title 10, United States Code, \$1,184,720,000, to re-
13 main available until expended.

14 (5) For alteration or removal of bridges over
15 navigable waters of the United States constituting
16 obstructions to navigation, and for personnel and
17 administrative costs associated with the Bridge Al-
18 teration Program, \$16,000,000.

19 (6) For environmental compliance and restora-
20 tion at Coast Guard facilities (other than parts and
21 equipment associated with operation and mainte-
22 nance), \$13,000,000, to remain available until ex-
23 pended.

1 (7) For the Coast Guard Reserve program, in-
2 cluding personnel and training costs, equipment, and
3 services, \$126,883,000.

4 **SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH**
5 **AND TRAINING.**

6 (a) ACTIVE DUTY STRENGTH.—The Coast Guard is
7 authorized an end-of-year strength for active duty per-
8 sonnel of 47,000 for the fiscal year ending on September
9 30, 2008.

10 (b) MILITARY TRAINING STUDENT LOADS.—For fis-
11 cal year 2008, the Coast Guard is authorized average mili-
12 tary training student loads as follows:

13 (1) For recruit and special training, 2,500 stu-
14 dent years.

15 (2) For flight training, 165 student years.

16 (3) For professional training in military and ci-
17 vilian institutions, 350 student years.

18 (4) For officer acquisition, 1,200 student years.

19 **SEC. 103. TRANSFER OF BRIDGE ADMINISTRATION PRO-**
20 **GRAM AUTHORITY AND FUNCTIONS.**

21 (a) TRANSFER.—

22 (1) AUTHORITY AND FUNCTIONS.—Notwith-
23 standing section 888(b) of the Homeland Security
24 Act of 2002 (6 U.S.C. 468(b)) or any other provi-
25 sion of law, the authorities of the Secretary of

1 Homeland Security to approve the construction, al-
2 teration, or operation of a bridge, drawbridge, or
3 causeway across or over the navigable waters of the
4 United States and to require the alteration, repair,
5 or removal of that bridge, drawbridge, or causeway,
6 pursuant to the Bridge Act of 1906 (34 Stat. 84; 33
7 U.S.C. 491 et seq.), the General Bridge Act of 1946
8 (60 Stat. 847, 33 U.S.C. 525 note), the Truman-
9 Hobbs Act (54 Stat. 497; 33 U.S.C. 511 et seq.),
10 and the International Bridge Act of 1972 (60 Stat.
11 847; 33 U.S.C. 525 et seq.), and the functions re-
12 lated thereto, are hereby transferred to the Sec-
13 retary of Transportation.

14 (2) TRANSFER AND ADMINISTRATION OF BAL-
15 ANCES.—Any unobligated balances of prior appro-
16 priations provided for the alteration of bridges are
17 transferred and shall be available to the Secretary of
18 Transportation to carry out the functions and au-
19 thorities transferred by subsection (a).

20 **TITLE II—COAST GUARD**

21 **SEC. 201. APPOINTMENT OF CIVILIAN COAST GUARD** 22 **JUDGES.**

23 (a) IN GENERAL.—Chapter 7 of title 14, United
24 States Code, is amended by adding at the end the fol-
25 lowing:

1 **“§ 153. Appointment of judges**

2 “The Secretary may appoint civilian employees of the
3 Department in which the Coast Guard is operating as ap-
4 pellate military judges, available for assignment to the
5 Coast Guard Court of Criminal Appeals as provided for
6 in section 866(a) of title 10.”.

7 (b) CLERICAL AMENDMENT.—The analysis for such
8 chapter is amended by adding at the end the following:
“153. Appointment of judges.”.

9 **SEC. 202. INDUSTRIAL ACTIVITIES.**

10 Section 151 of title 14, United States Code, is
11 amended—

12 (1) by inserting “(a) IN GENERAL.—” before
13 “All orders”; and

14 (2) by adding at the end the following:

15 “(b) ORDERS AND AGREEMENTS FOR INDUSTRIAL
16 ACTIVITIES.—Under this section, the Coast Guard indus-
17 trial activities may accept orders and enter into reimburs-
18 able agreements with establishments, agencies, and de-
19 partments of the Department of Defense.”.

20 **SEC. 203. REIMBURSEMENT FOR MEDICAL-RELATED TRAV-**
21 **EL EXPENSES.**

22 (a) IN GENERAL.—Chapter 13 of title 14, United
23 States Code, is amended by adding at the end the fol-
24 lowing:

1 **“§ 518. Reimbursement for medical-related travel ex-**
2 **penses for certain persons residing on is-**
3 **lands in the continental United States**

4 “In any case in which a covered beneficiary (as de-
5 fined in section 1072(5) of title 10) resides on an island
6 that is located in the 48 contiguous States and the District
7 of Columbia and that lacks public access roads to the
8 mainland and is referred by a primary care physician to
9 a specialty care provider (as defined in section 1074i(b)
10 of title 10) on the mainland who provides services less
11 than 100 miles from the location where the beneficiary re-
12 sides, the Secretary shall reimburse the reasonable travel
13 expenses of the covered beneficiary and, when accompani-
14 ment by an adult is necessary, for a parent or guardian
15 of the covered beneficiary or another member of the cov-
16 ered beneficiary’s family who is at least 21 years of age.”.

17 (b) CLERICAL AMENDMENT.—The analysis for such
18 chapter is amended by adding at the end the following:

“518. Reimbursement for medical-related travel expenses for certain persons re-
siding on islands in the continental United States.”.

19 **SEC. 204. COMMISSIONED OFFICERS.**

20 (a) ACTIVE DUTY PROMOTION LIST.—Section 42 of
21 title 14, United States Code, is amended to read as fol-
22 lows:

1 **“§ 42. Number and distribution of commissioned offi-**
2 **cers on active duty promotion list**

3 “(a) MAXIMUM TOTAL NUMBER.—The total number
4 of Coast Guard commissioned officers on the active duty
5 promotion list, excluding warrant officers, shall not exceed
6 6,700; except that the Commandant may temporarily in-
7 crease that number by up to 2 percent for no more than
8 60 days following the date of the commissioning of a Coast
9 Guard Academy class.

10 “(b) DISTRIBUTION PERCENTAGES BY GRADE.—

11 “(1) REQUIRED.—The total number of commis-
12 sioned officers authorized by this section shall be
13 distributed in grade in the following percentages:
14 0.375 percent for rear admiral; 0.375 percent for
15 rear admiral (lower half); 6.0 percent for captain;
16 15.0 percent for commander; and 22.0 percent for
17 lieutenant commander.

18 “(2) DISCRETIONARY.—The Secretary shall
19 prescribe the percentages applicable to the grades of
20 lieutenant, lieutenant (junior grade), and ensign.

21 “(3) AUTHORITY OF SECRETARY TO REDUCE
22 PERCENTAGE.—The Secretary—

23 “(A) may reduce, as the needs of the Coast
24 Guard require, any of the percentages set forth
25 in paragraph (1); and

1 “(B) shall apply that total percentage re-
2 duction to any other lower grade or combination
3 of lower grades.

4 “(c) COMPUTATIONS.—

5 “(1) IN GENERAL.—The Secretary shall com-
6 pute, at least once each year, the total number of
7 commissioned officers authorized to serve in each
8 grade by applying the grade distribution percentages
9 established by or under this section to the total
10 number of commissioned officers listed on the cur-
11 rent active duty promotion list.

12 “(2) ROUNDING FRACTIONS.—Subject to sub-
13 section (a), in making the computations under para-
14 graph (1), any fraction shall be rounded to the near-
15 est whole number.

16 “(3) TREATMENT OF OFFICERS SERVING OUT-
17 SIDE COAST GUARD.—The number of commissioned
18 officers on the active duty promotion list below the
19 rank of rear admiral (lower half) serving with other
20 Federal departments or agencies on a reimbursable
21 basis or excluded under section 324(d) of title 49
22 shall not be counted against the total number of
23 commissioned officers authorized to serve in each
24 grade.

1 “(d) USE OF NUMBERS; TEMPORARY INCREASES.—

2 The numbers resulting from computations under sub-
3 section (c) shall be, for all purposes, the authorized num-
4 ber in each grade; except that the authorized number for
5 a grade is temporarily increased during the period between
6 one computation and the next by the number of officers
7 originally appointed in that grade during that period and
8 the number of officers of that grade for whom vacancies
9 exist in the next higher grade but whose promotion has
10 been delayed for any reason.

11 “(e) OFFICERS SERVING COAST GUARD ACADEMY
12 AND RESERVE.—The number of officers authorized to be
13 serving on active duty in each grade of the permanent
14 commissioned teaching staff of the Coast Guard Academy
15 and of the Reserve serving in connection with organizing,
16 administering, recruiting, instructing, or training the re-
17 serve components shall be prescribed by the Secretary.”.

18 (b) CLERICAL AMENDMENT.—The analysis for chap-
19 ter 3 of such title is amended by striking the item relating
20 to section 42 and inserting the following:

“42. Number and distribution of commissioned officers on active duty promotion
list.”.

1 **SEC. 205. COAST GUARD PARTICIPATION IN THE ARMED**
2 **FORCES RETIREMENT HOME (AFRH) SYSTEM.**

3 (a) IN GENERAL.—Section 1502 of the Armed
4 Forces Retirement Home Act of 1991 (24 U.S.C. 401)
5 is amended—

6 (1) by striking paragraph (4);

7 (2) in paragraph (5)—

8 (A) by striking “and” at the end of sub-
9 paragraph (C);

10 (B) by striking the period at the end of
11 subparagraph (D) and inserting “; and”; and

12 (C) by inserting at the end the following:

13 “(E) the Assistant Commandant of the
14 Coast Guard for Human Resources.”; and

15 (3) by adding at the end of paragraph (6) the
16 following:

17 “(E) The Master Chief Petty Officer of the
18 Coast Guard.”.

19 (b) CONFORMING AMENDMENTS.—(1) Section 2772
20 of title 10, United States Code, is amended—

21 (A) in subsection (a) by inserting “or, in the
22 case of the Coast Guard, the Commandant” after
23 “concerned”; and

24 (B) by striking subsection (c).

25 (2) Section 1007(i) of title 37, United States Code,
26 is amended—

1 (A) in paragraph (3) by inserting “or, in the
2 case of the Coast Guard, the Commandant” after
3 “Secretary of Defense”;

4 (B) by striking paragraph (4); and

5 (C) by redesignating paragraph (5) as para-
6 graph (4).

7 **SEC. 206. GRANTS TO INTERNATIONAL MARITIME ORGANI-**
8 **ZATIONS.**

9 Section 149 of title 14, United States Code, is
10 amended by adding at the end the following:

11 “(c) GRANTS TO INTERNATIONAL MARITIME ORGA-
12 NIZATIONS.—After consultation with the Secretary of
13 State, the Commandant may make grants to, or enter into
14 cooperative agreements, contracts, or other agreements
15 with, international maritime organizations for the purpose
16 of acquiring information or data about merchant vessel in-
17 spections, security, safety, classification, and port state or
18 flag state law enforcement or oversight.”.

19 **SEC. 207. EMERGENCY LEAVE RETENTION AUTHORITY.**

20 (a) IN GENERAL.—Chapter 11 of title 14, United
21 States Code, is amended by inserting after section 425 the
22 following:

23 **“§ 426. Emergency leave retention authority**

24 “With regard to a member of the Coast Guard who
25 serves on active duty, a duty assignment in support of a

1 declaration of a major disaster or emergency by the Presi-
2 dent under the Robert T. Stafford Disaster Relief and
3 Emergency Assistance Act (42 U.S.C. 5121 et seq.) shall
4 be treated, for the purpose of section 701(f)(2) of title
5 10, a duty assignment in support of a contingency oper-
6 ation.”.

7 (b) CLERICAL AMENDMENT.—The analysis for such
8 chapter is amended by inserting after the item relating
9 to section 425 the following new item:

“426. Emergency leave retention authority.”.

10 **SEC. 208. ENFORCEMENT AUTHORITY.**

11 (a) IN GENERAL.—Chapter 5 of title 14, United
12 States Code, is amended by adding at the end the fol-
13 lowing:

14 **“§ 99. Enforcement authority**

15 “Subject to guidelines approved by the Secretary,
16 members of the Coast Guard, in the performance of offi-
17 cial duties, may—

18 “(1) carry a firearm; and

19 “(2) while at a facility (as defined in section
20 70101 of title 46)—

21 “(A) make an arrest without warrant for
22 any offense against the United States com-
23 mitted in their presence; and

24 “(B) seize property as otherwise provided
25 by law.”.

1 (b) CONFORMING REPEAL.—The first section added
2 to title 46, United States Code, by the amendment made
3 by subsection (a) of section 801 of the Coast Guard and
4 Maritime Transportation Act of 2004 (118 Stat. 1078),
5 and the item relating to such first section enacted by the
6 amendment made by subsection (b) of such section 801,
7 are repealed.

8 (c) CLERICAL AMENDMENT.—The analysis for such
9 chapter is amended by adding at the end the following:
“99. Enforcement authority.”

10 **SEC. 209. REPEAL.**

11 Section 216 of title 14, United States Code, and the
12 item relating to such section in the analysis for chapter
13 11 of such title, are repealed.

14 **SEC. 210. ADMIRALS AND VICE ADMIRALS.**

15 (a) VICE COMMANDANT.—Section 47 of title 14,
16 United States Code, is amended by striking “vice admiral”
17 and inserting “admiral”.

18 (b) VICE ADMIRALS.—Section 50 of title 14, United
19 States Code, is amended to read as follows:

20 **“§ 50. Vice admirals**

21 “(a)(1) The President may designate 4 positions of
22 importance and responsibility that shall be held by officers
23 who—

1 “(A) while so serving, shall have the grade of
2 vice admiral, with the pay and allowances of that
3 grade; and

4 “(B) shall perform any duties as the Com-
5 mandant may prescribe.

6 “(2) The 4 vice admiral positions authorized under
7 paragraph (1) are, respectively, the following:

8 “(A) The Deputy Commandant for Mission
9 Support.

10 “(B) The Deputy Commandant for National
11 Operations and Policy.

12 “(C) The Commander, Force Readiness Com-
13 mand.

14 “(D) The Commander, Operations Command.

15 “(3) The President may appoint, by and with the ad-
16 vice and consent of the Senate, and reappoint, by and with
17 the advice and consent of the Senate, to each of the posi-
18 tions designated under paragraph (1) an officer of the
19 Coast Guard who is serving on active duty above the grade
20 of captain. The Commandant shall make recommendations
21 for those appointments.

22 “(b)(1) The appointment and the grade of vice admi-
23 ral under this section shall be effective on the date the
24 officer assumes that duty and, except as provided in para-
25 graph (2) of this subsection or in section 51(d) of this

1 title, shall terminate on the date the officer is detached
2 from that duty.

3 “(2) An officer who is appointed to a position des-
4 igned under subsection (a) shall continue to hold the
5 grade of vice admiral—

6 “(A) while under orders transferring the officer
7 to another position designated under subsection (a),
8 beginning on the date the officer is detached from
9 duty and terminating on the date before the day the
10 officer assumes the subsequent duty, but not for
11 more than 60 days;

12 “(B) while hospitalized, beginning on the day of
13 the hospitalization and ending on the day the officer
14 is discharged from the hospital, but not for more
15 than 180 days; and

16 “(C) while awaiting retirement, beginning on
17 the date the officer is detached from duty and end-
18 ing on the day before the officer’s retirement, but
19 not for more than 60 days.

20 “(c)(1) An appointment of an officer under sub-
21 section (a) does not vacate the permanent grade held by
22 the officer.

23 “(2) An officer serving in a grade above rear admiral
24 who holds the permanent grade of rear admiral (lower
25 half) shall be considered for promotion to the permanent

1 grade of rear admiral as if the officer was serving in the
2 officer's permanent grade.

3 “(d) Whenever a vacancy occurs in a position des-
4 igned under subsection (a), the Commandant shall in-
5 form the President of the qualifications needed by an offi-
6 cer serving in that position to carry out effectively the du-
7 ties and responsibilities of that position.”.

8 (c) REPEAL.—Section 50a of title 14, United States
9 Code, is repealed.

10 (d) CONFORMING AMENDMENT.—Section 51 of that
11 title is amended—

12 (1) by amending subsections (a), (b), and (c) to
13 read as follows:

14 “(a) An officer, other than the Commandant, who,
15 while serving in the grade of admiral or vice admiral, is
16 retired for physical disability shall be placed on the retired
17 list with the highest grade in which that officer served.

18 “(b) An officer, other than the Commandant, who is
19 retired while serving in the grade of admiral or vice admi-
20 ral, or who, after serving at least two and one-half years
21 in the grade of admiral or vice admiral, is retired while
22 serving in a lower grade, may in the discretion of the
23 President, be retired with the highest grade in which that
24 officer served.

1 “(c) An officer, other than the Commandant, who,
2 after serving less than two and one-half years in the grade
3 of admiral or vice admiral, is retired while serving in a
4 lower grade, shall be retired in his permanent grade.”; and

5 (2) in subsection (d)(2) by striking “Area Com-
6 mander, or Chief of Staff” and inserting “or Vice
7 Admirals”.

8 (e) CLERICAL AMENDMENTS.—

9 (1) The heading for section 47 of that title is
10 amended by striking “**assignment**” and inserting
11 “**appointment**”.

12 (2) The table of sections at the beginning of
13 chapter 3 of that title is amended—

14 (A) by striking the item relating to section
15 47 and inserting the following:

“47. Vice Commandant; appointment.”;

16 (B) by striking the item relating to section
17 50 and inserting the following:

“50. Vice admirals.”;

18 and

19 (C) by striking the item relating to section
20 50a.

21 (f) TECHNICAL CORRECTION.—Section 47 of that
22 title is further amended in the fifth sentence by striking
23 “subsection” and inserting “section”.

1 **SEC. 211. MERCHANT MARINER MEDICAL ADVISORY COM-**
2 **MITTEE.**

3 (a) IN GENERAL.—Chapter 71 of title 46, United
4 States Code, is amended by adding at the end the fol-
5 lowing new section:

6 **“§ 7115. Merchant Mariner Medical Advisory Com-**
7 **mittee**

8 “(a) ESTABLISHMENT.—

9 “(1) IN GENERAL.—There is established a Mer-
10 chant Mariner Medical Advisory Committee (in this
11 section referred to as the ‘Committee’).

12 “(2) FUNCTIONS.—The Committee shall advise
13 the Secretary on matters relating to—

14 “(A) medical certification determinations
15 for issuance of merchant mariner credentials;

16 “(B) medical standards and guidelines for
17 the physical qualifications of operators of com-
18 mercial vessels;

19 “(C) medical examiner education; and

20 “(D) medical research.

21 “(b) MEMBERSHIP.—

22 “(1) IN GENERAL.—The Committee shall con-
23 sist of 14 members, none of whom is a Federal em-
24 ployee, and shall include—

25 “(A) ten who are health-care professionals
26 with particular expertise, knowledge, or experi-

1 ence regarding the medical examinations of
2 merchant mariners or occupational medicine;
3 and

4 “(B) four who are professional mariners
5 with knowledge and experience in mariner occu-
6 pational requirements.

7 “(2) STATUS OF MEMBERS.—Members of the
8 Committee shall not be considered Federal employ-
9 ees or otherwise in the service or the employment of
10 the Federal Government, except that members shall
11 be considered special Government employees, as de-
12 fined in section 202(a) of title 18, United States
13 Code, and shall be subject to any administrative
14 standards of conduct applicable to the employees of
15 the department in which the Coast Guard is oper-
16 ating.

17 “(c) APPOINTMENTS; TERMS; VACANCIES.—

18 “(1) APPOINTMENTS.—The Secretary shall ap-
19 point the members of the Committee, and each
20 member shall serve at the pleasure of the Secretary.

21 “(2) TERMS.—Each member shall be appointed
22 for a term of three years, except that, of the mem-
23 bers first appointed, three members shall be ap-
24 pointed for a term of two years and three members
25 shall be appointed for a term of one year.

1 “(3) VACANCIES.—Any member appointed to
2 fill the vacancy prior to the expiration of the term
3 for which that member’s predecessor was appointed
4 shall be appointed for the remainder of that term.

5 “(d) CHAIRMAN AND VICE CHAIRMAN.—The Sec-
6 retary shall designate one member of the Committee as
7 the Chairman and one member as the Vice Chairman. The
8 Vice Chairman shall act as Chairman in the absence or
9 incapacity of, or in the event of a vacancy in the office
10 of, the Chairman.

11 “(e) COMPENSATION; REIMBURSEMENT.—Members
12 of the Committee shall serve without compensation, except
13 that, while engaged in the performance of duties away
14 from their homes or regular places of business of the mem-
15 ber, the member of the Committee may be allowed travel
16 expenses, including per diem in lieu of subsistence, as au-
17 thorized by section 5703 of title 5.

18 “(f) STAFF; SERVICES.—The Secretary shall furnish
19 to the Committee the personnel and services as are consid-
20 ered necessary for the conduct of its business.”.

21 “(b) FIRST MEETING.—No later than six months after
22 the date of enactment of this Act, the Merchant Mariner
23 Medical Advisory Committee established by the amend-
24 ment made by this section shall hold its first meeting.

1 (c) CLERICAL AMENDMENT.—The analysis for chap-
2 ter 71 of that title is amended by adding at the end the
3 following:

“7115. Merchant Mariner Medical Advisory Committee.”.

4 **SEC. 212. RESERVE COMMISSIONED WARRANT OFFICER TO**
5 **LIEUTENANT PROGRAM.**

6 Section 214(a) of title 14, United States Code, is
7 amended to read as follows:

8 “(a) The president may appoint temporary commis-
9 sioned officers—

10 “(1) in the Regular Coast Guard in a grade,
11 not above lieutenant, appropriate to their qualifica-
12 tions, experience, and length of service, as the needs
13 of the Coast Guard may require, from among the
14 commissioned warrant officers, warrant officers, and
15 enlisted members of the Coast Guard, and from
16 holders of licenses issued under chapter 71 of title
17 46; and

18 “(2) in the Coast Guard Reserve in a grade,
19 not above lieutenant, appropriate to their qualifica-
20 tions, experience, and length of service, as the needs
21 of the Coast Guard may require, from among the
22 commissioned warrant officers of the Coast Guard
23 Reserve.”.

1 **SEC. 213. ENHANCED STATUS QUO OFFICER PROMOTION**
2 **SYSTEM.**

3 Chapter 11 of title 14, United States Code, is amend-
4 ed—

5 (1) in section 253(a)—

6 (A) by inserting “and” after “considered,”;

7 and

8 (B) by striking “, and the number of offi-
9 cers the board may recommend for promotion”;

10 (2) in section 258—

11 (A) by inserting “(a) IN GENERAL.—” be-
12 fore the existing text;

13 (B) in subsection (a) (as so designated) by
14 striking the colon at the end of the material
15 preceding paragraph (1) and inserting “—”;

16 and

17 (C) by adding at the end the following:

18 “(b) PROVISION OF DIRECTION AND GUIDANCE.—

19 “(1) In addition to the information provided
20 pursuant to subsection (a), the Secretary may fur-
21 nish the selection board—

22 “(A) specific direction relating to the needs
23 of the Coast Guard for officers having par-
24 ticular skills, including direction relating to the
25 need for a minimum number of officers with
26 particular skills within a specialty; and

1 “(B) any other guidance that the Secretary
2 believes may be necessary to enable the board
3 to properly perform its functions.

4 “(2) Selections made based on the direction and
5 guidance provided under this subsection shall not ex-
6 ceed the maximum percentage of officers who may
7 be selected from below the announced promotion
8 zone at any given selection board convened under
9 section 251 of this title.”;

10 (3) in section 259(a), by inserting after “whom
11 the board” the following: “, giving due consideration
12 to the needs of the Coast Guard for officers with
13 particular skills so noted in specific direction fur-
14 nished to the board by the Secretary under section
15 258 of this title,”; and

16 (4) in section 260(b), by inserting after “quali-
17 fied for promotion” the following: “to meet the
18 needs of the service (as noted in specific direction
19 furnished the board by the Secretary under section
20 258 of this title)”.

21 **SEC. 214. LASER TRAINING SYSTEM.**

22 (a) **IN GENERAL.**—Within one year after the date of
23 enactment of this Act, the Secretary of the department
24 in which the Coast Guard shall test an integrated laser
25 engagement system for the training of members of the

1 Coast Guard assigned to small vessels in the use of indi-
2 vidual weapons and machine guns on those vessels. The
3 test shall be conducted on vessels on the Great Lakes
4 using similar laser equipment used by other Federal agen-
5 cies. However, that equipment shall be adapted for use
6 in the marine environment.

7 (b) REPORT.—The Secretary shall submit a report to
8 the Committee on Transportation and Infrastructure and
9 the Committee on Homeland Security of the House of
10 Representatives and the Committee on Commerce,
11 Science, and Transportation of the Senate within 6
12 months after the conclusions of the test required under
13 subsection (a) on the costs and benefits of using the sys-
14 tem regionally and nationwide to train members of the
15 Coast Guard in the use of individual weapons and machine
16 guns.

17 **SEC. 215. COAST GUARD VESSELS AND AIRCRAFT.**

18 (a) AUTHORITY TO FIRE AT OR INTO A VESSEL.—
19 Section 637(c) of title 14, United States Code, is amend-
20 ed—

21 (1) in paragraph (1), by striking “; or” and in-
22 serting a semicolon;

23 (2) in paragraph (2), by striking the period at
24 the end and inserting “; or”; and

25 (3) by adding at the end the following:

1 “(3) any other vessel or aircraft on government
2 noncommercial service when—

3 “(A) the vessel or aircraft is under the tac-
4 tical control of the Coast Guard; and

5 “(B) at least one member of the Coast
6 Guard is assigned and conducting a Coast
7 Guard mission on the vessel or aircraft.”.

8 (b) **AUTHORITY TO DISPLAY COAST GUARD ENSIGNS**
9 **AND PENNANTS.**—Section 638(a) of title 14, United
10 States Code, is amended by striking “Coast Guard vessels
11 and aircraft” and inserting “Vessels and aircraft author-
12 ized by the Secretary”.

13 **SEC. 216. COAST GUARD DISTRICT OMBUDSMEN.**

14 (a) **IN GENERAL.**—Chapter 3 of title 14, United
15 States Code, is amended by adding at the end the fol-
16 lowing new section:

17 **“§ 55. District Ombudsmen**

18 “(a) **IN GENERAL.**—The Commandant shall appoint
19 an employee of the Coast Guard in each Coast Guard Dis-
20 trict as a District Ombudsman to serve as a liaison be-
21 tween ports, terminal operators, shipowners, and labor
22 representatives and the Coast Guard.

23 “(b) **PURPOSE.**—The purpose of the District Om-
24 budsman shall be the following:

1 “(1) To support the operations of the Coast
2 Guard in each port in the District for which the Dis-
3 trict Ombudsman is appointed.

4 “(2) To improve communications between and
5 among port stakeholders including, port and ter-
6 minal operators, ship owners, labor representatives,
7 and the Coast Guard.

8 “(3) To seek to resolve disputes between the
9 Coast Guard and all petitioners regarding require-
10 ments imposed or services provided by the Coast
11 Guard.

12 “(c) FUNCTIONS.—

13 “(1) COMPLAINTS.—The District Ombudsman
14 may examine complaints brought to the attention of
15 the District Ombudsman by a petitioner operating in
16 a port or by Coast Guard personnel.

17 “(2) GUIDELINES FOR DISPUTES.—

18 “(A) IN GENERAL.—The District Ombuds-
19 man shall develop guidelines regarding the
20 types of disputes with respect to which the Dis-
21 trict Ombudsman will provide assistance.

22 “(B) LIMITATION.—The District Ombuds-
23 man shall not provide assistance with respect to
24 a dispute unless it involves the impact of Coast

1 Guard requirements on port business and the
2 flow of commerce.

3 “(C) PRIORITY.—In providing such assist-
4 ance, the District Ombudsman shall give pri-
5 ority to complaints brought by petitioners who
6 believe they will suffer a significant hardship as
7 the result of implementing a Coast Guard re-
8 quirement or being denied a Coast Guard serv-
9 ice.

10 “(3) CONSULTATION.—The District Ombuds-
11 man may consult with any Coast Guard personnel
12 who can aid in the investigation of a complaint.

13 “(4) ACCESS TO INFORMATION.—The District
14 Ombudsman shall have access to any Coast Guard
15 document, including any record or report, that will
16 aid the District Ombudsman in obtaining the infor-
17 mation needed to conduct an investigation of a com-
18 pliant.

19 “(5) REPORTS.—At the conclusion of an inves-
20 tigation, the District Ombudsman shall submit a re-
21 port on the findings and recommendations of the
22 District Ombudsman, to the Commander of the Dis-
23 trict in which the petitioner who brought the com-
24 plaint is located or operating.

1 “(6) DEADLINE.—The District Ombudsman
2 shall seek to resolve each complaint brought in ac-
3 cordance with the guidelines—

4 “(A) in a timely fashion; and

5 “(B) not later than 4 months after the
6 complaint is officially accepted by the District
7 Ombudsman.

8 “(d) APPOINTMENT.—The Commandant shall ap-
9 point as the District Ombudsman a civilian who has expe-
10 rience in port and transportation systems and knowledge
11 of port operations or of maritime commerce (or both).

12 “(e) ANNUAL REPORTS.—The Secretary shall report
13 annually to the Committee on Transportation and Infra-
14 structure of the House of Representatives and the Com-
15 mittee on Commerce, Science, and Transportation of the
16 Senate on the matters brought before the District Om-
17 budsmen, including—

18 “(1) the number of matters brought before each
19 District Ombudsman;

20 “(2) a brief summary of each such matter; and

21 “(3) the eventual resolution of each such mat-
22 ter.”.

23 “(b) CLERICAL AMENDMENT.—The analysis at the be-
24 ginning of that chapter is amended by adding at the end
25 the following new item:

“55. District Ombudsmen.”.

1 **SEC. 217. ENSURING CONTRACTING WITH SMALL BUSINESS**
2 **CONCERNS AND DISADVANTAGED BUSINESS**
3 **CONCERNS.**

4 (a) **REQUIREMENTS FOR PRIME CONTRACTS.**—The
5 Secretary shall include in each contract awarded for pro-
6 curement of goods or services acquired for the Coast
7 Guard—

8 (1) a requirement that the contractor shall im-
9 plement a plan for the award, in accordance with
10 other applicable requirements, of subcontracts under
11 the contract to small business concerns, including
12 small business concerns owned and controlled by so-
13 cially and economically disadvantaged individuals,
14 small business concerns owned and controlled by
15 women, small business concerns owned and con-
16 trolled by service-disabled veterans, HUBZone small
17 business concerns, small business concerns partici-
18 pating in the program under section 8(a) of the
19 Small Business Act (15 U.S.C. 637(a)), institutions
20 receiving assistance under title III or V of the High-
21 er Education Act of 1965 (20 U.S.C. 1051 et seq.,
22 1101 et seq.), and Alaska Native Corporations cre-
23 ated pursuant to the Alaska Native Claims Settle-
24 ment Act (43 U.S.C. 1601 et seq.), including the
25 terms of such plan; and

1 (2) a requirement that the contractor shall sub-
2 mit to the Secretary, during performance of the con-
3 tract, periodic reports describing the extent to which
4 the contractor has complied with such plan, includ-
5 ing specification (by total dollar amount and by per-
6 centage of the total dollar value of the contract) of
7 the value of subcontracts awarded at all tiers of sub-
8 contracting to small business concerns, institutions,
9 and corporations referred to in subsection (a)(1).

10 (b) UTILIZATION OF ALLIANCES.—The Secretary
11 shall seek to facilitate award of contracts by the United
12 States under the Deepwater Program to alliances of small
13 business concerns, institutions, and corporations referred
14 to in subsection (a)(1).

15 (c) ANNUAL REPORT.—

16 (1) IN GENERAL.—The Secretary shall submit
17 to the Committee on Transportation and Infrastruc-
18 ture and the Committee on Homeland Security of
19 the House of Representatives and the Committee on
20 Commerce, Science, and Transportation of the Sen-
21 ate by October 31 each year a report on the award
22 of contracts under the Deepwater Program to small
23 business concerns, institutions, and corporations re-
24 ferred to in subsection (a)(1) during the preceding
25 fiscal year.

1 (2) CONTENTS.—The Secretary shall include in
2 each report—

3 (A) specification of the value of such con-
4 tracts, by dollar amount and as a percentage of
5 the total dollar value of all contracts awarded
6 by the United States under the Deepwater Pro-
7 gram in such fiscal year;

8 (B) specification of the total dollar value of
9 such contracts awarded to each of the cat-
10 egories of small business concerns, institutions,
11 and corporations referred to in subsection
12 (a)(1); and

13 (C) if the percentage specified under sub-
14 paragraph (A) is less than 25 percent, an expla-
15 nation of—

16 (i) why the percentage is less than 25
17 percent; and

18 (ii) what will be done to ensure that
19 the percentage for the following fiscal year
20 will not be less than 25 percent.

21 (d) DEFINITIONS.—In this section:

22 (1) DEEPWATER PROGRAM.—The term “Deep-
23 water Program” means the Integrated Deepwater
24 Systems Program described by the Coast Guard in
25 its report to Congress entitled “Revised Deepwater

1 Implementation Plan 2005”, dated March 25, 2005.
2 The Deepwater Program primarily involves the pro-
3 curement of cutter and aviation assets that operate
4 more than 50 miles offshore.

5 (2) SECRETARY.—The term “Secretary” means
6 the Secretary of the department in which the Coast
7 Guard is operating.

8 **SEC. 218. ASSISTANT COMMANDANT FOR PORT AND WA-**
9 **TERWAY SECURITY.**

10 (a) IN GENERAL.—Chapter 3 of title 14, United
11 States Code, is further amended by adding at the end the
12 following:

13 **“§ 61. Assistant Commandant for Port and Waterway**
14 **Security**

15 “(a) There shall be in the Coast Guard an Assistant
16 Commandant for Port and Waterway Security who shall
17 be a Rear Admiral or civilian from the Senior Executive
18 Service (career reserved) selected by the Secretary.

19 “(b) The Assistant Commandant for Port and Water-
20 way Security shall serve as the principal advisor to the
21 Commandant regarding port and waterway security and
22 shall carry out the duties and powers delegated and im-
23 posed by the Secretary.”.

1 (b) CLERICAL AMENDMENT.—The analysis at the be-
2 ginning of that chapter is further amended by adding at
3 the end the following:

“61. Assistant Commandant for Port and Waterway Security.”.

4 **SEC. 219. SMALL BUSINESS PROCUREMENTS.**

5 (a) IN GENERAL.—Chapter 17 of title 14, United
6 States Code, is amended by adding at the end the fol-
7 lowing:

8 **“§ 678. Disadvantaged business enterprise program**

9 “(a) IN GENERAL.—Except to the extent that the
10 Secretary determines otherwise, not less than 10 percent
11 of the amounts obligated by the Coast Guard for contracts
12 in any fiscal year shall be expended with small business
13 concerns owned and controlled by socially and economi-
14 cally disadvantaged individuals.

15 “(b) DEFINITIONS.—In this subsection, the following
16 definitions apply:

17 “(1) SMALL BUSINESS CONCERN.—The term
18 ‘small business concern’ has the meaning given that
19 term under section 3 of the Small Business Act (15
20 U.S.C. 632).

21 “(2) SOCIALLY AND ECONOMICALLY DISADVAN-
22 TAGED INDIVIDUALS.—The term ‘socially and eco-
23 nomically disadvantaged individuals’ has the mean-
24 ing that term has under section 8(d) of the Small
25 Business Act (15 U.S.C. 637(d)) and relevant sub-

1 contracting regulations issued pursuant to that Act,
2 except that women shall be presumed to be socially
3 and economically disadvantaged individuals for pur-
4 poses of this subsection.

5 “(c) REGULATIONS.—The Secretary shall issue final
6 regulations governing the administration of the program
7 created by this section by one year after the date of enact-
8 ment of this section. To the maximum extent feasible,
9 these regulations shall impose requirements similar to
10 those of part 26 of title 49, Code of Federal Regulations,
11 with respect to setting overall and contract goals, good
12 faith efforts, and the contract award process, counting of
13 credit for the participation of businesses owned and con-
14 trolled by socially and economically disadvantaged individ-
15 uals, and determining whether businesses are eligible to
16 participate in the program.

17 “(d) TERMINATION.—This section shall cease to be
18 effective three years after the date of its enactment.”.

19 (b) CLERICAL AMENDMENT.—The analysis at the be-
20 ginning of that chapter is further amended by adding at
21 the end the following:

“678. Disadvantaged business enterprise program.”.

22 **SEC. 220. ENFORCEMENT OF COASTWISE TRADE LAWS.**

23 (a) IN GENERAL.—Chapter 5 of title 14, United
24 States Code, is amended by adding at the end the fol-
25 lowing:

1 **“§ 101. Enforcement of coastwise trade laws**

2 “Officers and members of the Coast Guard are au-
3 thorized to enforce chapter 551 of title 46. The Secretary
4 shall establish a program for these officers and members
5 to enforce that chapter, including the application of those
6 laws to vessels that support the exploration, development,
7 and production of oil, gas, or mineral resources in the Gulf
8 of Mexico.”.

9 (b) CLERICAL AMENDMENT.—The analysis for that
10 chapter is amended by adding at the end the following
11 new item:

“101. Enforcement of coastwise trade laws.”.

12 (c) REPORT.—The Secretary of the department in
13 which the Coast Guard is operating shall submit a report
14 to the Committee on Transportation and Infrastructure
15 of the House of Representatives and the Senate Com-
16 mittee on Commerce, Science, and Transportation within
17 one year after the date of enactment of this Act on the
18 enforcement strategies and enforcement actions taken to
19 enforce the coastwise trade laws.

20 **SEC. 221. NOMINATION AND APPOINTMENT OF CADETS AT**
21 **THE COAST GUARD ACADEMY.**

22 (a) NOMINATION AND COMPETITIVE APPOINTMENT,
23 GENERALLY.—Section 182(a) of title 14, United States
24 Code, is amended to read as follows:

1 “(a) NOMINATION AND COMPETITIVE APPOINTMENT
2 OF CADETS.—

3 “(1) ELIGIBILITY FOR NOMINATION.—An indi-
4 vidual may be nominated for a competitive appoint-
5 ment as a cadet at the Coast Guard Academy only
6 if the individual—

7 “(A) is a citizen or national of the United
8 States; and

9 “(B) meets the minimum requirements
10 that the Secretary shall establish.

11 “(2) NOMINATORS.—Nominations for competi-
12 tive appointments for the positions allocated under
13 this section may be made as follows:

14 “(A) A Senator may nominate residents of
15 the State represented by that Senator.

16 “(B) A Member of the House of Rep-
17 resentatives may nominate residents of the
18 State in which the congressional district rep-
19 resented by that Member is located.

20 “(C) A Delegate to the House of Rep-
21 resentatives from the District of Columbia, the
22 Virgin Islands, Guam, or American Samoa may
23 nominate residents of the jurisdiction rep-
24 resented by that Delegate.

1 “(D) The Resident Commissioner to the
2 United States from Puerto Rico may nominate
3 residents of Puerto Rico.

4 “(E) The Governor of the Northern Mar-
5 iana Islands may nominate residents of the
6 Northern Mariana Islands.

7 “(3) ALLOCATION OF POSITIONS.—Positions for
8 competitive appointments shall be allocated each
9 year as follows:

10 “(A) Positions shall be allocated for resi-
11 dents of each State nominated by the Members
12 of Congress from that State in proportion to
13 the representation in Congress from that State.

14 “(B) Four positions shall be allocated for
15 residents of the District of Columbia.

16 “(C) One position each shall be allocated
17 for residents of the Virgin Islands, Guam, and
18 American Samoa, respectively.

19 “(D) One position shall be allocated for a
20 resident of Puerto Rico.

21 “(E) One position shall be allocated for a
22 resident of the Northern Mariana Islands.

23 “(F) Two positions shall be allocated for
24 individuals nominated by the Panama Canal
25 Commission.

1 “(4) COMPETITIVE SYSTEM FOR APPOINT-
2 MENT.—

3 “(A) ESTABLISHMENT OF SYSTEM.—The
4 Secretary shall establish a competitive system
5 for selecting for appointment individuals nomi-
6 nated under paragraph (1) to fill the positions
7 allocated under paragraph (3). The system
8 must determine the relative merit of each indi-
9 vidual based on competitive examinations, an
10 assessment of the individual’s academic back-
11 ground, and other effective indicators of moti-
12 vation and probability of successful completion
13 of training at the Academy.

14 “(B) APPOINTMENTS BY JURISDICTION.—
15 The Secretary shall appoint individuals to fill
16 the positions allocated under subsection (c) for
17 each jurisdiction in the order of merit of the in-
18 dividuals nominated from that jurisdiction.

19 “(C) REMAINING UNFILLED POSITIONS.—
20 If positions remain unfilled after the appoint-
21 ments are made under paragraph (2), the Sec-
22 retary shall appoint individuals to fill the posi-
23 tions in the order of merit of the remaining in-
24 dividuals nominated from all jurisdictions.

1 “(5) NONCOMPETITIVE APPOINTMENTS.—The
2 Secretary may appoint each year without competi-
3 tion as cadets at the Academy the following:

4 “(A) Without limit, the children of persons
5 who have been awarded the Medal of Honor for
6 acts performed while in the armed forces.

7 “(B) Without limit—

8 “(i) children of individuals who died
9 while on active duty in the armed forces of
10 the United States;

11 “(ii) children of individuals who are
12 determined by the Secretary of Veterans
13 Affairs to have a service-connected dis-
14 ability rated at not less than 100 percent
15 resulting from wounds or injuries received
16 in, diseases contracted in, or preexisting
17 injury or disease aggravated by, active
18 service;

19 “(iii) children of members of the
20 armed forces of the United States who are
21 in a missing status as defined in section
22 551(2) of title 37; and

23 “(iv) children of civilian employees of
24 the armed forces of the United States who

1 are in missing status as defined in section
2 5561(5) of title 5.

3 “(C) Not more than 25 enlisted members
4 of the Coast Guard;

5 “(D) Not more than 20 qualified individ-
6 uals with qualities the Secretary considers to be
7 of special value to the Academy and that the
8 Secretary considers will achieve a national de-
9 mographic balance at the Academy.

10 “(6) ADDITIONAL APPOINTMENTS FROM PAR-
11 TICULAR AREAS.—

12 “(A) OTHER COUNTRIES IN WESTERN
13 HEMISPHERE.—The President may appoint in-
14 dividuals from countries in the Western Hemi-
15 sphere other than the United States to receive
16 instruction at the Academy. Not more than 12
17 individuals may receive instruction under this
18 subsection at the same time, and not more than
19 2 individuals from the same country may re-
20 ceive instruction under this subsection at the
21 same time.

22 “(B) OTHER COUNTRIES GENERALLY.—

23 “(i) APPOINTMENT.—The Secretary,
24 with the approval of the Secretary of
25 State, may appoint individuals from coun-

1 tries other than the United States to re-
2 ceive instruction at the Academy. Not
3 more than 20 individuals may receive in-
4 struction under this subsection at the same
5 time.

6 “(ii) REIMBURSEMENT.—The Sec-
7 retary shall ensure that the country from
8 which an individual comes under this sub-
9 section will reimburse the Secretary for the
10 cost (as determined by the Secretary) of
11 the instruction and allowances received by
12 the individual at the Academy.

13 “(C) COMMITMENT.—Each individual at-
14 tending the Academy under this paragraph
15 shall sign an agreement stating that the indi-
16 vidual, upon graduation, will accept an appoint-
17 ment, if tendered, as an officer in the Coast
18 Guard of the country from which the individual
19 comes for at least five years.

20 “(7) PROHIBITED BASIS FOR APPOINTMENT.—
21 Preference may not be given to an individual for ap-
22 pointment as a cadet at the Academy because one or
23 more members of the individual’s immediate family
24 are alumni of the Academy.”.

25 (b) MINORITY RECRUITING PROGRAM.—

1 (1) IN GENERAL.—Chapter 9 of title 14, United
2 States Code, is amended by adding at the end the
3 following new section:

4 **“§ 197. Minority recruiting program**

5 “The Secretary of the department in which the Coast
6 Guard is operating shall establish a minority recruiting
7 program for prospective cadets at the Coast Guard Acad-
8 emy. The program may include—

9 “(1) use of minority cadets and officers to pro-
10 vide information regarding the Coast Guard and the
11 Academy to students in high schools;

12 “(2) sponsoring of trips to high school teachers
13 and guidance counselors to the Academy;

14 “(3) to the extent authorized by the Secretary
15 of the Navy, maximizing the use of the Naval Acad-
16 emy Preparatory School to prepare students to be
17 cadets at the Coast Guard Academy;

18 “(4) recruiting minority members of the Coast
19 Guard to attend the Academy;

20 “(5) establishment of a minority affairs office
21 at the Academy; and

22 “(6) use of minority officers and members of
23 the Coast Guard Reserve and Auxiliary to promote
24 the Academy.”.

1 (2) CLERICAL AMENDMENT.—The table of sec-
2 tions for that cuapter is amended by adding at the
3 end the folowing new item:

“197. Minority recruiting program.”.

4 **TITLE III—SHIPPING AND**
5 **NAVIGATION**

6 **SEC. 301. VESSEL SIZE LIMITS.**

7 (a) LENGTH, TONNAGE, AND HORSEPOWER.—Sec-
8 tion 12113(d)(2) of title 46, United States Code, is
9 amended—

10 (1) by inserting “and” after the semicolon at
11 the end of subparagraph (A)(i);

12 (2) by striking “and” at the end of subpara-
13 graph (A)(ii);

14 (3) by striking subparagraph (A)(iii);

15 (4) by striking the period at the end of sub-
16 paragraph (B) and inserting “; or”; and

17 (5) by inserting at the end the following:

18 “(C) the vessel is either a rebuilt vessel or
19 a replacement vessel under section 208(g) of
20 the American Fisheries Act (title II of division
21 C of Public Law 105–277; 112 Stat. 2681–
22 627) and is eligible for a fishery endorsement
23 under this section.”.

24 (b) CONFORMING AMENDMENTS.—

1 (1) VESSEL REBUILDING AND REPLACE-
2 MENT.—Section 208(g) of the American Fisheries
3 Act (title II of division C of Public Law 105–277;
4 112 Stat. 2681–627) is amended to read as follows:

5 “(g) VESSEL REBUILDING AND REPLACEMENT.—

6 “(1) IN GENERAL.—

7 “(A) REBUILD OR REPLACE.—Notwith-
8 standing any limitation to the contrary on re-
9 placing, rebuilding, or lengthening vessels or
10 transferring permits or licenses to a replace-
11 ment vessel contained in sections 679.2 and
12 679.4 of title 50, Code of Federal Regulations,
13 as in effect on the date of enactment of the
14 Coast Guard Authorization Act of 2008 and ex-
15 cept as provided in paragraph (4), the owner of
16 a vessel eligible under subsection (a), (b), (c),
17 (d), or (e) (other than paragraph (21)), in
18 order to improve vessel safety and operational
19 efficiencies (including fuel efficiency), may re-
20 build or replace that vessel (including fuel effi-
21 ciency) with a vessel documented with a fishery
22 endorsement under section 12113 of title 46,
23 United States Code.

24 “(B) SAME REQUIREMENTS.—The rebuilt
25 or replacement vessel shall be eligible in the

1 same manner and subject to the same restric-
2 tions and limitations under such subsection as
3 the vessel being rebuilt or replaced.

4 “(C) TRANSFER OF PERMITS AND LI-
5 CENSES.—Each fishing permit and license held
6 by the owner of a vessel or vessels to be rebuilt
7 or replaced under subparagraph (A) shall be
8 transferred to the rebuilt or replacement vessel.

9 “(2) RECOMMENDATIONS OF NORTH PACIFIC
10 COUNCIL.—The North Pacific Council may rec-
11 ommend for approval by the Secretary such con-
12 servation and management measures, including size
13 limits and measures to control fishing capacity, in
14 accordance with the Magnuson-Stevens Act as it
15 considers necessary to ensure that this subsection
16 does not diminish the effectiveness of fishery man-
17 agement plans of the Bering Sea and Aleutian Is-
18 lands Management Area or the Gulf of Alaska.

19 “(3) SPECIAL RULE FOR REPLACEMENT OF
20 CERTAIN VESSELS.—

21 “(A) IN GENERAL.—Notwithstanding the
22 requirements of subsections (b)(2), (c)(1), and
23 (c)(2) of section 12113 of title 46, United
24 States Code, a vessel that is eligible under sub-
25 section (a), (b), (c), (d), or (e) (other than

1 paragraph (21)) and that qualifies to be docu-
2 mented with a fishery endorsement pursuant to
3 section 203(g) or 213(g) may be replaced with
4 a replacement vessel under paragraph (1) if the
5 vessel that is replaced is validly documented
6 with a fishery endorsement pursuant to section
7 203(g) or 213(g) before the replacement vessel
8 is documented with a fishery endorsement
9 under section 12113 of title 46, United States
10 Code.

11 “(B) APPLICABILITY.—A replacement ves-
12 sel under subparagraph (A) and its owner and
13 mortgagee are subject to the same limitations
14 under section 203(g) or 213(g) that are appli-
15 cable to the vessel that has been replaced and
16 its owner and mortgagee.

17 “(4) SPECIAL RULES FOR CERTAIN CATCHER
18 VESSELS.—

19 “(A) IN GENERAL.—A replacement for a
20 covered vessel described in subparagraph (B) is
21 prohibited from harvesting fish in any fishery
22 (except for the Pacific whiting fishery) managed
23 under the authority of any regional fishery
24 management council (other than the North Pa-

1 cific Council) established under section 302(a)
2 of the Magnuson-Stevens Act.

3 “(B) COVERED VESSELS.—A covered ves-
4 sel referred to in subparagraph (A) is—

5 “(i) a vessel eligible under subsection
6 (a), (b), or (c) that is replaced under para-
7 graph (1); or

8 “(ii) a vessel eligible under subsection
9 (a), (b), or (c) that is rebuilt to increase
10 its registered length, gross tonnage, or
11 shaft horsepower.

12 “(5) LIMITATION ON FISHERY ENDORSE-
13 MENTS.—Any vessel that is replaced under this sub-
14 section shall thereafter not be eligible for a fishery
15 endorsement under section 12113 of title 46, United
16 States Code, unless that vessel is also a replacement
17 vessel described in paragraph (1).

18 “(6) GULF OF ALASKA LIMITATION.—Notwith-
19 standing paragraph (1), the Secretary shall prohibit
20 from participation in the groundfish fisheries of the
21 Gulf of Alaska any vessel that is rebuilt or replaced
22 under this subsection and that exceeds the maximum
23 length overall specified on the license that authorizes
24 fishing for groundfish pursuant to the license limita-
25 tion program under part 679 of title 50, Code of

1 Federal Regulations, as in effect on the date of en-
2 actment of the Coast Guard Authorization Act of
3 2008.

4 “(7) AUTHORITY OF PACIFIC COUNCIL.—Noth-
5 ing in this section shall be construed to diminish or
6 otherwise affect the authority of the Pacific Council
7 to recommend to the Secretary conservation and
8 management measures to protect fisheries under its
9 jurisdiction (including the Pacific whiting fishery)
10 and participants in such fisheries from adverse im-
11 pacts caused by this Act.”.

12 (2) EXEMPTION OF CERTAIN VESSELS.—Sec-
13 tion 203(g) of the American Fisheries Act (title II
14 of division C of Public Law 105–277; 112 Stat.
15 2681–620) is amended—

16 (A) by inserting “and” after “(United
17 States official number 651041)”;

18 (B) by striking “, NORTHERN TRAV-
19 ELER (United States official number 635986),
20 and NORTHERN VOYAGER (United States
21 official number 637398) (or a replacement ves-
22 sel for the NORTHERN VOYAGER that com-
23 plies with paragraphs (2), (5), and (6) of sec-
24 tion 208(g) of this Act)”;

1 (C) by striking “, in the case of the
2 NORTHERN” and all that follows through
3 “PHOENIX,”.

4 (3) FISHERY COOPERATIVE EXIT PROVI-
5 SIONS.—Section 210(b) of the American Fisheries
6 Act (title II of division C of Public Law 105–277;
7 112 Stat. 2681–629) is amended—

8 (A) by moving the matter beginning with
9 “the Secretary shall” in paragraph (1) 2 ems to
10 the right;

11 (B) by adding at the end the following:

12 “(7) FISHERY COOPERATIVE EXIT PROVI-
13 SIONS.—

14 “(A) FISHING ALLOWANCE DETERMINA-
15 TION.—For purposes of determining the aggre-
16 gate percentage of directed fishing allowances
17 under paragraph (1), when a catcher vessel is
18 removed from the directed pollock fishery, the
19 fishery allowance for pollock for the vessel being
20 removed—

21 “(i) shall be based on the catch his-
22 tory determination for the vessel made
23 pursuant to section 679.62 of title 50,
24 Code of Federal Regulations, as in effect

1 on the date of enactment of the Coast
2 Guard Authorization Act of 2008; and

3 “(ii) shall be assigned, for all pur-
4 poses under this title, in the manner speci-
5 fied by the owner of the vessel being re-
6 moved to any other catcher vessel or
7 among other catcher vessels participating
8 in the fishery cooperative if such vessel or
9 vessels remain in the fishery cooperative
10 for at least one year after the date on
11 which the vessel being removed leaves the
12 directed pollock fishery.

13 “(B) ELIGIBILITY FOR FISHERY ENDORSE-
14 MENT.—Except as provided in subparagraph
15 (C), a vessel that is removed pursuant to this
16 paragraph shall be permanently ineligible for a
17 fishery endorsement, and any claim (including
18 relating to catch history) associated with such
19 vessel that could qualify any owner of such ves-
20 sel for any permit to participate in any fishery
21 within the exclusive economic zone of the
22 United States shall be extinguished, unless such
23 removed vessel is thereafter designated to re-
24 place a vessel to be removed pursuant to this
25 paragraph.

1 “(C) LIMITATIONS ON STATUTORY CON-
2 STRUCTION.—Nothing in this paragraph shall
3 be construed—

4 “(i) to make the vessels AJ (United
5 States official number 905625), DONA
6 MARTITA (United States official number
7 651751), NORDIC EXPLORER (United
8 States official number 678234), and
9 PROVIDIAN (United States official num-
10 ber 1062183) ineligible for a fishery en-
11 dorsement or any permit necessary to par-
12 ticipate in any fishery under the authority
13 of the New England Fishery Management
14 Council or the Mid-Atlantic Fishery Man-
15 agement Council established, respectively,
16 under subparagraphs (A) and (B) of sec-
17 tion 302(a)(1) of the Magnuson-Stevens
18 Act; or

19 “(ii) to allow the vessels referred to in
20 clause (i) to participate in any fishery
21 under the authority of the Councils re-
22 ferred to in clause (i) in any manner that
23 is not consistent with the fishery manage-
24 ment plan for the fishery developed by the

1 Councils under section 303 of the Magnu-
2 son-Stevens Act.”.

3 **SEC. 302. GOODS AND SERVICES.**

4 Section 4(b) of the Act of July 5, 1884, commonly
5 known as the Rivers and Harbors Appropriation Act of
6 1884 (33 U.S.C. 5(b)), is amended—

7 (1) by striking “or” at the end of paragraph

8 (2)(C);

9 (2) by striking the period at the end of para-
10 graph (3) and inserting “; or”; and

11 (3) by adding at the end the following:

12 “(4) sales taxes on goods and services provided
13 to or by vessels or watercraft (other than vessels or
14 watercraft primarily engaged in foreign com-
15 merce).”.

16 **SEC. 303. SEAWARD EXTENSION OF ANCHORAGE GROUNDS**
17 **JURISDICTION.**

18 Section 7 of the Rivers and Harbors Appropriations
19 Act of 1915 (33 U.S.C. 471) is amended—

20 (1) by striking “That the” and inserting the
21 following:

22 “(a) IN GENERAL.—The”.

23 (2) in subsection (a) (as designated by para-
24 graph (1)) by striking “\$100; and the” and insert-
25 ing “up to \$10,000. Each day during which a viola-

1 tion continues shall constitute a separate violation.

2 The”;

3 (3) by adding at the end the following:

4 “(b) DEFINITION.—As used in this section ‘navigable
5 waters of the United States’ includes all waters of the ter-
6 ritorial sea of the United States as described in Presi-
7 dential Proclamation No. 5928 of December 27, 1988.”.

8 **SEC. 304. MARITIME DRUG LAW ENFORCEMENT ACT**

9 **AMENDMENT-SIMPLE POSSESSION.**

10 Section 70506 of title 46, United States Code, is
11 amended by adding at the end the following:

12 “(c) SIMPLE POSSESSION.—

13 “(1) IN GENERAL.—Any individual on a vessel
14 subject to the jurisdiction of the United States who
15 is found by the Secretary, after notice and an oppor-
16 tunity for a hearing, to have knowingly or inten-
17 tionally possessed a controlled substance within the
18 meaning of the Controlled Substances Act (21
19 U.S.C. 812) shall be liable to the United States for
20 a civil penalty of not to exceed \$10,000 for each vio-
21 lation. The Secretary shall notify the individual in
22 writing of the amount of the civil penalty.

23 “(2) DETERMINATION OF AMOUNT.—In deter-
24 mining the amount of the penalty, the Secretary
25 shall consider the nature, circumstances, extent, and

1 gravity of the prohibited acts committed and, with
2 respect to the violator, the degree of culpability, any
3 history of prior offenses, ability to pay, and other
4 matters that justice requires.

5 “(3) TREATMENT OF CIVIL PENALTY ASSESS-
6 MENT.—Assessment of a civil penalty under this
7 subsection shall not be considered a conviction for
8 purposes of State or Federal law but may be consid-
9 ered proof of possession if such a determination is
10 relevant.”.

11 **SEC. 305. TECHNICAL AMENDMENTS TO TONNAGE MEAS-**
12 **UREMENT LAW.**

13 (a) DEFINITIONS.—Section 14101(4) of title 46,
14 United States Code, is amended—

15 (1) by striking “engaged” the first place it ap-
16 pears and inserting “that engages”;

17 (2) in subparagraph (A), by striking “arriving”
18 and inserting “that arrives”;

19 (3) in subparagraph (B)—

20 (A) by striking “making” and inserting
21 “that makes”; and

22 (B) by striking “(except a foreign vessel
23 engaged on that voyage)”;

24 (4) in subparagraph (C), by striking “depart-
25 ing” and inserting “that departs”; and

1 (5) in subparagraph (D), by striking “making”
2 and inserting “that makes”.

3 (b) DELEGATION OF AUTHORITY.—Section 14103(c)
4 of that title is amended by striking “intended to be en-
5 gaged on” and inserting “that engages on”.

6 (c) APPLICATION.—Section 14301 of that title is
7 amended—

8 (1) by amending subsection (a) to read as fol-
9 lows:

10 “(a) Except as otherwise provided in this section, this
11 chapter applies to any vessel for which the application of
12 an international agreement or other law of the United
13 States to the vessel depends on the vessel’s tonnage.”;

14 (2) in subsection (b)—

15 (A) in paragraph (1), by striking the pe-
16 riod at the end and inserting “, unless the gov-
17 ernment of the country to which the vessel be-
18 longs elects to measure the vessel under this
19 chapter.”;

20 (B) in paragraph (3), by inserting “of
21 United States or Canadian registry or nation-
22 ality, or a vessel operated under the authority
23 of the United States or Canada, and that is”
24 after “vessel”;

1 (C) in paragraph (4), by striking “a vessel
2 (except a vessel engaged” and inserting “a ves-
3 sel of United States registry or nationality, or
4 one operated under the authority of the United
5 States (except a vessel that engages”;

6 (D) by striking paragraph (5);

7 (E) by redesignating paragraph (6) as
8 paragraph (5); and

9 (F) by amending paragraph (5), as so re-
10 designated, to read as follows:

11 “(5) a barge of United States registry or na-
12 tionality, or a barge operated under the authority of
13 the United States (except a barge that engages on
14 a foreign voyage) unless the owner requests.”;

15 (3) by striking subsection (c);

16 (4) by redesignating subsections (d) and (e) as
17 subsections (e) and (d), respectively; and

18 (5) in subsection (c), as redesignated, by strik-
19 ing “After July 18, 1994, an existing vessel (except
20 an existing vessel referred to in subsection (b)(5)(A)
21 or (B) of this section)” and inserting “An existing
22 vessel that has not undergone a change that the Sec-
23 retary finds substantially affects the vessel’s gross
24 tonnage (or a vessel to which IMO Resolutions
25 A.494 (XII) of November 19, 1981, A.540 (XIII) of

1 November 17, 1983, or A.541 (XIII) of November
2 17, 1983 apply)".

3 (d) MEASUREMENT.—Section 14302(b) of that title
4 is amended to read as follows:

5 “(b) A vessel measured under this chapter may not
6 be required to be measured under another law.”.

7 (e) TONNAGE CERTIFICATE.—

8 (1) ISSUANCE.—Section 14303 of title 46,
9 United States Code, is amended—

10 (A) in subsection (a), by adding at the end
11 the following: “For a vessel to which the Con-
12 vention does not apply, the Secretary shall pre-
13 scribe a certificate to be issued as evidence of
14 a vessel’s measurement under this chapter.”;

15 (B) in subsection (b), by inserting “issued
16 under this section” after “certificate”; and

17 (C) in the section heading by striking
18 “**International**” and “**(1969)**”.

19 (2) MAINTENANCE.—Section 14503 of that title
20 is amended—

21 (A) by designating the existing text as sub-
22 section (a); and

23 (B) by adding at the end the following new
24 subsection:

1 “(b) The certificate shall be maintained as required
2 by the Secretary.”.

3 (3) CLERICAL AMENDMENT.—The analysis at
4 the beginning of chapter 143 of that title is amend-
5 ed by striking the item relating to section 14303 and
6 inserting the following:

“14303. Tonnage Certificate.”.

7 (f) OPTIONAL REGULATORY MEASUREMENT.—Sec-
8 tion 14305(a) of that title is amended by striking “docu-
9 mented vessel measured under this chapter,” and inserting
10 “vessel measured under this chapter that is of United
11 States registry or nationality, or a vessel operated under
12 the authority of the United States,”.

13 (g) APPLICATION.—Section 14501 of that title is
14 amended—

15 (1) by amending paragraph (1) to read as fol-
16 lows:

17 “(1) A vessel not measured under chapter 143
18 of this title if the application of an international
19 agreement or other law of the United States to the
20 vessel depends on the vessel’s tonnage.”; and

21 (2) in paragraph (2), by striking “a vessel” and
22 inserting “A vessel”.

23 (h) DUAL TONNAGE MEASUREMENT.—Section
24 14513(c) of that title is amended—

25 (1) in paragraph (1)—

1 (A) by striking “vessel’s tonnage mark is
2 below the uppermost part of the load line
3 marks,” and inserting “vessel is assigned two
4 sets of gross and net tonnages under this sec-
5 tion,”; and

6 (B) by inserting “vessel’s tonnage” before
7 “mark” the second place such term appears;
8 and

9 (2) in paragraph (2), by striking the period at
10 the end and inserting “as assigned under this sec-
11 tion.”.

12 (i) RECIPROCITY FOR FOREIGN VESSELS.—Sub-
13 chapter II of chapter 145 of that title is amended by add-
14 ing at the end the following:

15 **“§ 14514. Reciprocity for foreign vessels**

16 “For a foreign vessel not measured under chapter
17 143, if the Secretary finds that the laws and regulations
18 of a foreign country related to measurement of vessels are
19 substantially similar to those of this chapter and the regu-
20 lations prescribed under this chapter, the Secretary may
21 accept the measurement and certificate of a vessel of that
22 foreign country as complying with this chapter and the
23 regulations prescribed under this chapter.”.

1 (j) CLERICAL AMENDMENT.—The analysis for sub-
2 chapter II of chapter 145 of such title is amended by add-
3 ing at the end the following:

“14514. Reciprocity for foreign vessels.”.

4 **SEC. 306. COLD WEATHER SURVIVAL TRAINING.**

5 (a) REPORT.—The Commandant of the Coast Guard
6 shall report to the Committee on Transportation and In-
7 frastructure of the House of Representatives and the Com-
8 mittee on Commerce, Science, and Transportation of the
9 Senate on the efficacy of cold weather survival training
10 conducted by the Coast Guard in Coast Guard District
11 17 over the preceding 5 years. The report shall include
12 plans for conducting such training in fiscal years 2008
13 through 2011.

14 (b) AUTHORIZATION OF APPROPRIATIONS FOR
15 TRAINING.—There are authorized to be appropriated to
16 the Secretary of Homeland Security \$150,000 to carry out
17 cold weather survival training in Coast Guard District 17.

18 **SEC. 307. FISHING VESSEL SAFETY.**

19 (a) SAFETY STANDARDS.—Section 4502 of title 46,
20 United States Code, is amended—

21 (1) in subsection (a), by—

22 (A) striking paragraphs (6) and (7) and
23 inserting the following:

24 “(6) other equipment required to minimize the
25 risk of injury to the crew during vessel operations,

1 if the Secretary determines that a risk of serious in-
2 jury exists that can be eliminated or mitigated by
3 that equipment; and”;

4 (B) redesignating paragraph (8) as para-
5 graph (7);

6 (2) in subsection (b)—

7 (A) in paragraph (1) in the matter pre-
8 ceding subparagraph (A), by striking “docu-
9 mented”;

10 (B) in paragraph (1)(A), by striking “the
11 Boundary Line” and inserting “3 nautical miles
12 from the baseline from which the territorial sea
13 of the United States is measured or beyond 3
14 nautical miles from the coastline of the Great
15 Lakes”;

16 (C) in paragraph (2)(B), by striking “life-
17 boats or liferafts” and inserting “a survival
18 craft that ensures that no part of an individual
19 is immersed in water”;

20 (D) in paragraph (2)(D), by inserting
21 “marine” before “radio”;

22 (E) in paragraph (2)(E), by striking
23 “radar reflectors, nautical charts, and anchors”
24 and inserting “nautical charts, and publica-
25 tions”;

1 (F) in paragraph (2)(F), by striking “, in-
2 cluding medicine chests” and inserting “and
3 medical supplies sufficient for the size and area
4 of operation of the vessel” and

5 (G) by amending paragraph (2)(G) to read
6 as follows:

7 “(G) ground tackle sufficient for the vessel.”;

8 (3) by amending subsection (f) to read as fol-
9 lows:

10 “(f) To ensure compliance with the requirements of
11 this chapter, the Secretary—

12 “(1) shall require the individual in charge of a
13 vessel described in subsection (b) to keep a record
14 of equipment maintenance, and required instruction
15 and drills; and

16 “(2) shall examine at dockside a vessel de-
17 scribed in subsection (b) at least twice every 5 years,
18 and shall issue a certificate of compliance to a vessel
19 meeting the requirements of this chapter.”; and

20 (4) by adding at the end the following:

21 “(g)(1) The individual in charge of a vessel described
22 in subsection (b) must pass a training program approved
23 by the Secretary that meets the requirements in para-
24 graph (2) of this subsection and hold a valid certificate
25 issued under that program.

1 “(2) The training program shall—

2 “(A) be based on professional knowledge and
3 skill obtained through sea service and hands-on
4 training, including training in seamanship, stability,
5 collision prevention, navigation, fire fighting and
6 prevention, damage control, personal survival, emer-
7 gency medical care, and weather;

8 “(B) require an individual to demonstrate abil-
9 ity to communicate in an emergency situation and
10 understand information found in navigation publica-
11 tions;

12 “(C) recognize and give credit for recent past
13 experience in fishing vessel operation; and

14 “(D) provide for issuance of a certificate to an
15 individual that has successfully completed the pro-
16 gram.

17 “(3) The Secretary shall prescribe regulations imple-
18 menting this subsection. The regulations shall require that
19 individuals who are issued a certificate under paragraph
20 (2)(D) must complete refresher training at least once
21 every 5 years as a condition of maintaining the validity
22 of the certificate.

23 “(4) The Secretary shall establish a publicly acces-
24 sible electronic database listing the names of individuals
25 who have participated in and received a certificate con-

1 firming successful completion of a training program ap-
2 proved by the Secretary under this section.

3 “(h) A vessel to which this chapter applies shall be
4 constructed in a manner that provides a level of safety
5 equivalent to the minimum safety standards the Secretary
6 may established for recreational vessels under section
7 4302, if—

8 “(1) subsection (b) of this section applies to the
9 vessel;

10 “(2) the vessel is less than 50 feet overall in
11 length; and

12 “(3) the vessel is built after January 1, 2008.

13 “(i)(1) The Secretary shall establish a Fishing Safety
14 Training Grants Program to provide funding to munici-
15 palities, port authorities, other appropriate public entities,
16 not-for-profit organizations, and other qualified persons
17 that provide commercial fishing safety training—

18 “(A) to conduct fishing vessel safety training
19 for vessel operators and crewmembers that—

20 “(i) in the case of vessel operators, meets
21 the requirements of subsection (g); and

22 “(ii) in the case of crewmembers, meets
23 the requirements of subsection (g)(2)(A), such
24 requirements of subsection (g)(2)(B) as are ap-
25 appropriate for crewmembers, and the require-

1 ments of subsections (g)(2)(D), (g)(3), and
2 (g)(4); and

3 “(B) for purchase of safety equipment and
4 training aids for use in those fishing vessel safety
5 training programs.

6 “(2) The Secretary shall award grants under this
7 subsection on a competitive basis.

8 “(3) The Federal share of the cost of any activity
9 carried out with a grant under this subsection shall not
10 exceed 75 percent.

11 “(4) There is authorized to be appropriated
12 \$3,000,000 for each of fiscal years 2008 through 2012
13 for grants under this subsection.

14 “(j)(1) The Secretary shall establish a Fishing Safety
15 Research Grant Program to provide funding to individuals
16 in academia, members of non-profit organizations and
17 businesses involved in fishing and maritime matters, and
18 other persons with expertise in fishing safety, to conduct
19 research on methods of improving the safety of the com-
20 mercial fishing industry, including vessel design, emer-
21 gency and survival equipment, enhancement of vessel mon-
22 itoring systems, communications devices, de-icing tech-
23 nology, and severe weather detection.

24 “(2) The Secretary shall award grants under this
25 subsection on a competitive basis.

1 “(3) The Federal share of the cost of any activity
2 carried out with a grant under this subsection shall not
3 exceed 75 percent.”.

4 (b) CONFORMING AMENDMENT.—Section 4506(b) of
5 title 46, United States Code, is repealed.

6 (c) ADVISORY COMMITTEE.—

7 (1) CHANGE OF NAME.—Section 4508 of title
8 46, United States Code, is amended—

9 (A) by striking the section heading and in-
10 sserting the following:

11 “§ 4508. **Commercial Fishing Safety Advisory Com-**
12 **mittee**”;

13 and

14 (B) in subsection (a) by striking “Industry
15 Vessel”.

16 (2) CLERICAL AMENDMENT.—The table of sec-
17 tion at the beginning of chapter 45 of title 46,
18 United States Code, is amended by striking the item
19 relating to such section and inserting the following:

“4508. Commercial Fishing Safety Advisory Committee.”.

20 (d) LOADLINES FOR VESSELS OVER 79 FEET.—Sec-
21 tion 5102(b)(3) of title 46, United States Code, is amend-
22 ed by inserting after “vessel” the following “, unless the
23 vessel is built or undergoes a major conversion completed
24 after January 1, 2008”.

25 (e) CLASSING OF VESSELS.—

1 (1) IN GENERAL.—Section 4503 of title 46,
2 United States Code, is amended—

3 (A) by striking the section heading and in-
4 serting the following:

5 **“§ 4503. Fishing, fish tender, and fish processing ves-
6 sel certification”;**

7 (B) in subsection (a) by striking “fish
8 processing”; and

9 (C) by adding at the end the following:

10 “(c) This section applies to a vessel to which section
11 4502(b) of this title applies that—

12 “(1) is at least 50 feet overall in length;

13 “(2) is built after January 1, 2008; or

14 “(3) undergoes a major conversion completed
15 after that date.

16 “(d)(1) After January 1, 2018, a fishing vessel, fish
17 processing vessel, or fish tender vessel to which section
18 4502(b) of this title applies shall comply with an alternate
19 safety compliance program that is developed in coopera-
20 tion with the commercial fishing industry and prescribed
21 by the Secretary, if the vessel—

22 “(A) is at least 50 feet overall in length;

23 “(B) is built before January 1, 2008; and

24 “(C) is 25 years of age or older.

1 “(2) Alternative safety compliance programs may be
2 developed for purposes of paragraph (1) for specific re-
3 gions and fisheries.

4 “(3) A fishing vessel, fish processing vessel, or fish
5 tender vessel to which section 4502(b) of this title applies
6 that was classed before January 1, 2008, shall—

7 “(A) remain subject to the requirements of a
8 classification society approved by the Secretary; and

9 “(B) have on board a certificate from that soci-
10 ety.”.

11 (2) CLERICAL AMENDMENT.—The table of sec-
12 tion at the beginning of chapter 45 of title 46,
13 United States Code, is amended by striking the item
14 relating to such section and inserting the following:

“4503. Fishing, fish tender, and fish processing vessel certification.”.

15 (f) ALTERNATIVE SAFETY COMPLIANCE PROGRAM.—
16 No later than January 1, 2015, the Secretary of the de-
17 partment in which the Coast Guard is operating shall pre-
18 scribe an alternative safety compliance program referred
19 to in section 4503(d) of the title 46, United States Code,
20 as amended by this section.

21 **SEC. 308. MARINER RECORDS.**

22 Section 7502 of title 46, United States Code, is
23 amended—

24 (1) by inserting “(a)” before “The”;

1 **SEC. 310. ADJUSTMENT OF LIABILITY LIMITS FOR NAT-**
2 **URAL GAS DEEPWATER PORTS.**

3 Section 1004(d)(2) of the Oil Pollution Act of 1990
4 (33 U.S.C. 2704(d)(2)) is amended by adding at the end
5 the following:

6 “(D) The Secretary may establish, by reg-
7 ulation, a limit of liability of not less than
8 \$12,000,000 for a deepwater port used only in
9 connection with transportation of natural gas.”.

10 **SEC. 311. PERIOD OF LIMITATIONS FOR CLAIMS AGAINST**
11 **OIL SPILL LIABILITY TRUST FUND.**

12 Section 1012(h)(1) of the Oil Pollution Act of 1990
13 (33 U.S.C. 2712(h)(1)) is amended by striking “6” and
14 inserting “3”.

15 **SEC. 312. LOG BOOKS.**

16 (a) IN GENERAL.—Chapter 113 of title 46, United
17 States Code, is amended by adding at the end the fol-
18 lowing:

19 **“§ 11304. Additional logbook and entry requirements**

20 “(a) A vessel of the United States that is subject to
21 inspection under section 3301 of this title, except a vessel
22 on a voyage from a port in the United States to a port
23 in Canada, shall have an official logbook, which shall be
24 kept available for review by the Secretary on request.

25 “(b) The log book required by subsection (a) shall
26 include the following entries:

1 “(1) The time when each seaman and each offi-
2 cer assumed or relieved the watch.

3 “(2) The number of hours in service to the ves-
4 sels of each seaman and each officer.

5 “(3) An account of each accident, illness, and
6 injury that occurs during each watch.”

7 (b) CLERICAL AMENDMENT.—The table of sections
8 at the beginning of such chapter is amended by adding
9 at the end the following:

 “11304. Additional logbook and entry requirements.”

10 **SEC. 313. UNSAFE OPERATION.**

11 (a) IN GENERAL.—Chapter 21 of title 46, United
12 States Code, is amended by adding at the end the fol-
13 lowing new section:

14 **“§ 2116. Termination for unsafe operation**

15 “An individual authorized to enforce this title—

16 “(1) may remove a certificate required by this
17 title from a vessel that is operating in a condition
18 that does not comply with the provisions of the cer-
19 tificate;

20 “(2) may order the individual in charge of a
21 vessel that is operating that does not have on board
22 the certificate required by this title to return the
23 vessel to a mooring and to remain there until the
24 vessel is in compliance with this title; and

1 “(3) may direct the individual in charge of a
2 vessel to which this title applies to immediately take
3 reasonable steps necessary for the safety of individ-
4 uals on board the vessel if the official observes the
5 vessel being operated in an unsafe condition that the
6 official believes creates an especially hazardous con-
7 dition, including ordering the individual in charge to
8 return the vessel to a mooring and to remain there
9 until the situation creating the hazard is corrected
10 or ended.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 at the beginning of that title is amended by adding at the
13 end the following:

“2116. Termination for unsafe operation.”.

14 **SEC. 314. APPROVAL OF SURVIVAL CRAFT.**

15 (a) IN GENERAL.—Chapter 31 of title 46, United
16 States Code, is amended by adding at the end the fol-
17 lowing new section:

18 **“§ 3104. Survival craft**

19 “(a) Except as provided in subsection (b), the Sec-
20 retary may not approve a survival craft as a safety device
21 for purposes of this part, unless the craft ensures that
22 no part of an individual is immersed in water.

23 “(b) The Secretary may authorize a survival craft
24 that does not provide protection described in subsection

1 (a) to remain in service until not later than January 1,
2 2013, if—

3 “(1) it was approved by the Secretary before
4 January 1, 2008; and

5 “(2) it is in serviceable condition.”

6 (b) CLERICAL AMENDMENT.—The table of sections
7 at the beginning of that title is amended by adding at the
8 end the following:

“3104. Survival craft.”

9 **SEC. 315. SAFETY MANAGEMENT.**

10 (a) VESSELS TO WHICH REQUIREMENTS APPLY.—
11 Section 3202 of title 46, United States Code, is amend-
12 ed—

13 (1) in subsection (a) by striking the heading
14 and inserting “FOREIGN VOYAGES AND FOREIGN
15 VESSELS.—”;

16 (2) by redesignating subsections (b) and (c) as
17 subsections (c) and (d), respectively;

18 (3) by inserting after subsection (a) the fol-
19 lowing:

20 “(b) OTHER PASSENGER VESSELS.—This chapter
21 applies to a vessel that is—

22 “(1) a passenger vessel or small passenger ves-
23 sel; and

24 “(2) is transporting more passengers than a
25 number prescribed by the Secretary based on the

1 number of individuals on the vessel that could be
2 killed or injured in a marine casualty.”;

3 (4) in subsection (d), as so redesignated, by
4 striking “subsection (b)” and inserting “subsection
5 (c)”;

6 (5) in subsection (d)(4), as so redesignated, by
7 inserting “that is not described in subsection (b) of
8 this section” after “waters”.

9 (b) SAFETY MANAGEMENT SYSTEM.—Section 3203
10 of title 46, United States Code, is amended by adding at
11 the end the following new subsection:

12 “(c) In prescribing regulations for passenger vessels
13 and small passenger vessels, the Secretary shall con-
14 sider—

15 “(1) the characteristics, methods of operation,
16 and nature of the service of these vessels; and

17 “(2) with respect to vessels that are ferries, the
18 sizes of the ferry systems within which the vessels
19 operate.”.

20 **SEC. 316. PROTECTION AGAINST DISCRIMINATION.**

21 (a) IN GENERAL.—Section 2114 of title 46, United
22 States Code, is amended—

23 (1) in subsection (a)(1)(A), by striking “or”
24 after the semicolon;

1 (2) in subsection (a)(1)(B), by striking the pe-
2 riod at the end and inserting a semicolon;

3 (3) by adding at the end of subsection (a)(1)
4 the following new subparagraphs:

5 “(C) the seaman testified in a proceeding
6 brought to enforce a maritime safety law or regula-
7 tion prescribed under that law;

8 “(D) the seaman notified, or attempted to no-
9 tify, the vessel owner or the Secretary of a work-re-
10 lated personal injury or work-related illness of a sea-
11 man;

12 “(E) the seaman cooperated with a safety in-
13 vestigation by the Secretary or the National Trans-
14 portation Safety Board;

15 “(F) the seaman furnished information to the
16 Secretary, the National Transportation Safety
17 Board, or any other public official as to the facts re-
18 lating to any marine casualty resulting in injury or
19 death to an individual or damage to property occur-
20 ring in connection with vessel transportation; or

21 “(G) the seaman accurately reported hours of
22 duty under this part.”; and

23 (4) by amending subsection (b) to read as fol-
24 lows:

1 “(b) A seaman alleging discharge or discrimination
2 in violation of subsection (a) of this section, or another
3 person at the seaman’s request, may file a complaint with
4 respect to such allegation in the same manner as a com-
5 plaint may be filed under subsection (b) of section 31105
6 of title 49. Such complaint shall be subject to the proce-
7 dures, requirements, and rights described in that section,
8 including with respect to the right to file an objection, the
9 right of a person to file for a petition for review under
10 subsection (c) of that section, and the requirement to
11 bring a civil action under subsection (d) of that section.”.

12 (b) EXISTING ACTIONS.—This section shall not affect
13 the application of section 2114(b) of title 46, United
14 States Code, as in effect before the date of enactment of
15 this Act, to an action filed under that section before that
16 date.

17 **SEC. 317. DRY BULK CARGO RESIDUE.**

18 Section 623(a)(2) of the Coast Guard and Maritime
19 Transportation Act of 2004 (33 U.S.C. 1901 note) is
20 amended by striking “2008” and inserting “2011”.

21 **SEC. 318. OIL FUEL TANK PROTECTION.**

22 Section 3306 of title 46, United States Code, is
23 amended by adding at the end the following new sub-
24 section:

1 “(k)(1) Each vessel of the United States that is con-
2 structed under a contract entered into after the date of
3 enactment of the Coast Guard Authorization Act of 2008,
4 or that is delivered after August 1, 2010, with an aggre-
5 gate capacity of 600 cubic meters or more of oil fuel, shall
6 comply with the requirements of Regulation 12A under
7 Annex I to the Protocol of 1978 relating to the Inter-
8 national Convention for the Prevention of Pollution from
9 Ships, 1973, entitled ‘Oil Fuel Tank Protection.’

10 “(2) The Secretary may prescribe regulations to
11 apply the requirements described in Regulation 12A to
12 vessels described in paragraph (1) that are not otherwise
13 subject to that convention. Any such regulation shall be
14 considered to be an interpretive rule for the purposes of
15 section 553 of title 5.

16 “(3) In this subsection the term ‘oil fuel’ means any
17 oil used as fuel in connection with the propulsion and aux-
18 iliary machinery of the vessel in which such oil is carried.”.

19 **SEC. 319. REGISTRY ENDORSEMENT FOR LNG VESSELS.**

20 Section 12111 of title 46, United States Code, is
21 amended by adding at the end the following:

22 “(d)(1) A vessel for which a registry endorsement is
23 not issued may not engage in regasifying on navigable wa-
24 ters unless the vessel transported the gas from a foreign
25 port.

1 “(2) Nothing in paragraph (1) or any other provision
2 of this title may be construed as—

3 “(A) applying to such paragraph a definition of
4 the term ‘vessel’ that includes any structure on, in,
5 or under the navigable waters of the United States
6 that the Coast Guard regulates as a waterfront facil-
7 ity handling liquified natural gas under part 127 of
8 title 33, Code of Federal Regulations; or

9 “(B) having any effect on the jurisdiction of the
10 Federal Energy Regulatory Commission under sec-
11 tion 3(e)(1) of the Natural Gas Act.

12 “(3) Paragraph (2)(A) does not affect the authority
13 of the Coast Guard to modify the provisions of part 127
14 of title 33, Code of Federal Regulations.”.

15 **SEC. 320. OATHS.**

16 Sections 7105 and 7305 of title 46, United States
17 Code, and the items relating to such sections in the anal-
18 ysis for chapters 71 and 73 of such title, are repealed.

19 **SEC. 321. DURATION OF CREDENTIALS.**

20 (a) **MERCHANT MARINER’S DOCUMENTS.**—Section
21 7302(f) of title 46, United States Code, is amended to
22 read as follows:

23 “(f) **PERIODS OF VALIDITY AND RENEWAL OF MER-**
24 **CHANT MARINERS’ DOCUMENTS.**—

1 “(1) IN GENERAL.—Except as provided in sub-
2 section (g), a merchant mariner’s document issued
3 under this chapter is valid for a 5-year period and
4 may be renewed for additional 5-year periods.

5 “(2) ADVANCE RENEWALS.—A renewed mer-
6 chant mariner’s document may be issued under this
7 chapter up to 8 months in advance but is not effec-
8 tive until the date that the previously issued mer-
9 chant mariner’s document expires.”.

10 (b) DURATION OF LICENSES.—Section 7106 of such
11 title is amended to read as follows:

12 “§ 7106. Duration of licenses

13 “(a) IN GENERAL.—A license issued under this part
14 is valid for a 5-year period and may be renewed for addi-
15 tional 5-year periods; except that the validity of a license
16 issued to a radio officer is conditioned on the continuous
17 possession by the holder of a first-class or second-class ra-
18 diotelegraph operator license issued by the Federal Com-
19 munications Commission.

20 “(b) ADVANCE RENEWALS.—A renewed license
21 issued under this part may be issued up to 8 months in
22 advance but is not effective until the date that the pre-
23 viously issued license expires.”.

24 (c) CERTIFICATES OF REGISTRY.—Section 7107 of
25 such title is amended to read as follows:

1 **“§ 7107. Duration of certificates of registry**

2 “(a) IN GENERAL.—A certificate of registry issued
3 under this part is valid for a 5-year period and may be
4 renewed for additional 5-year periods; except that the va-
5 lidity of a certificate issued to a medical doctor or profes-
6 sional nurse is conditioned on the continuous possession
7 by the holder of a license as a medical doctor or registered
8 nurse, respectively, issued by a State.

9 “(b) ADVANCE RENEWALS.—A renewed certificate of
10 registry issued under this part may be issued up to 8
11 months in advance but is not effective until the date that
12 the previously issued certificate of registry expires.”.

13 **SEC. 322. FINGERPRINTING.**

14 (a) MERCHANT MARINER LICENSES AND DOCU-
15 MENTS.—Chapter 75 of title 46, United States Code, is
16 amended by adding at the end the following:

17 **“§ 7507. Fingerprinting**

18 “The Secretary of the Department in which the Coast
19 Guard is operating may not require an individual to be
20 fingerprinted for the issuance or renewal of a license, a
21 certificate of registry, or a merchant mariner’s document
22 under chapter 71 or 73 if the individual was fingerprinted
23 when the individual applied for a transportation security
24 card under section 70105.”.

1 (b) CLERICAL AMENDMENT.—The analysis for such
2 chapter is amended by adding at the end the following:
“7507. Fingerprinting.”.

3 **SEC. 323. AUTHORIZATION TO EXTEND THE DURATION OF**
4 **LICENSES, CERTIFICATES OF REGISTRY, AND**
5 **MERCHANT MARINERS' DOCUMENTS.**

6 (a) MERCHANT MARINER LICENSES AND DOCU-
7 MENTS.—Chapter 75 of title 46, United States Code, as
8 amended by section 322(a) of this Act, is further amended
9 by adding at the end the following:

10 **“§ 7508. Authority to extend the duration of licenses,**
11 **certificates of registry, and merchant**
12 **mariner documents**

13 “(a) LICENSES AND CERTIFICATES OF REGISTRY.—
14 Notwithstanding section 7106 and 7107, the Secretary of
15 the department in which the Coast Guard is operating
16 may extend for one year an expiring license or certificate
17 of registry issued for an individual under chapter 71 if
18 the Secretary determines that extension is required to en-
19 able the Coast Guard to eliminate a backlog in processing
20 applications for those licenses or certificates of registry.

21 “(b) MERCHANT MARINER DOCUMENTS.—Notwith-
22 standing section 7302(g), the Secretary may extend for
23 one year an expiring merchant mariner’s document issued
24 for an individual under chapter 71 if the Secretary deter-
25 mines that extension is required to enable the Coast Guard

1 to eliminate a backlog in processing applications for those
2 documents.

3 “(c) MANNER OF EXTENSION.—Any extensions
4 granted under this section may be granted to individual
5 seamen or a specifically identified group of seamen.

6 “(d) EXPIRATION OF AUTHORITY.—The authority
7 for providing an extension under this section shall expire
8 on June 30, 2009.”.

9 (b) CLERICAL AMENDMENT.—The analysis for such
10 chapter, as amended by section 322(b), is further amend-
11 ed by adding at the end the following:

“7508. Authority to extend the duration of licenses, certificates of registry, and
merchant mariner documents.”.

12 **SEC. 324. MERCHANT MARINER DOCUMENTATION.**

13 (a) INTERIM CLEARANCE PROCESS.—Not later than
14 180 days after the date of enactment of this Act, the Sec-
15 retary of the department in which the Coast Guard is op-
16 erating shall develop an interim clearance process for
17 issuance of a merchant mariner document to enable a
18 newly hired seaman to begin working on an offshore sup-
19 ply vessel or towing vessel if the Secretary makes an initial
20 determination that the seaman does not pose a safety and
21 security risk.

22 (b) CONTENTS OF PROCESS.—The process under
23 subsection (a) shall include a check against the consoli-
24 dated and integrated terrorist watch list maintained by the

1 Federal Government, review of the seaman's criminal
2 record, and review of the results of testing the seaman
3 for use of a dangerous drug (as defined in section 2101
4 of title 46, United States Code) in violation of law or Fed-
5 eral regulation.

6 **SEC. 325. MERCHANT MARINER ASSISTANCE REPORT.**

7 Not later than 180 days after the date of enactment
8 of this Act, the Commandant of the Coast Guard shall
9 submit to the Committee on Transportation and Infra-
10 structure of the House of Representatives and the Com-
11 mittee on Commerce, Science, and Transportation of the
12 Senate a report regarding a plan—

13 (1) to expand the streamlined evaluation proc-
14 ess program that was affiliated with the Houston
15 Regional Examination Center of the Coast Guard to
16 all processing centers of the Coast Guard nation-
17 wide;

18 (2) to include proposals to simplify the applica-
19 tion process for a license as an officer, staff officer,
20 or operator and for a merchant mariner's document
21 to help eliminate errors by merchant mariners when
22 completing the application form (CG-719B), includ-
23 ing instructions attached to the application form and
24 a modified application form for renewals with ques-

1 tions pertaining only to the period of time since the
2 previous application;

3 (3) to provide notice to an applicant of the sta-
4 tus of the pending application, including a process to
5 allow the applicant to check on the status of the ap-
6 plication by electronic means; and

7 (4) to ensure that all information collected with
8 respect to applications for new or renewed licenses,
9 merchant mariner documents, and certificates of
10 registry is retained in a secure electronic format.

11 **SEC. 326. MERCHANT MARINER SHORTAGE REPORT.**

12 Not later than 180 days after the date of enactment
13 of this Act, the Secretary of Transportation, acting
14 through the Administrator of the Maritime Administra-
15 tion, shall submit to the Committee on Transportation and
16 Infrastructure of the House of Representatives and the
17 Committee on Commerce, Science, and Transportation of
18 the Senate a report concerning methods to address the
19 current and future shortage in the number of merchant
20 mariners, particularly entry-level mariners, including an
21 evaluation of whether an educational loan program pro-
22 viding loans for the cost of on-the-job training would pro-
23 vide an incentive for workers and help alleviate the short-
24 age.

1 **SEC. 327. MERCHANT MARINER DOCUMENT STANDARDS.**

2 Not later than 270 days after the date of enactment
3 of this Act, the Secretary of the department in which the
4 Coast Guard is operating shall submit to the Committee
5 on Transportation and Infrastructure of the House of
6 Representatives and the Committee on Commerce,
7 Science, and Transportation of the Senate—

8 (1) a plan to ensure that the process for an ap-
9 plication, by an individual who has, or has applied
10 for, a transportation security card under section
11 70105 of title 46, United States Code, for a mer-
12 chant mariner document can be completed entirely
13 by mail; and

14 (2) a report on the feasibility of, and a timeline
15 to, redesign the merchant mariner document to com-
16 ply with the requirements of such section, including
17 a biometric identifier, and all relevant international
18 conventions, including the International Labour Or-
19 ganization Convention Number 185 concerning the
20 seafarers identity document, and include a review on
21 whether or not such redesign will eliminate the need
22 for separate credentials and background screening
23 and streamline the application process for mariners.

24 **SEC. 328. REPORT ON COAST GUARD DETERMINATIONS.**

25 Not later than 180 days after enactment of this Act,
26 the Secretary of Homeland Security shall provide to the

1 Committee on Transportation and Infrastructure of the
2 House of Representatives and the Committee on Com-
3 merce, Science, and Transportation of the Senate a report
4 on the loss of United States shipyard jobs and industrial
5 base expertise as a result of rebuild, conversion, and dou-
6 ble-hull work on United States-flag vessels eligible to en-
7 gage in the coastwise trade being performed in foreign
8 shipyards, enforcement of the Coast Guard's foreign re-
9 build determination regulations, and recommendations for
10 improving the transparency in the Coast Guard's foreign
11 rebuild determination process.

12 **SEC. 329. PILOT REQUIRED.**

13 Section 8502(g) of title 46, United States Code, is
14 amended—

15 (1) in paragraph (1), by inserting “and Buz-
16 zards Bay, Massachusetts” before “, if any,”; and

17 (2) by adding at the end the following:

18 “(3) In any area of Buzzards Bay, Massachu-
19 setts, where a single-hull tanker or tank vessel car-
20 rying 5,000 or more barrels of oil or other haz-
21 ardous material is required to be under the direction
22 and control of a pilot, the pilot may not be a mem-
23 ber of the crew of that vessel, and shall be a pilot
24 licensed—

1 “(A) by the State of Massachusetts who is
2 operating under a Federal first class pilot’s li-
3 cense; or

4 “(B) under section 7101 of this title who
5 has made at least 20 round trips on a vessel as
6 a quartermaster, wheelsman, able seaman, or
7 apprentice pilot, or in an equivalent capacity,
8 including—

9 “(i) at least 1 round trip through
10 Buzzards Bay in the preceding 12-month
11 period; and

12 “(ii) if the vessel will be navigating in
13 periods of darkness in an area of Buzzards
14 Bay where a vessel is required by regula-
15 tion to have a pilot, at least 5 round trips
16 through Buzzards Bay during periods of
17 darkness.”.

18 **SEC. 330. OFFSHORE SUPPLY VESSELS.**

19 (a) **DEFINITION.**—Section 2101(19) of title 46,
20 United States Code, is amended by striking “of more than
21 15 gross tons but less than 500 gross tons as measured
22 under section 14502 of this title, or an alternate tonnage
23 measured under section 14302 of this title as prescribed
24 by the Secretary under section 14104 of this title”.

1 (b) EXEMPTION.—Section 5209(b)(1) of the Oceans
2 Act of 1992 (Public Law 102–587; 46 U.S.C. 2101 note)
3 is amended by inserting before the period at the end the
4 following: “of less than 500 gross tons as measured under
5 section 14502, or an alternate tonnage measured under
6 section 14302 of this title as prescribed by the Secretary
7 under section 14104 of this title.”.

8 (c) WATCHES.—Section 8104 of title 46, United
9 States Code, is amended—

10 (1) in subsection (g), by inserting after “off-
11 shore supply vessel” the following: “of less than 500
12 gross tons as measured under section 14502 of this
13 title, or an alternate tonnage measured under sec-
14 tion 14302 of this title as prescribed by the Sec-
15 retary under section 14104 of this title,”;

16 (2) in subsection (d), by inserting “(1)” after
17 “(d)”, and by adding at the end the following:

18 “(2) Paragraph (1) does not apply to an offshore sup-
19 ply vessel of more than 6,000 gross tons as measured
20 under section 14302 of this title if the individuals engaged
21 on the vessel are in compliance with hours of service re-
22 quirements (including recording and record-keeping of
23 that service) prescribed by the Secretary.”; and

24 (3) in subsection (e), by striking “subsection
25 (d)” and inserting “subsection (d)(1)”.

1 (d) MINIMUM NUMBER OF LICENSED INDIVID-
2 UALS.—Section 8301(b) of title 46, United States Code,
3 is amended to read as follows:

4 “(b)(1) An offshore supply vessel shall have at least
5 one mate. Additional mates on an offshore supply vessel
6 of more than 6,000 gross tons as measured under section
7 14302 of this title shall be prescribe in accordance with
8 hours of service requirements (including recording and
9 record-keeping of that service) prescribed by the Sec-
10 retary.

11 “(2) An offshore supply vessel of more than 200
12 gross tons as measured under section 14502 of this title,
13 or an alternate tonnage measured under section 14302 of
14 this title as prescribed by the Secretary under section
15 14104 of this title, may not be operated without a licensed
16 engineer.”.

17 **SEC. 331. RECREATIONAL VESSEL OPERATOR EDUCATION**
18 **AND TRAINING.**

19 (a) IN GENERAL.—Not later than 180 days after the
20 date of enactment of this Act, the Secretary of the depart-
21 ment in which the Coast Guard is operating shall study
22 and report to the Committee on Transportation and Infra-
23 structure of the House of Representatives and the Com-
24 mittees on Commerce, Science, and Transportation of the

1 Senate regarding recreational vessel operator training.

2 The study and report shall included a review of—

3 (1) Coast Guard Auxiliary and Power Squadron
4 training programs;

5 (2) existing State boating education programs,
6 including programs by the National Association of
7 State Boating Law Administrators (in this section
8 referred to as “NASBLA”); and

9 (3) other hands-on training programs available
10 to recreational vessel operators.

11 (b) INCLUDED SUBJECTS.—The study shall specifi-
12 cally examine—

13 (1) course materials;

14 (2) course content;

15 (3) training methodology;

16 (4) assessment methodology; and

17 (5) relevancy of course content to risks for rec-
18 reational boaters.

19 (c) CONTENTS OF REPORT.—The report under this
20 section shall include—

21 (1) a section regarding steps the Coast Guard
22 and NASBLA have taken to encourage States to
23 adopt mandatory recreational vessel operator train-
24 ing;

1 (2) an evaluation of the ability of the States to
2 harmonize their education programs and testing pro-
3 cedures;

4 (3) an analysis of the extent States have pro-
5 vided reciprocity among the States for their respec-
6 tive mandatory and voluntary education require-
7 ments and programs;

8 (4) a section examining the level of uniformity
9 of education and training between the States that
10 currently have mandatory education and training
11 programs;

12 (5) a section outlining the minimum standards
13 for education of recreational vessel operators;

14 (6) a section analyzing how a Federal training
15 and testing program can be harmonized with State
16 training and testing programs;

17 (7) analysis of course content and delivery
18 methodology for relevancy to risks for recreational
19 boaters;

20 (8) a description of the current phase-in periods
21 for mandatory boater education in State mandatory
22 education programs and recommendation for the
23 phase-in period for a mandatory boater education
24 program including an evaluation as to whether the
25 phase-in period affects course availability and cost;

1 (9) a description of the extent States allow for
2 experienced boaters to by-pass mandatory education
3 courses and go directly to testing;

4 (10) recommendations for a by-pass option for
5 experienced boaters;

6 (11) a section analyzing how the Coast Guard
7 would administer a Federal boating education, train-
8 ing, and testing program; and

9 (12) the extent to which a Federal boating edu-
10 cation, training, and testing program should be re-
11 quired for all waters of a State, including internal
12 waters.

13 **SEC. 332. SHIP EMISSION REDUCTION TECHNOLOGY DEM-**
14 **ONSTRATION PROJECT.**

15 (a) STUDY.—The Commandant of the Coast Guard
16 shall conduct a study—

17 (1) on the methods and best practices of the
18 use of exhaust emissions reduction technology on
19 cargo or passenger ships that operate in United
20 States waters and ports; and

21 (2) that identifies the Federal, State, and local
22 laws, regulations, and other requirements that affect
23 the ability of any entity to effectively demonstrate
24 onboard technology for the reduction of contami-
25 nated emissions from ships.

1 (b) REPORT.—Within 180 days after the date of en-
2 actment of this Act, the Commandant shall submit a re-
3 port on the results of the study conducted under sub-
4 section (a) to the Committee on Transportation and Infra-
5 structure of the House of Representatives and the Com-
6 mittee on Commerce, Science, and Transportation of the
7 Senate.

8 **TITLE IV—MISCELLANEOUS**
9 **PROVISIONS**

10 **SEC. 401. CERTIFICATE OF DOCUMENTATION FOR GALLANT**
11 **LADY.**

12 Section 1120(e) of the Coast Guard Authorization
13 Act of 1996 (110 Stat. 3977) is amended—

14 (1) in paragraph (1)—

15 (A) by striking “of Transportation” and
16 inserting “of the department in which the Coast
17 Guard is operating”; and

18 (B) by striking subparagraph (A) and in-
19 serting the following:

20 “(A) the vessel GALLANT LADY
21 (Leadship hull number 672, approximately 168
22 feet in length).”;

23 (2) by striking paragraphs (3) and (4) and re-
24 designating paragraph (5) as paragraph (3); and

1 (3) in paragraph (3) (as so redesignated) by
2 striking all after “shall expire” and inserting “on
3 the date of the sale of the vessel by the owner.”.

4 **SEC. 402. WAIVER.**

5 Notwithstanding section 12112 and chapter 551 of
6 title 46, United States Code, the Secretary of the depart-
7 ment in which the Coast Guard is operating may issue
8 a certificate of documentation with a coastwise endorse-
9 ment for the OCEAN VERITAS (IMO Number
10 7366805).

11 **SEC. 403. GREAT LAKES MARITIME RESEARCH INSTITUTE.**

12 Section 605 of the Coast Guard and Maritime Trans-
13 portation Act of 2004 (118 Stat. 1052) is amended—

14 (1) in subsection (b)(1)—

15 (A) by striking “The Secretary of Trans-
16 portation shall conduct a study that” and in-
17 serting “The Institute shall conduct maritime
18 transportation studies of the Great Lakes re-
19 gion, including studies that”;

20 (B) in subparagraphs (A), (B), (C), (E),
21 (F), (H), (I), and (J) by striking “evaluates”
22 and inserting “evaluate”;

23 (C) in subparagraphs (D) and (G) by
24 striking “analyzes” and inserting “analyze”;

1 (D) by striking “and” at the end of sub-
2 paragraph (I);

3 (E) by striking the period at the end of
4 subparagraph (J) and inserting a semicolon;

5 (F) by adding at the end the following:

6 “(K) identify ways to improve the integra-
7 tion of the Great Lakes marine transportation
8 system into the national transportation system;

9 “(L) examine the potential of expanded op-
10 erations on the Great Lakes marine transpor-
11 tation system;

12 “(M) identify ways to include intelligent
13 transportation applications into the Great
14 Lakes marine transportation system;

15 “(N) analyze the effects and impacts of
16 aging infrastructure and port corrosion on the
17 Great Lakes marine transportation system;

18 “(O) establish and maintain a model Great
19 Lakes marine transportation system database;
20 and

21 “(P) identify market opportunities for, and
22 impediments to, the use of United States-flag
23 vessels in trade with Canada on the Great
24 Lakes.”; and

1 (2) by striking subsection (b)(4) and inserting
2 the following:

3 “(4) AUTHORIZATION OF APPROPRIATIONS.—

4 There are authorized to be appropriated to carry out
5 paragraph (1)—

6 “(A) \$2,200,000 for fiscal year 2008;

7 “(B) \$2,300,000 for fiscal year 2009;

8 “(C) \$2,400,000 for fiscal year 2010; and

9 “(D) \$2,500,000 for fiscal year 2011.”.

10 **SEC. 404. CONVEYANCE.**

11 (a) STATION BRANT POINT BOAT HOUSE.—

12 (1) REQUIREMENT.—The Secretary of the de-
13 partment in which the Coast Guard is operating
14 shall convey to the town of Nantucket, Massachu-
15 setts, all right, title, and interest of the United
16 States in and to the buildings known as the Station
17 Brant Point Boat House located at Coast Guard
18 Station Brant Point, Nantucket, Massachusetts, for
19 use for a public purpose.

20 (2) TERMS OF CONVEYANCE.—A conveyance of
21 the building under paragraph (1) shall be made—

22 (A) without the payment of consideration;

23 and

24 (B) subject to appropriate terms and con-
25 ditions the Secretary considers necessary.

1 (3) REVERSIONARY INTEREST.—All right, title,
2 and interest in property conveyed under this sub-
3 section shall revert to the United States if any por-
4 tion of the property is used other than for a public
5 purpose.

6 (b) LEASE.—

7 (1) REQUIREMENT.—The Secretary of the de-
8 partment in which the Coast Guard is operating
9 shall enter into a lease with the town of Nantucket
10 that authorizes the town of Nantucket to occupy the
11 land on which the buildings conveyed under sub-
12 section (a) are located, subject to appropriate terms
13 and conditions the Secretary considers necessary.

14 (2) LEASE TERM.—A lease under this sub-
15 section shall not expire before January 31, 2033.

16 (3) TERMINATION OF LEASE.—If the Secretary
17 determines that the property leased under paragraph
18 (1) is necessary for purposes of the Coast Guard,
19 the Secretary—

20 (A) may terminate the lease without pay-
21 ment of compensation; and

22 (B) shall provide the town of Nantucket
23 not less than 12 months notice of the require-
24 ment to vacate the site and move the buildings

1 conveyed under subsection (a) to another loca-
2 tion.

3 **SEC. 405. CREW WAGES ON PASSENGER VESSELS.**

4 (a) FOREIGN AND INTERCOASTAL VOYAGES.—

5 (1) CAP ON PENALTY WAGES.—Section
6 10313(g) of title 46, United States Code, is amend-
7 ed—

8 (A) by striking “When” and inserting “(1)
9 Subject to paragraph (2), when”; and

10 (B) by adding at the end the following:

11 “(2) The total amount required to be paid under
12 paragraph (1) with respect to all claims in a class action
13 suit by seamen on a passenger vessel capable of carrying
14 more than 500 passengers for wages under this section
15 against a vessel master, owner, or operator or the em-
16 ployer of the seamen shall not exceed ten times the unpaid
17 wages that are the subject of the claims.

18 “(3) A class action suit for wages under this sub-
19 section must be commenced within three years after the
20 later of—

21 “(A) the date of the end of the last voyage for
22 which the wages are claimed; or

23 “(B) the receipt, by a seaman who is a claimant
24 in the suit, of a payment of wages that are the sub-

1 ject of the suit that is made in the ordinary course
2 of employment.”.

3 (2) DEPOSITS.—Section 10315 of such title is
4 amended by adding at the end the following:

5 “(f) DEPOSITS IN SEAMAN ACCOUNT.—By written
6 request signed by the seaman, a seaman employed on a
7 passenger vessel capable of carrying more than 500 pas-
8 sengers may authorize the master, owner, or operator of
9 the vessel, or the employer of the seaman, to make depos-
10 its of wages of the seaman into a checking, savings, invest-
11 ment, or retirement account, or other account to secure
12 a payroll or debit card for the seaman if—

13 “(1) the wages designated by the seaman for
14 such deposit are deposited in a United States or
15 international financial institution designated by the
16 seaman;

17 “(2) such deposits in the financial institution
18 are fully guaranteed under commonly accepted inter-
19 national standards by the government of the country
20 in which the financial institution is licensed;

21 “(3) a written wage statement or pay stub, in-
22 cluding an accounting of any direct deposit, is deliv-
23 ered to the seaman no less often than monthly; and

24 “(4) while on board the vessel on which the sea-
25 man is employed, the seaman is able to arrange for

1 withdrawal of all funds on deposit in the account in
2 which the wages are deposited.”.

3 (b) COASTWISE VOYAGES.—

4 (1) CAP ON PENALTY WAGES.—Section
5 10504(c) of such title is amended—

6 (A) by striking “When” and inserting “(1)
7 Subject to subsection (d), and except as pro-
8 vided in paragraph (2), when”; and

9 (B) by inserting at the end the following:

10 “(2) The total amount required to be paid under
11 paragraph (1) with respect to all claims in a class action
12 suit by seamen on a passenger vessel capable of carrying
13 more than 500 passengers for wages under this section
14 against a vessel master, owner, or operator or the em-
15 ployer of the seamen shall not exceed ten times the unpaid
16 wages that are the subject of the claims.

17 “(3) A class action suit for wages under this sub-
18 section must be commenced within three years after the
19 later of—

20 “(A) the date of the end of the last voyage for
21 which the wages are claimed; or

22 “(B) the receipt, by a seaman who is a claimant
23 in the suit, of a payment of wages that are the sub-
24 ject of the suit that is made in the ordinary course
25 of employment.”.

1 (2) DEPOSITS.—Section 10504 of such title is
2 amended by adding at the end the following:

3 “(f) DEPOSITS IN SEAMAN ACCOUNT.—On written
4 request signed by the seaman, a seaman employed on a
5 passenger vessel capable of carrying more than 500 pas-
6 sengers may authorize, the master, owner, or operator of
7 the vessel, or the employer of the seaman, to make depos-
8 its of wages of the seaman into a checking, savings, invest-
9 ment, or retirement account, or other account to secure
10 a payroll or debit card for the seaman if—

11 “(1) the wages designated by the seaman for
12 such deposit are deposited in a United States or
13 international financial institution designated by the
14 seaman;

15 “(2) such deposits in the financial institution
16 are fully guaranteed under commonly accepted inter-
17 national standards by the government of the country
18 in which the financial institution is licensed;

19 “(3) a written wage statement or pay stub, in-
20 cluding an accounting of any direct deposit, is deliv-
21 ered to the seaman no less often than monthly; and

22 “(4) while on board the vessel on which the sea-
23 man is employed, the seaman is able to arrange for
24 withdrawal of all funds on deposit in the account in
25 which the wages are deposited.”.

1 **SEC. 406. TECHNICAL CORRECTIONS.**

2 (a) COAST GUARD AND MARITIME TRANSPORTATION
3 ACT OF 2006.—Effective with enactment of the Coast
4 Guard and Maritime Transportation Act of 2006 (Public
5 Law 109–241), such Act is amended—

6 (1) in section 311(b) (120 Stat. 530) by insert-
7 ing “paragraphs (1) and (2) of” before “section
8 8104(o)”;

9 (2) in section 603(a)(2) (120 Stat. 554) by
10 striking “33 U.S.C. 2794(a)(2)” and inserting “33
11 U.S.C. 2704(a)(2)”;

12 (3) in section 901(r)(2) (120 Stat. 566) by
13 striking “the” the second place it appears;

14 (4) in section 902(e) (120 Stat. 566) by insert-
15 ing “of the United States” after “Revised Statutes”;

16 (5) in section 902(e) (120 Stat. 567) is amend-
17 ed—

18 (A) by inserting “and” after the semicolon
19 at the end of paragraph (1);

20 (B) by striking “and” at the end of para-
21 graph (2)(A); and

22 (C) by redesignating paragraphs (3) and
23 (4) as subparagraphs (C) and (D) of paragraph
24 (2), respectively, and aligning the left margin of
25 such subparagraphs with the left margin of
26 subparagraph (A) of paragraph (2);

1 (6) in section 902(e)(2)(C) (as so redesignated)
2 by striking “this section” and inserting “this para-
3 graph”;

4 (7) in section 902(e)(2)(D) (as so redesignated)
5 by striking “this section” and inserting “this para-
6 graph”;

7 (8) in section 902(h)(1) (120 Stat. 567)—

8 (A) by striking “Bisti/De-Na-Zin” and all
9 that follows through “Protection” and inserting
10 “Omnibus Parks and Public Lands Manage-
11 ment”; and

12 (B) by inserting a period after “Com-
13 mandant of the Coast Guard”;

14 (9) in section 902(k) (120 Stat. 568) is amend-
15 ed—

16 (A) by inserting “the Act of March 23,
17 1906, commonly known as” before “the General
18 Bridge”;

19 (B) by striking “491” and inserting
20 “494,”; and

21 (C) by inserting “each place it appears”
22 before “and inserting”; and

23 (10) in section 902(o) (120 Stat. 569) by strik-
24 ing the period after “Homeland Security”.

1 (b) TITLE 14.—(1) The analysis for chapter 7 of title
2 14, United States Code, is amended by adding a period
3 at the end of the item relating to section 149.

4 (2) The analysis for chapter 17 of title 14, United
5 States Code, is amended by adding a period at the end
6 of the item relating to section 677.

7 (3) The analysis for chapter 9 of title 14, United
8 States Code, is amended by adding a period at the end
9 of the item relating to section 198.

10 (c) TITLE 46.—(1) The analysis for chapter 81 of
11 title 46, United States Code, is amended by adding a pe-
12 riod at the end of the item relating to section 8106.

13 (2) Section 70105(e)(3)(C) of such title is amended
14 by striking “National Intelligence Director” and inserting
15 “Director of National Intelligence”.

16 (d) DEEPWATER PORT ACT OF 1974.—Section
17 5(c)(2) of the Deepwater Port Act of 1974 (33 U.S.C.
18 1504(c)(2)) is amended by aligning the left margin of sub-
19 paragraph (K) with the left margin of subparagraph (L).

20 (e) OIL POLLUTION ACT OF 1990.—(1) Section
21 1004(a)(2) of the Oil Pollution Act of 1990 (33 U.S.C.
22 2704(a)(2)) is amended by striking the first comma fol-
23 lowing “\$800,000”.

1 (2) The table of sections in section 2 of such Act is
2 amended by inserting a period at the end of the item relat-
3 ing to section 7002.

4 (f) COAST GUARD AUTHORIZATION ACT OF 1996.—
5 The table of sections in section 2 of the Coast Guard Au-
6 thorization Act of 1996 is amended in the item relating
7 to section 103 by striking “reports” and inserting “re-
8 port”.

9 **SEC. 407. CONVEYANCE OF DECOMMISSIONED COAST**
10 **GUARD CUTTER STORIS.**

11 (a) IN GENERAL.—Upon the scheduled decommis-
12 sioning of the Coast Guard Cutter STORIS, the Com-
13 mandant of the Coast Guard shall convey, without consid-
14 eration, all right, title, and interest of the United States
15 in and to that vessel to the USCG Cutter STORIS Mu-
16 seum and Maritime Education Center, LLC, located in the
17 State of Alaska if the recipient—

18 (1) agrees—

19 (A) to use the vessel for purposes of a mu-
20 seum and historical display;

21 (B) not to use the vessel for commercial
22 transportation purposes;

23 (C) to make the vessel available to the
24 United States Government if needed for use by

1 the Commandant in time of war or a national
2 emergency; and

3 (D) to hold the Government harmless for
4 any claims arising from exposure to hazardous
5 materials, including asbestos and poly-
6 chlorinated biphenyls, after conveyance of the
7 vessel, except for claims arising from the use by
8 the Government under subparagraph (C);

9 (2) has funds available that will be committed
10 to operate and maintain in good working condition
11 the vessel conveyed, in the form of cash, liquid as-
12 sets, or a written loan commitment and in an
13 amount of at least \$700,000; and

14 (3) agrees to any other conditions the Com-
15 mandant considers appropriate.

16 (b) MAINTENANCE AND DELIVERY OF VESSEL.—

17 (1) MAINTENANCE.—Before conveyance of the
18 vessel under this section, the Commandant shall
19 make, to the extent practical and subject to other
20 Coast Guard mission requirements, every effort to
21 maintain the integrity of the vessel and its equip-
22 ment until the time of delivery.

23 (2) DELIVERY.—If a conveyance is made under
24 this section, the Commandant shall deliver the vessel

1 to a suitable mooring in the local area in its present
2 condition.

3 (3) TREATMENT OF CONVEYANCE.—The con-
4 veyance of the vessel under this section shall not be
5 considered a distribution in commerce for purposes
6 of section 6(e) of Public Law 94-469 (15 U.S.C.
7 2605(e)).

8 (e) OTHER EXCESS EQUIPMENT.—The Commandant
9 may convey to the recipient of a conveyance under sub-
10 section (a) any excess equipment or parts from other de-
11 commissioned Coast Guard vessels for use to enhance the
12 operability and function of the vessel conveyed under sub-
13 section (a) for purposes of a museum and historical dis-
14 play.

15 **SEC. 408. REPEAL OF REQUIREMENT OF LICENSE FOR EM-**
16 **PLOYMENT IN THE BUSINESS OF SALVAGING**
17 **ON THE COAST OF FLORIDA.**

18 Chapter 801 of title 46, United States Code, is
19 amended—

20 (1) by striking section 80102; and

21 (2) in the table of sections at the beginning of
22 the chapter by striking the item relating to that sec-
23 tion.

1 **SEC. 409. RIGHT-OF-FIRST-REFUSAL FOR COAST GUARD**
2 **PROPERTY ON JUPITER ISLAND, FLORIDA.**

3 (a) **RIGHT-OF-FIRST-REFUSAL.**—Notwithstanding
4 any other law (other than this section), the Town of Jupi-
5 ter Island, Florida, shall have the right-of-first-refusal for
6 an exchange of real property within the jurisdiction of the
7 Town comprising Parcel #35-38-42-004-000-02590-6
8 (Bon Air Beach lots 259 and 260 located at 83 North
9 Beach Road) and Parcel #35-38-42-004-000-02610-2
10 (Bon Air Beach lots 261 to 267), including any improve-
11 ments thereon, for other real property of equal or greater
12 value.

13 (b) **IDENTIFICATION OF PROPERTY.**—The Com-
14 mandant of the Coast Guard may identify, describe, and
15 determine the property referred to in subsection (a) that
16 is subject to the right of the Town under that subsection.

17 (c) **LIMITATION.**—The property referred to in sub-
18 section (a) may not be conveyed under that subsection
19 until the Commandant of the Coast Guard determines that
20 the property is not needed to carry out Coast Guard mis-
21 sions or functions.

22 (d) **REQUIRED USE.**—

23 (1) **IN GENERAL.**—Except as provided in para-
24 graph (2), any property conveyed under this section
25 shall be used by the Town of Jupiter Island, Flor-
26 ida, solely for conservation of fish and wildlife habi-

1 tat and other natural resources, including wetlands,
2 beaches, and dunes, and as protection against dam-
3 age from wind, tidal, and wave energy.

4 (2) PUBLIC ACCESS.—The Town of Jupiter Is-
5 land shall allow the public to have reasonable public
6 access to the property conveyed under this section,
7 for customary recreation use of the beach under a
8 management program established by agreement be-
9 tween the Town of Jupiter Island, Florida, and Mar-
10 tin County, Florida.

11 (e) REVERSION.—Any conveyance of property under
12 this section shall be subject to the condition that all right,
13 title, and interest in the property, at the option of the
14 Commandant of the Coast Guard, shall revert to the
15 United States Government if the property is used for pur-
16 poses other than conservation and public access.

17 (f) IMPLEMENTATION.—The Commandant of the
18 Coast Guard shall upon request by the Town—

19 (1) promptly take those actions necessary to
20 make property identified under subsection (b) and
21 determined by the Commandant under subsection (c)
22 ready for conveyance to the Town; and

23 (2) convey the property to the Town subject to
24 subsections (d) and (e).

1 **SEC. 410. CONVEYANCE OF COAST GUARD HU-25 FALCON**
2 **JET AIRCRAFT.**

3 (a) **AUTHORITY TO CONVEY.**—Notwithstanding any
4 other law, the Commandant of the Coast Guard may con-
5 vey to the Elizabeth City State University (in this section
6 referred to as the “University”), a public university lo-
7 cated in the State of North Carolina, without consider-
8 ation all right, title, and interest of the United States in
9 an HU-25 Falcon Jet aircraft under the administrative
10 jurisdiction of the Coast Guard that the Commandant de-
11 termines—

12 (1) is appropriate for use by the University;

13 and

14 (2) is excess to the needs of the Coast Guard.

15 (b) **CONDITIONS.**—

16 (1) **IN GENERAL.**—As a condition of conveying
17 an aircraft to the University under subsection (a),
18 the Commandant shall enter into an agreement with
19 the University under which the University agrees—

20 (A) to utilize the aircraft for educational
21 purposes or other public purposes as jointly
22 agreed upon by the Commandant and the Uni-
23 versity before conveyance; and

24 (B) to hold the United States harmless for
25 any claim arising with respect to the aircraft
26 after conveyance of the aircraft.

1 (2) REVERSIONARY INTEREST.—If the Com-
2 mandant determines that the recipient violated sub-
3 paragraph (A) or (B) of paragraph (1), then—

4 (A) all right, title, and interest in the air-
5 craft shall revert to the United States;

6 (B) the United States shall have the right
7 to immediate possession of the aircraft; and

8 (C) the recipient shall pay the United
9 States for its costs incurred in recovering the
10 aircraft for such violation.

11 (e) LIMITATION ON FUTURE TRANSFERS.—

12 (1) IN GENERAL.—The Commandant shall in-
13 clude in the instruments for the conveyance a re-
14 quirement that any further conveyance of an interest
15 in the aircraft may not be made without the ap-
16 proval in advance of the Commandant.

17 (2) REVERSIONARY INTEREST.—If the Com-
18 mandant determines that an interest in the aircraft
19 was conveyed without such approval, then—

20 (A) all right, title, and interest in the air-
21 craft shall revert to the United States;

22 (B) the United States shall have the right
23 to immediate possession of the aircraft; and

1 (C) the recipient shall pay the United
2 States for its costs incurred in recovering the
3 aircraft for such a violation.

4 (d) DELIVERY OF AIRCRAFT.—The Commandant
5 shall deliver the aircraft conveyed under subsection (a)—

6 (1) at the place where the aircraft is located on
7 the date of the conveyance;

8 (2) in its condition on the date of conveyance;
9 and

10 (3) without cost to the United States.

11 (e) ADDITIONAL TERMS AND CONDITIONS.—The
12 Commandant may require such additional terms and con-
13 ditions in connection with the conveyance required by sub-
14 section (a) as the Commandant considers appropriate to
15 protect the interests of the United States.

16 **SEC. 411. DECOMMISSIONED COAST GUARD VESSELS FOR**
17 **HAITI.**

18 (a) IN GENERAL.—Notwithstanding any other law,
19 upon the scheduled decommissioning of any Coast Guard
20 41-foot patrol boat, the Commandant of the Coast Guard
21 shall give the Government of Haiti a right-of-first-refusal
22 for conveyance of that vessel to the Government of Haiti,
23 if that Government of Haiti agrees—

24 (1) to use the vessel for the Coast Guard of
25 Haiti;

1 (2) to make the vessel available to the United
2 States Government if needed for use by the Com-
3 mandant in time of war or national emergency;

4 (3) to hold the United States Government
5 harmless for any claims arising from exposure to
6 hazardous materials, including asbestos and poly-
7 chlorinated biphenyls, after conveyance of the vessel,
8 except for claims arising from the use by the United
9 States Government under paragraph (2); and

10 (4) to any other conditions the Commandant
11 considers appropriate.

12 (b) LIMITATION.—The Commandant may not convey
13 more than 10 vessels to the Government of Haiti pursuant
14 to this section.

15 (c) MAINTENANCE AND DELIVERY OF VESSEL.—

16 (1) MAINTENANCE.—Before conveyance of a
17 vessel under this section, the Commandant shall
18 make, to the extent practical and subject to other
19 Coast Guard mission requirements, every effort to
20 maintain the integrity of the vessel and its equip-
21 ment until the time of delivery.

22 (2) DELIVERY.—If a conveyance is made under
23 this section, the Commandant shall deliver a vessel
24 to a suitable mooring in the local area in its present
25 condition.

1 (3) TREATMENT OF CONVEYANCE.—The con-
2 veyance of a vessel under this section shall not be
3 considered a distribution in commerce for purposes
4 of section 6(e) of Public Law 94-469 (15 U.S.C.
5 2605(e)).

6 **SEC. 412. EXTENSION OF PERIOD OF OPERATION OF VES-**
7 **SEL FOR SETTING, RELOCATION, OR RECOV-**
8 **ERY OF ANCHORS OR OTHER MOORING**
9 **EQUIPMENT.**

10 Section 705(a)(2) of Public Law 109-347 (120 Stat.
11 1945) is amended by striking “2” and inserting “3”.

12 **SEC. 413. VESSEL TRAFFIC RISK ASSESSMENTS.**

13 (a) REQUIREMENT.—The Commandant of the Coast
14 Guard, acting through the appropriate Area Committee
15 established under section 311(j)(4) of the Federal Water
16 Pollution Control Act, shall prepare a vessel traffic risk
17 assessment—

18 (1) for Cook Inlet, Alaska, within one year after
19 the date of enactment of this Act; and

20 (2) for the Aleutian Islands, Alaska, within two
21 years after the date of enactment of this Act.

22 (b) CONTENTS.—Each of the assessments shall de-
23 scribe, for the region covered by the assessment—

24 (1) the amount and character of present and
25 estimated future shipping traffic in the region; and

1 (2) the current and projected use and effective-
2 ness in reducing risk, of—

3 (A) traffic separation schemes and routing
4 measures;

5 (B) long-range vessel tracking systems de-
6 veloped under section 70115 of title 46, United
7 States Code;

8 (C) towing, response, or escort tugs;

9 (D) vessel traffic services;

10 (E) emergency towing packages on vessels;

11 (F) increased spill response equipment in-
12 cluding equipment appropriate for severe weath-
13 er and sea conditions;

14 (G) the Automatic Identification System
15 developed under section 70114 of title 46,
16 United States Code;

17 (H) particularly sensitive sea areas, areas
18 to be avoided, and other traffic exclusion zones;

19 (I) aids to navigation; and

20 (J) vessel response plans.

21 (c) RECOMMENDATIONS.—

22 (1) IN GENERAL.—Each of the assessments
23 shall include any appropriate recommendations to
24 enhance the safety, or lessen potential adverse envi-
25 ronmental impacts, of marine shipping.

1 (2) CONSULTATION.—Before making any rec-
2 ommendations under paragraph (1) for a region, the
3 Area Committee shall consult with affected local,
4 State, and Federal government agencies, representa-
5 tives of the fishing industry, Alaska Natives from
6 the region, the conservation community, and the
7 merchant shipping and oil transportation industries.

8 (d) PROVISION TO CONGRESS.—The Commandant
9 shall provide a copy of each assessment to the Committee
10 on Transportation and Infrastructure of the House of
11 Representatives and the Committee on Commerce,
12 Science, and Transportation of the Senate.

13 (e) AUTHORIZATION OF APPROPRIATIONS.—There is
14 authorized to be appropriated to the Commandant
15 \$1,800,000 for each of fiscal years 2008 and 2009 to the
16 conduct the assessments.

17 **SEC. 414. VESSEL MARYLAND INDEPENDENCE.**

18 Notwithstanding sections 55101, 55103, and 12112
19 of title 46, United States Code, the Secretary of the de-
20 partment in which the Coast Guard is operating may issue
21 a certificate of documentation with a coastwise endorse-
22 ment for the vessel MARYLAND INDEPENDENCE (of-
23 ficial number 662573). The coastwise endorsement issued
24 under authority of this section is terminated if—

1 (1) the vessel, or controlling interest in the per-
2 son that owns the vessel, is conveyed after the date
3 of enactment of this Act; or

4 (2) any repairs or alterations are made to the
5 vessel outside of the United States.

6 **SEC. 415. STUDY OF RELOCATION OF COAST GUARD SEC-**
7 **TOR BUFFALO FACILITIES.**

8 (a) PURPOSES.—The purposes of this section are—

9 (1) to authorize a project study to evaluate the
10 feasibility of consolidating and relocating Coast
11 Guard facilities at Coast Guard Sector Buffalo with-
12 in the study area;

13 (2) to obtain a preliminary plan for the design,
14 engineering, and construction for the consolidation
15 of Coast Guard facilities at Sector Buffalo; and

16 (3) to distinguish what Federal lands, if any,
17 shall be identified as excess after the consolidation.

18 (b) DEFINITIONS.—In this section:

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

21 (2) SECTOR BUFFALO.—The term “Sector Buf-
22 falo” means Coast Guard Sector Buffalo of the
23 Ninth Coast Guard District.

24 (3) STUDY AREA.—The term “study area”
25 means the area consisting of approximately 31 acres

1 of real property and any improvements thereon that
2 are commonly identified as Coast Guard Sector Buf-
3 falo, located at 1 Fuhrmann Boulevard, Buffalo,
4 New York, and under the administrative control of
5 the Coast Guard.

6 (c) STUDY.—

7 (1) IN GENERAL.—Within 12 months after the
8 date on which funds are first made available to carry
9 out this section, the Commandant shall conduct a
10 project proposal report of the study area and shall
11 submit such report to the Committee on Commerce,
12 Science, and Transportation of the Senate and the
13 Committee on Transportation and Infrastructure of
14 the House of Representatives.

15 (2) REQUIREMENTS.—The project proposal re-
16 port shall—

17 (A) evaluate the most cost-effective method
18 for providing shore facilities to meet the oper-
19 ational requirements of Sector Buffalo;

20 (B) determine the feasibility of consoli-
21 dating and relocating shore facilities on a por-
22 tion of the existing site, while—

23 (i) meeting the operational require-
24 ments of Sector Buffalo; and

1 (ii) allowing the expansion of oper-
2 ational requirements of Sector Buffalo;
3 and

4 (C) contain a preliminary plan for the de-
5 sign, engineering, and construction of the pro-
6 posed project, including—

7 (i) the estimated cost of the design,
8 engineering, and construction of the pro-
9 posed project;

10 (ii) an anticipated timeline of the pro-
11 posed project; and

12 (iii) a description of what Federal
13 lands, if any, shall be considered excess to
14 Coast Guard needs.

15 (d) LIMITATION.—Nothing in this section shall affect
16 the current administration and management of the study
17 area.

18 **SEC. 416. CONVEYANCE OF COAST GUARD VESSEL TO**
19 **COAHOMA COUNTY, MISSISSIPPI.**

20 (a) AUTHORITY TO CONVEY.—Notwithstanding the
21 Federal Property and Administrative Services Act of
22 1949, the Commandant of the Coast Guard may convey
23 to the Sheriff's Department of Coahoma County, Mis-
24 sissippi (in this section referred to as the "Sheriff's De-
25 partment"), without consideration all right, title, and in-

1 terest of the United States in and to a Coast Guard
2 trailerable boat, ranging from 17 feet to 30 feet in size,
3 that the Commandant determines—

4 (1) is appropriate for use by the Sheriff's De-
5 partment; and

6 (2) is excess to the needs of the Coast Guard
7 and the Department of Homeland Security.

8 (b) CONDITION.—As a condition of conveying a vessel
9 under the authority provided in subsection (a), the Com-
10 mandant shall enter into an agreement with the Sheriff's
11 Department under which the Sheriff's Department
12 agrees—

13 (1) to utilize the vessel for homeland security
14 and other appropriate purposes as jointly agreed
15 upon by the Commandant and the Sheriff's Depart-
16 ment before conveyance; and

17 (2) to take the vessel “as is” and to hold the
18 United States harmless for any claim arising with
19 respect to that vessel after conveyance of the vessel,
20 including any claims arising from the condition of
21 the vessel and its equipment or exposure to haz-
22 ardous materials.

23 (c) DELIVERY OF VESSEL.—The Commandant shall
24 deliver the vessel conveyed under the authority provided
25 in subsection (a)—

1 (1) at the place where the vessel is located on
2 the date of the conveyance;

3 (2) in its condition on the date of conveyance;
4 and

5 (3) without cost to the United States.

6 (d) OTHER EXCESS EQUIPMENT.—The Commandant
7 may further convey any excess equipment or parts from
8 other Coast Guard vessels, which are excess to the needs
9 of the Coast Guard and the Department of Homeland Se-
10 curity, to the Sheriff's Department for use to enhance the
11 operability of the vessel conveyed under the authority pro-
12 vided in subsection (a).

13 (e) ADDITIONAL TERMS AND CONDITIONS.—The
14 Commandant may require such additional terms and con-
15 ditions in connection with the conveyance authorized by
16 subsection (a) as the Commandant considers appropriate
17 to protect the interests of the United States.

18 **SEC. 417. CONVEYANCE OF COAST GUARD VESSEL TO WAR-**
19 **REN COUNTY, MISSISSIPPI.**

20 (a) AUTHORITY TO CONVEY.—Notwithstanding the
21 Federal Property and Administrative Services Act of
22 1949, the Commandant of the Coast Guard may convey
23 to the Sheriff's Office of Warren County, Mississippi (in
24 this section referred to as the "Sheriff's Office"), without
25 consideration all right, title, and interest of the United

1 States in and to a Coast Guard trailerable boat, ranging
2 from 17 feet to 30 feet in size, that the Commandant de-
3 termines—

4 (1) is appropriate for use by the Sheriff's Of-
5 fice; and

6 (2) is excess to the needs of the Coast Guard
7 and the Department of Homeland Security.

8 (b) **CONDITION.**—As a condition of conveying a vessel
9 under the authority provided in subsection (a), the Com-
10 mandant shall enter into an agreement with the Sheriff's
11 Office under which the Sheriff's Office agrees—

12 (1) to utilize the vessel for homeland security
13 and other appropriate purposes as jointly agreed
14 upon by the Commandant and the Sheriff's Office
15 before conveyance; and

16 (2) to take the vessel "as is" and to hold the
17 United States harmless for any claim arising with
18 respect to that vessel after conveyance of the vessel,
19 including any claims arising from the condition of
20 the vessel and its equipment or exposure to haz-
21 ardous materials.

22 (c) **DELIVERY OF VESSEL.**—The Commandant shall
23 deliver the vessel conveyed under the authority provided
24 in subsection (a)

1 (1) at the place where the vessel is located on
2 the date of the conveyance;

3 (2) in its condition on the date of conveyance;
4 and

5 (3) without cost to the United States.

6 (d) OTHER EXCESS EQUIPMENT.—The Commandant
7 may further convey any excess equipment or parts from
8 other Coast Guard vessels, which are excess to the needs
9 of the Coast Guard and the Department of Homeland Se-
10 curity, to the Sheriff's Office for use to enhance the oper-
11 ability of the vessel conveyed under the authority provided
12 in subsection (a).

13 (e) ADDITIONAL TERMS AND CONDITIONS.—The
14 Commandant may require such additional terms and con-
15 ditions in connection with the conveyance authorized by
16 subsection (a) as the Commandant considers appropriate
17 to protect the interests of the United States.

18 **SEC. 418. CONVEYANCE OF COAST GUARD VESSEL TO**
19 **WASHINGTON COUNTY, MISSISSIPPI.**

20 (a) AUTHORITY TO CONVEY.—Notwithstanding the
21 Federal Property and Administrative Services Act of
22 1949, the Commandant of the Coast Guard may convey
23 to the Sheriff's Office of Washington County, Mississippi
24 (in this section referred to as the "Sheriff's Office"), with-
25 out consideration all right, title, and interest of the United

1 States in and to a Coast Guard trailerable boat, ranging
2 from 17 feet to 30 feet in size, that the Commandant de-
3 termines—

4 (1) is appropriate for use by the Sheriff's Of-
5 fice; and

6 (2) is excess to the needs of the Coast Guard
7 and the Department of Homeland Security.

8 (b) CONDITION.—As a condition of conveying a vessel
9 under the authority provided in subsection (a), the Com-
10 mandant shall enter into an agreement with the Sheriff's
11 Office under which the Sheriff's Office agrees—

12 (1) to utilize the vessel for homeland security
13 and other appropriate purposes as jointly agreed
14 upon by the Commandant and the Sheriff's Office
15 before conveyance; and

16 (2) to take the vessel "as is" and to hold the
17 United States harmless for any claim arising with
18 respect to that vessel after conveyance of the vessel,
19 including any claims arising from the condition of
20 the vessel and its equipment or exposure to haz-
21 ardous materials.

22 (c) DELIVERY OF VESSEL.—The Commandant shall
23 deliver the vessel conveyed under the authority provided
24 in subsection (a)—

1 (1) at the place where the vessel is located on
2 the date of the conveyance;

3 (2) in its condition on the date of conveyance;
4 and

5 (3) without cost to the United States.

6 (d) OTHER EXCESS EQUIPMENT.—The Commandant
7 may further convey any excess equipment or parts from
8 other Coast Guard vessels, which are excess to the needs
9 of the Coast Guard and the Department of Homeland Se-
10 curity, to the Sheriff's Office for use to enhance the oper-
11 ability of the vessel conveyed under the authority provided
12 in subsection (a).

13 (e) ADDITIONAL TERMS AND CONDITIONS.—The
14 Commandant may require such additional terms and con-
15 ditions in connection with the conveyance authorized by
16 subsection (a) as the Commandant considers appropriate
17 to protect the interests of the United States.

18 **SEC. 419. COAST GUARD ASSETS FOR UNITED STATES VIR-**
19 **GIN ISLANDS.**

20 (a) IN GENERAL.—The Secretary of Homeland Secu-
21 rity may station additional Coast Guard assets in the
22 United States Virgin Islands for port security and other
23 associated purposes.

24 (b) AUTHORIZATION OF APPROPRIATIONS.—There
25 are authorized to be appropriated to the Secretary for fis-

1 cal year 2008 such sums as are necessary to carry out
2 this section.

3 **SEC. 420. CONVEYANCE OF THE PRESQUE ISLE LIGHT STA-**
4 **TION FRESNEL LENS TO PRESQUE ISLE**
5 **TOWNSHIP, MICHIGAN.**

6 (a) CONVEYANCE OF LENS AUTHORIZED.—

7 (1) TRANSFER OF POSSESSION.—Notwith-
8 standing any other provision of law, the Com-
9 mandant of the Coast Guard may transfer to
10 Presque Isle Township, a township in Presque Isle
11 County in the State of Michigan (in this section re-
12 ferred to as the “Township”), possession of the His-
13 toric Fresnel Lens (in this section referred to as the
14 “Lens”) from the Presque Isle Light Station Light-
15 house, Michigan (in this section referred to as the
16 “Lighthouse”).

17 (2) CONDITION.—As a condition of the transfer
18 of possession authorized by paragraph (1), the
19 Township shall, not later than one year after the
20 date of transfer, install the Lens in the Lighthouse
21 for the purpose of operating the Lens and Light-
22 house as a Class I private aid to navigation pursu-
23 ant to section 85 of title 14, United States Code,
24 and the applicable regulations under that section.

1 (3) CONVEYANCE OF LENS.—Upon the certifi-
2 cation of the Commandant that the Township has
3 installed the Lens in the Lighthouse and is able to
4 operate the Lens and Lighthouse as a private aid to
5 navigation as required by paragraph (2), the Com-
6 mandant shall convey to the Township all right,
7 title, and interest of the United States in and to the
8 Lens.

9 (4) CESSATION OF UNITED STATES OPER-
10 ATIONS OF AIDS TO NAVIGATION AT LIGHTHOUSE.—
11 Upon the making of the certification described in
12 paragraph (3), all active Federal aids to navigation
13 located at the Lighthouse shall cease to be operated
14 and maintained by the United States.

15 (b) REVERSION.—

16 (1) REVERSION FOR FAILURE OF AID TO NAVI-
17 GATION.—If the Township does not comply with the
18 condition set forth in subsection (a)(2) within the
19 time specified in that subsection, the Township shall,
20 except as provided in paragraph (2), return the Lens
21 to the Commandant at no cost to the United States
22 and under such conditions as the Commandant may
23 require.

24 (2) EXCEPTION FOR HISTORICAL PRESERVA-
25 TION.—Notwithstanding the lack of compliance of

1 the Township as described in paragraph (1), the
2 Township may retain possession of the Lens for in-
3 stallation as an artifact in, at, or near the Light-
4 house upon the approval of the Commandant and
5 under such conditions for the preservation and con-
6 servation of the Lens as the Commandant shall
7 specify for purposes of this paragraph. Installation
8 of the Lens under this paragraph shall occur, if at
9 all, not later than two years after the date of the
10 transfer of the Lens to the Township under sub-
11 section (a)(1).

12 (3) REVERSION FOR FAILURE OF HISTORICAL
13 PRESERVATION.—If retention of the Lens by the
14 Township is authorized under paragraph (2) and the
15 Township does not install the Lens in accordance
16 with that paragraph within the time specified in that
17 paragraph, the Township shall return the lens to the
18 Coast Guard at no cost to the United States and
19 under such conditions as the Commandant may re-
20 quire.

21 (c) CONVEYANCE OF ADDITIONAL PERSONAL PROP-
22 erty.—

23 (1) TRANSFER AND CONVEYANCE OF PERSONAL
24 PROPERTY.—Notwithstanding any other provision of
25 law, the Commandant may transfer to the Township

1 any additional personal property of the United
2 States related to the Lens that the Commandant
3 considers appropriate for conveyance under this sec-
4 tion. If the Commandant conveys the Lens to the
5 Township under subsection (a)(3), the Commandant
6 may convey to the Township any personal property
7 previously transferred to the Township under this
8 subsection.

9 (2) REVERSION.—If the Lens is returned to the
10 Coast Guard pursuant to subsection (b), the Town-
11 ship shall return to the Coast Guard all personal
12 property transferred or conveyed to the Township
13 under this subsection except to the extent otherwise
14 approved by the Commandant.

15 (d) CONVEYANCE WITHOUT CONSIDERATION.—The
16 conveyance of the Lens and any personal property under
17 this section shall be without consideration.

18 (e) DELIVERY OF PROPERTY.—The Commandant
19 shall deliver property conveyed under this section—

20 (1) at the place where such property is located
21 on the date of the conveyance;

22 (2) in its condition on the date of conveyance;

23 and

24 (3) without cost to the United States.

1 (f) MAINTENANCE OF PROPERTY.—As a condition of
2 the conveyance of any property to the Township under this
3 section, the Commandant shall enter into an agreement
4 with the Township under which the Township agrees—

5 (1) to operate the Lens as a Class I private aid
6 to navigation under section 85 of title 14, United
7 States Code, and application regulations under that
8 section; and

9 (2) to hold the United States harmless for any
10 claim arising with respect to personal property con-
11 veyed under this section.

12 (g) LIMITATION ON FUTURE CONVEYANCE.—The in-
13 struments providing for the conveyance of property under
14 this section shall—

15 (1) require that any further conveyance of an
16 interest in such property may not be made without
17 the advance approval of the Commandant; and

18 (2) provide that, if the Commandant determines
19 that an interest in such property was conveyed with-
20 out such approval—

21 (A) all right, title, and interest in such
22 property shall revert to the United States, and
23 the United States shall have the right to imme-
24 diate possession of such property; and

1 (B) the recipient of such property shall pay
2 the United States for costs incurred by the
3 United States in recovering such property.

4 (h) **ADDITIONAL TERMS AND CONDITIONS.**—The
5 Commandant may require such additional terms and con-
6 ditions in connection with the conveyances authorized by
7 this section as the Commandant considers appropriate to
8 protect the interests of the United States.

9 **SEC. 421. FISHING IN SOUTH PACIFIC TUNA TREATY CON-**
10 **VENTION AREA.**

11 Section 12113 of title 46, United States Code, is
12 amended by adding at the end the following new sub-
13 section:

14 “(j) A fishery endorsement is not required for a
15 United States-documented purse seine tuna fishing vessel
16 home ported in American Samoa while fishing exclusively
17 for highly migratory species under a license issued pursu-
18 ant to the 1987 Treaty on Fisheries Between the Govern-
19 ments of Certain Pacific Island States and the Govern-
20 ment of the United States of America in the treaty area
21 or in any portion of the United States exclusive economic
22 zone bordering the treaty area.”.

1 **SEC. 422. ASSESSMENT OF NEEDS FOR ADDITIONAL COAST**
2 **GUARD PRESENCE IN HIGH LATITUDE RE-**
3 **GIONS.**

4 Within 270 days after the date of enactment of this
5 Act, the Secretary of the department in which the Coast
6 Guard is operating shall submit a report to the Committee
7 on Commerce, Science, and Transportation of the Senate
8 and the Committee on Transportation and Infrastructure
9 of the House of Representatives assessing the need for ad-
10 ditional Coast Guard prevention and response capability
11 in the high latitude regions. The assessment shall address
12 needs for all Coast Guard mission areas, including search
13 and rescue, marine pollution response and prevention,
14 fisheries enforcement, and maritime commerce. The Sec-
15 retary shall include in the report—

16 (1) an assessment of the high latitude operating
17 capabilities of all current Coast Guard assets, in-
18 cluding assets acquired under the Deepwater pro-
19 gram;

20 (2) an assessment of projected needs for Coast
21 Guard forward operating bases in the high latitude
22 regions;

23 (3) an assessment of shore infrastructure, per-
24 sonnel, logistics, communications, and resources re-
25 quirements to support Coast Guard forward oper-
26 ating bases in the high latitude regions;

1 (4) an assessment of the need for high latitude
2 icebreaking capability and the capability of the cur-
3 rent high latitude icebreaking assets of the Coast
4 Guard, including—

5 (A) whether the Coast Guard's high lati-
6 tude icebreaking fleet is meeting current mis-
7 sion performance goals;

8 (B) whether the fleet is capable of meeting
9 projected mission performance goals; and

10 (C) an assessment of the material condi-
11 tion, safety, and working conditions aboard
12 high latitude icebreaking assets, including the
13 effect of those conditions on mission perform-
14 ance;

15 (5) a detailed estimate of acquisition costs for
16 each of the assets (including shore infrastructure)
17 necessary for additional prevention and response ca-
18 pability in high latitude regions for all Coast Guard
19 mission areas, and an estimate of operations and
20 maintenance costs for such assets for the initial 10-
21 year period of operations; and

22 (6) detailed cost estimates (including operating
23 and maintenance for a period of 10 years) for high
24 latitude icebreaking capability to ensure current and

1 projected future mission performance goals are met,
2 including estimates of the costs to—

3 (A) renovate and modernize the Coast
4 Guard's existing high latitude icebreaking fleet;
5 and

6 (B) replace the Coast Guard's existing
7 high latitude icebreaking fleet.

8 **SEC. 423. STUDY OF REGIONAL RESPONSE VESSEL AND**
9 **SALVAGE CAPABILITY FOR OLYMPIC PENIN-**
10 **SULA COAST, WASHINGTON.**

11 No later than 180 days after the date of enactment
12 of this Act, the Secretary of the department in which the
13 Coast Guard is operating shall study through the National
14 Academy of Sciences the need for regional response vessel
15 and salvage capability for the State of Washington Olym-
16 pic Peninsula coast. In conducting the study, the National
17 Academy of Sciences shall consult with Federal, State,
18 and tribal officials and other relevant stakeholders. The
19 study shall—

20 (1) identify the capabilities, equipment, and fa-
21 cilities necessary for a response vessel in the entry
22 to the Strait of Juan de Fuca at Neah Bay in order
23 to optimize oil spill protection on Washington's
24 Olympic Peninsula coast and provide rescue towing

1 services, oil spill response, and salvage and fire-
2 fighting capabilities;

3 (2) analyze the multimission capabilities nec-
4 essary for a rescue vessel and the need for that ves-
5 sel to utilize cached salvage, oil spill response, and
6 oil storage equipment while responding to a spill or
7 a vessel in distress, and make recommendations as
8 to the placement of such equipment;

9 (3) address scenarios that consider all vessel
10 types and weather conditions and compare current
11 Neah Bay rescue vessel capabilities, costs, and bene-
12 fits with other United States industry-funded re-
13 sponse vessels, including those currently operating in
14 Alaska's Prince William Sound;

15 (4) determine whether the current level of pro-
16 tection afforded by the Neah Bay response vessel
17 and associated response equipment is comparable to
18 protection in other locations where response vessels
19 operate, including Prince William Sound, Alaska,
20 and if it is not comparable, make recommendations
21 regarding how capabilities, equipment, and facilities
22 should be modified to achieve optimum protection;
23 and

1 (5) consider pending firefighting and salvage
2 regulations developed pursuant to the Oil Pollution
3 Act of 1990.

4 **SEC. 424. REPORT ON PROJECTED WORKLOAD AT THE**
5 **COAST GUARD YARD IN CURTIS BAY, MARY-**
6 **LAND.**

7 Within six months after the date of enactment of this
8 Act, the Secretary of the department in which the Coast
9 Guard is operating shall submit to the Committee on
10 Transportation and Infrastructure of the House of Rep-
11 resentatives and the Committee on Commerce, Science,
12 and Transportation of the Senate, a report detailing the
13 projected workload for the current calendar year and each
14 of the subsequent 5 calendar years at the Coast Guard
15 Yard in Curtis Bay, Maryland, and the total full-time
16 equivalents (FTE) to be supported by the account estab-
17 lished under section 648 of title 14, United States Code,
18 (popularly known as the Yard Fund) in each such calendar
19 year to meet that workload. The report shall—

20 (1) detail work projects to be undertaken dur-
21 ing the current calendar year and during each of the
22 next five calendar years as part of the Mission Ef-
23 fectiveness Program (MEP) and projects projected
24 to be undertaken that are not associated with the
25 MEP;

1 (2) identify the number of regular full-time em-
2 ployees, term employees, and employees in any other
3 classification that are projected to be employed in
4 any capacity at the Yard in each such calendar year;

5 (3) specify how many of the employees in any
6 capacity that are expected to be employed at the
7 Yard in each such year are expected to be uniformed
8 members of the Coast Guard and how many are ex-
9 pected to be civilians;

10 (4) identify how many employees in any capac-
11 ity (whether uniformed or civilian) are projected to
12 be assigned in each such calendar year to each of
13 overhead positions, engineering positions, waterfront
14 support positions, and waterfront trade positions to
15 meet projected workloads in that year;

16 (5) identify the amount of overtime in each of
17 overhead positions, engineering positions, waterfront
18 support positions, and waterfront trade positions po-
19 sition that will be required to meet the projected
20 workload in each such calendar year;

21 (6) identify the number of trades training stu-
22 dents that are projected to be trained at the Yard
23 in each such calendar year; and

24 (7) address whether the FTE ceiling in place
25 for the Yard is sufficient to allow all work projects

1 scheduled for the current calendar year to be com-
2 pleted on schedule, and what level of FTE is likely
3 to be required in each of the subsequent five cal-
4 endar years to allow completion on schedule of the
5 projected workload in each of those years.

6 **SEC. 425. STUDY OF BRIDGES OVER NAVIGABLE WATERS.**

7 The Secretary of Transportation shall submit to the
8 Committee on Commerce, Science, and Transportation of
9 the Senate and the Committee on Transportation and In-
10 frastructure of the House of Representatives a comprehen-
11 sive study on the proposed construction or alteration of
12 any bridge, drawbridge, or causeway over navigable waters
13 with a channel depth of 25 feet or greater of the United
14 States that may impede or obstruct future navigation to
15 or from port facilities.

16 **SEC. 426. LIMITATION ON JURISDICTION OF STATES TO TAX**
17 **CERTAIN SEAMEN.**

18 Section 11108(b)(2)(B) of title 46, United States
19 Code, is amended to read as follows:

20 “(B) who performs regularly-assigned du-
21 ties while engaged as a master, officer, or crew-
22 man on a vessel operating on navigable waters
23 in 2 or more States.”

1 **SEC. 427. DECOMMISSIONED COAST GUARD VESSELS FOR**
2 **BERMUDA.**

3 (a) **IN GENERAL.**—Notwithstanding any other law,
4 upon the scheduled decommissioning of any Coast Guard
5 41-foot patrol boat and after the Government of Haiti has
6 exercised all of their options under section 411, the Com-
7 mandant of the Coast Guard shall give the Government
8 of Bermuda a right-of-first-refusal for conveyance of that
9 vessel to the Government of Bermuda, if that Government
10 of Bermuda agrees—

11 (1) to use the vessel for the Coast Guard of
12 Bermuda;

13 (2) to make the vessel available to the United
14 States Government if needed for use by the Com-
15 mandant in time of war or national emergency;

16 (3) to hold the United States Government
17 harmless for any claims arising from exposure to
18 hazardous materials, including asbestos and poly-
19 chlorinated biphenyls, after conveyance of the vessel,
20 except for claims arising from the use by the United
21 States Government under paragraph (2); and

22 (4) to any other conditions the Commandant
23 considers appropriate.

24 (b) **LIMITATION.**—The Commandant may not convey
25 more than 3 vessels to the Government of Bermuda pursu-
26 ant to this section.

1 (c) MAINTENANCE AND DELIVERY OF VESSEL.—

2 (1) MAINTENANCE.—Before conveyance of a
3 vessel under this section, the Commandant shall
4 make, to the extent practical and subject to other
5 Coast Guard mission requirements, every effort to
6 maintain the integrity of the vessel and its equip-
7 ment until the time of delivery.

8 (2) DELIVERY.—If a conveyance is made under
9 this section, the Commandant shall deliver a vessel
10 to a suitable mooring in the local area in its present
11 condition.

12 (3) TREATMENT OF CONVEYANCE.—The con-
13 veyance of a vessel under this section shall not be
14 considered a distribution in commerce for purposes
15 of section 6(e) of Public Law 94-469 (15 U.S.C.
16 2605(e)).

17 **SEC. 428. RECREATIONAL MARINE INDUSTRY.**

18 (a) EXCEPTION.—Section 2(3)(F) of the Longshore
19 and Harbor Workers' Compensation Act (33 U.S.C.
20 902(3)) is amended to read as follows:

21 “(F) individuals who—

22 “(i) are employed to manufacture any
23 recreational vessel under 165 feet in
24 length; or

1 “(ii) are employed to repair any rec-
2 reational vessel, or to dismantle any part
3 of any recreational vessel in connection
4 with repair of the vessel;”.

5 (b) RECREATIONAL ENDORSEMENT.—Section 12114
6 of title 46, United States Code, is amended by adding at
7 the end the following:

8 “(d) VESSELS MANUFACTURED BY CERTAIN INDI-
9 VIDUALS.—A vessel manufactured by individuals under
10 the exception provided in section 2(3)(F) of the Longshore
11 and Harbor Workers’ Compensation Act may only be
12 issued a recreational vessel endorsement under this chap-
13 ter, and that restriction shall be noted on the certification
14 of documentation issued under section 12105.”.

15 **SEC. 429. CONVEYANCE OF COAST GUARD VESSELS TO NAS-**
16 **SAU COUNTY, NEW YORK.**

17 (a) AUTHORITY TO CONVEY.—Notwithstanding the
18 Federal Property and Administrative Services Act of
19 1949, the Commandant of the Coast Guard may convey
20 to the Police Department of Nassau County, New York
21 (in this section referred to as the “Police Department”),
22 without consideration all right, title, and interest of the
23 United States in and to two Coast Guard 41-foot patrol
24 boats that the Commandant determines—

1 (1) is appropriate for use by the Police Depart-
2 ment; and

3 (2) is excess to the needs of the Coast Guard
4 and the Department of Homeland Security.

5 (b) CONDITION.—As a condition of conveying a vessel
6 under the authority provided in subsection (a), the Com-
7 mandant shall enter into an agreement with the Police De-
8 partment under which the Police Department agrees—

9 (1) to utilize the vessel for homeland security
10 and other appropriate purposes as jointly agreed
11 upon by the Commandant and the Police Depart-
12 ment before conveyance; and

13 (2) to take the vessel “as is” and to hold the
14 United States harmless for any claim arising with
15 respect to that vessel after conveyance of the vessel,
16 including any claims arising from the condition of
17 the vessel and its equipment or exposure to haz-
18 ardous materials.

19 (c) DELIVERY OF VESSEL.—The Commandant shall
20 deliver a vessel conveyed under the authority provided in
21 subsection (a)—

22 (1) at the place where the vessel is located on
23 the date of the conveyance;

24 (2) in its condition on the date of conveyance;
25 and

1 (3) without cost to the United States.

2 (d) OTHER EXCESS EQUIPMENT.—The Commandant
3 may further convey any excess equipment or parts from
4 other Coast Guard vessels, which are excess to the needs
5 of the Coast Guard and the Department of Homeland Se-
6 curity, to the Police Department for use to enhance the
7 operability of a vessel conveyed under the authority pro-
8 vided in subsection (a).

9 (e) ADDITIONAL TERMS AND CONDITIONS.—The
10 Commandant may require such additional terms and con-
11 ditions in connection with a conveyance authorized by sub-
12 section (a) as the Commandant considers appropriate to
13 protect the interests of the United States.

14 **TITLE V—BALLAST WATER** 15 **TREATMENT**

16 **SEC. 501. SHORT TITLE.**

17 This title may be cited as the “Ballast Water Treat-
18 ment Act of 2008”.

19 **SEC. 502. DECLARATION OF GOALS AND PURPOSES.**

20 Section 1002 of the Nonindigenous Aquatic Nuisance
21 Prevention and Control Act of 1990 (16 U.S.C. 4701) is
22 amended—

23 (1) by redesignating subsection (b) as sub-
24 section (c);

1 (2) by inserting after subsection (a) the fol-
2 lowing:

3 “(b) DECLARATION OF GOALS AND PURPOSES.—The
4 objective of this Act is to eliminate the threat and impacts
5 of nonindigenous aquatic nuisance species in the waters
6 of the United States. In order to achieve this objective,
7 it is declared that, consistent with the provisions of this
8 Act—

9 “(1) it is the national goal that ballast water
10 discharged into the waters of the United States will
11 contain no living (viable) organisms by the year
12 2015;

13 “(2) it is the national policy that the introduc-
14 tion of nonindigenous aquatic nuisance species in the
15 waters of the United States be prohibited; and

16 “(3) it is the national policy that Federal,
17 State, and local governments and the private sector
18 identify the most effective ways to coordinate pre-
19 vention efforts, and harmonize environmentally
20 sound methods to prevent, detect, monitor, and con-
21 trol nonindigenous aquatic nuisance species, in an
22 expeditious manner.”.

23 (3) in subsection (c)(1) (as redesignated by
24 paragraph (1) of this section)—

1 (A) by striking “prevent” and inserting
2 “eliminate”; and

3 (B) by inserting “treatment” after “ballast
4 water”;

5 (4) in subsection (c)(2) (as so redesignated)—

6 (A) by inserting “, detection, monitoring,”
7 after “prevention”; and

8 (B) by striking “the zebra mussel and
9 other”;

10 (5) in subsection (c)(3) (as so redesignated)—

11 (A) by inserting “detect,” after “prevent,”;
12 and

13 (B) by striking “from pathways other than
14 ballast water exchange”;

15 (6) in subsection (c)(4) (as so redesignated) by
16 striking “, including the zebra mussel”; and

17 (7) in subsection (c)(5) (as so redesignated)—

18 (A) by inserting “prevention,” after “in
19 the”;

20 (B) by inserting a comma after “manage-
21 ment”; and

22 (C) by striking “zebra mussels” and in-
23 serting “aquatic nuisance species”.

1 **SEC. 503. BALLAST WATER MANAGEMENT.**

2 (a) IN GENERAL.—Section 1101 of the Nonindige-
3 nous Aquatic Nuisance Prevention and Control Act of
4 1990 (16 U.S.C. 4711) is amended to read as follows:

5 **“SEC. 1101. BALLAST WATER MANAGEMENT.**

6 “(a) VESSELS TO WHICH THIS SECTION APPLIES.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graphs (2), (3), (4), and (5), this section applies to
9 a vessel that engages in the discharge of ballast
10 water in waters subject to the jurisdiction of the
11 United States that—

12 “(A) is designed, constructed, or adapted
13 to carry ballast water; and

14 “(B)(i) is a vessel of the United States; or

15 “(ii) is a foreign vessel that—

16 “(I) is en route to a United States
17 port or place; or

18 “(II) has departed from a United
19 States port or place and is within waters
20 subject to the jurisdiction of the United
21 States.

22 “(2) PERMANENT BALLAST WATER VESSELS.—

23 This section does not apply to a vessel that carries
24 all of its permanent ballast water in sealed tanks
25 that are not subject to discharge or a vessel that

1 continuously takes on and discharges ballast water
2 in a flow-through system.

3 “(3) ARMED FORCES VESSELS.—

4 “(A) EXEMPTION.—Except as provided in
5 subparagraph (B), this section does not apply
6 to a vessel of the Armed Forces.

7 “(B) BALLAST WATER MANAGEMENT PRO-
8 GRAM.—The Secretary and the Secretary of De-
9 fense, after consultation with each other and
10 with the Under Secretary and the heads of
11 other appropriate Federal agencies as deter-
12 mined by the Secretary, shall implement a bal-
13 last water management program, including the
14 issuance of standards for ballast water ex-
15 change and treatment and for sediment man-
16 agement, for vessels of the Armed Forces under
17 their respective jurisdictions designed, con-
18 structed, or adapted to carry ballast water that
19 are—

20 “(i) consistent with the requirements
21 of this section, including the deadlines es-
22 tablished by this section; and

23 “(ii) at least as stringent as the re-
24 quirements issued for such vessels under

1 section 312 of the Federal Water Pollution
2 Control Act (33 U.S.C. 1322).

3 “(4) SPECIAL RULE FOR SMALL RECREATIONAL
4 VESSELS.—In applying this section to recreational
5 vessels less than 50 meters in length that have a
6 maximum ballast water capacity of 8 cubic meters,
7 the Secretary may issue alternative measures for
8 managing ballast water in a manner that is con-
9 sistent with the requirements of this section.

10 “(5) MARAD VESSELS.—Subsection (f) does not
11 apply to any vessel in the National Defense Reserve
12 Fleet that is scheduled to be disposed of through
13 scrapping or sinking.

14 “(b) UPTAKE AND DISCHARGE OF BALLAST WATER
15 OR SEDIMENT.—

16 “(1) PROHIBITION.—The operator of a vessel to
17 which this section applies may not conduct the up-
18 take or discharge of ballast water or sediment in wa-
19 ters subject to the jurisdiction of the United States
20 except as provided in this section.

21 “(2) EXCEPTIONS.—Paragraph (1) does not
22 apply to the uptake or discharge of ballast water or
23 sediment in the following circumstances:

24 “(A) The uptake or discharge is solely for
25 the purpose of—

1 “(i) ensuring the safety of the vessel
2 in an emergency situation; or

3 “(ii) saving a life at sea.

4 “(B) The uptake or discharge is accidental
5 and the result of damage to the vessel or its
6 equipment and—

7 “(i) all reasonable precautions to pre-
8 vent or minimize ballast water and sedi-
9 ment discharge have been taken before and
10 after the damage occurs, the discovery of
11 the damage, and the discharge; and

12 “(ii) the owner or officer in charge of
13 the vessel did not willfully or recklessly
14 cause the damage.

15 “(C) The uptake or discharge is solely for
16 the purpose of avoiding or minimizing the dis-
17 charge from the vessel of pollution that would
18 otherwise violate applicable Federal or State
19 law.

20 “(D) The uptake or discharge of ballast
21 water and sediment occurs at the same location
22 where the whole of that ballast water and that
23 sediment originated and there is no mixing with
24 ballast water and sediment from another area

1 that has not been managed in accordance with
2 the requirements of this section.

3 “(c) VESSEL BALLAST WATER MANAGEMENT
4 PLAN.—

5 “(1) IN GENERAL.—The operator of a vessel to
6 which this section applies shall conduct all ballast
7 water management operations of that vessel in ac-
8 cordance with a ballast water management plan de-
9 signed to minimize the discharge of aquatic nuisance
10 species that—

11 “(A) meets the requirements prescribed by
12 the Secretary by regulation; and

13 “(B) is approved by the Secretary.

14 “(2) APPROVAL CRITERIA.—

15 “(A) IN GENERAL.—The Secretary may
16 not approve a ballast water management plan
17 unless the Secretary determines that the plan—

18 “(i) describes in detail the actions to
19 be taken to implement the ballast water
20 management requirements established
21 under this section;

22 “(ii) describes in detail the procedures
23 to be used for disposal of sediment at sea
24 and on shore in accordance with the re-
25 quirements of this section;

1 “(iii) describes in detail safety proce-
2 dures for the vessel and crew associated
3 with ballast water management;

4 “(iv) designates the officer on board
5 the vessel in charge of ensuring that the
6 plan is properly implemented;

7 “(v) contains the reporting require-
8 ments for vessels established under this
9 section and a copy of each form necessary
10 to meet those requirements; and

11 “(vi) meets all other requirements
12 prescribed by the Secretary.

13 “(B) FOREIGN VESSELS.—The Secretary
14 may approve a ballast water management plan
15 for a foreign vessel on the basis of a certificate
16 of compliance issued by the vessel’s country of
17 registration if the government of that country
18 requires the ballast water management plan for
19 that vessel to include information comparable to
20 the information required under regulations
21 issued by the Secretary.

22 “(3) COPY OF PLAN ON BOARD VESSEL.—The
23 owner or operator of a vessel to which this section
24 applies shall—

1 “(A) maintain a copy of the vessel’s ballast
2 water management plan on board at all times;
3 and

4 “(B) keep the plan readily available for ex-
5 amination by the Secretary and the head of the
6 appropriate agency of the State in which the
7 vessel is located at all reasonable times.

8 “(d) VESSEL BALLAST WATER RECORD BOOK.—

9 “(1) IN GENERAL.—The owner or operator of a
10 vessel to which this section applies shall maintain, in
11 English on board the vessel, a ballast water record
12 book in which each operation of the vessel involving
13 ballast water or sediment discharge is recorded in
14 accordance with regulations issued by the Secretary.

15 “(2) AVAILABILITY.—The ballast water record
16 book—

17 “(A) shall be kept readily available for ex-
18 amination by the Secretary and the head of the
19 appropriate agency of the State in which the
20 vessel is located at all reasonable times; and

21 “(B) notwithstanding paragraph (1), may
22 be kept on the towing vessel in the case of an
23 unmanned vessel under tow.

24 “(3) RETENTION PERIOD.—The ballast water
25 record book shall be retained—

1 “(A) on board the vessel for a period of 3
2 years after the date on which the last entry in
3 the book is made; and

4 “(B) under the control of the vessel’s
5 owner for an additional period of 3 years.

6 “(4) REGULATIONS.—In the regulations issued
7 under this section, the Secretary shall require, at a
8 minimum, that—

9 “(A) each entry in the ballast water record
10 book be signed and dated by the officer in
11 charge of the ballast water operation recorded;

12 “(B) each completed page in the ballast
13 water record book be signed and dated by the
14 master of the vessel; and

15 “(C) at least monthly, the owner or oper-
16 ator of the vessel transmit such information to
17 the Secretary regarding the ballast operations
18 of the vessel as the Secretary may require.

19 “(5) ALTERNATIVE MEANS OF RECORD-
20 KEEPING.—The Secretary may provide, by regula-
21 tion, for alternative methods of recordkeeping, in-
22 cluding electronic recordkeeping, to comply with the
23 requirements of this subsection. Any electronic rec-
24 ordkeeping method authorized by the Secretary shall
25 support the inspection and enforcement provisions of

1 this Act and shall comply with applicable standards
2 of the National Institute of Standards and Tech-
3 nology and the Office of Management and Budget
4 governing reliability, integrity, identity authentica-
5 tion, and nonrepudiation of stored electronic data.

6 “(e) BALLAST WATER EXCHANGE REQUIRE-
7 MENTS.—

8 “(1) IN GENERAL.—

9 “(A) REQUIREMENT.—Until a vessel is re-
10 quired to conduct ballast water treatment in ac-
11 cordance with subsection (f), the operator of a
12 vessel to which this section applies may not dis-
13 charge ballast water in waters subject to the ju-
14 risdiction of the United States, except after—

15 “(i) conducting ballast water exchange
16 as required by this subsection, in accord-
17 ance with regulations issued by the Sec-
18 retary;

19 “(ii) using ballast water treatment
20 technology that meets the performance
21 standards of subsection (f); or

22 “(iii) using environmentally sound al-
23 ternative ballast water treatment tech-
24 nology if the Secretary determines that
25 such treatment technology is at least as ef-

1 fective as the ballast water exchange re-
2 quired by clause (i) in preventing and con-
3 trolling the introduction of aquatic nui-
4 sance species.

5 “(B) BALLAST WATER REGULATIONS.—
6 Ballast water exchange regulations developed
7 under subparagraph (A)(i) shall contain—

8 “(i) a provision for ballast water ex-
9 change that requires—

10 “(I) at least 1 empty-and-refill
11 cycle, outside the exclusive economic
12 zone or in an alternative exchange
13 area designated by the Secretary, of
14 each ballast tank that contains ballast
15 water to be discharged into waters of
16 the United States; or

17 “(II) for a case in which the
18 master of a vessel determines that
19 compliance with the requirement
20 under subclause (I) is impracticable, a
21 sufficient number of flow-through ex-
22 changes of ballast water, outside the
23 exclusive economic zone or in an alter-
24 native exchange area designated by
25 the Secretary, to achieve replacement

1 of at least 95 percent of ballast water
2 in ballast tanks of the vessel, as deter-
3 mined by a certification dye study
4 conducted or model developed by the
5 Secretary and recorded in the ballast
6 water management plan of the vessel
7 pursuant to subsection (c)(2)(A)(i);
8 and

9 “(ii) if a ballast water exchange is not
10 undertaken pursuant to subsection (h), a
11 contingency procedure that requires the
12 master of a vessel to use the best prac-
13 ticable technology or practice to treat bal-
14 last discharge.

15 “(C) TECHNOLOGY EFFICACY.—For pur-
16 poses of this paragraph, a ballast water treat-
17 ment technology shall be considered to be at
18 least as effective as the ballast water exchange
19 required by clause (i) in preventing and control-
20 ling the introduction of aquatic nuisance species
21 if preliminary experiments prior to installation
22 of the technology aboard the vessel demonstrate
23 that the technology meets the ballast water dis-
24 charge standard provided under Regulation D-
25 2 of the International Convention for the Con-

1 trol and Management of Ships' Ballast Water
2 and Sediments as signed on February 13, 2004.

3 “(2) GUIDANCE; 5-YEAR USAGE.—

4 “(A) GUIDANCE.—Not later than one year
5 after the date of enactment of the Ballast
6 Water Treatment Act of 2008, the Secretary
7 shall develop and issue guidance on technology
8 that may be used under paragraph (1)(A)(iii).

9 “(B) 5-YEAR USAGE.—The Secretary shall
10 allow a vessel using environmentally-sound al-
11 ternative ballast treatment technology under
12 paragraph (1)(A)(iii) to continue to use that
13 technology for 5 years after the date on which
14 the environmentally-sound alternative ballast
15 water treatment technology was first placed in
16 service on the vessel or the date on which treat-
17 ment requirements under subsection (f) become
18 applicable, whichever is later.

19 “(3) EXCHANGE AREAS.—

20 “(A) VESSELS OUTSIDE THE UNITED
21 STATES EEZ.—The operator of a vessel en route
22 to a United States port or place from a port or
23 place outside the waters subject to the jurisdic-
24 tion of the United States shall conduct ballast
25 water exchange—

1 “(i) before arriving at a United States
2 port or place;

3 “(ii) at least 200 nautical miles from
4 the nearest point of land; and

5 “(iii) in water at least 200 meters in
6 depth.

7 “(B) COASTAL VOYAGES.—The operator of
8 a vessel originating from a port or place within
9 the United States exclusive economic zone, or
10 from a port within 200 nautical miles of the
11 United States in Canada, Mexico, or other ports
12 designated by the Secretary for purposes of this
13 section, shall conduct ballast water exchange—

14 “(i) at least 50 nautical miles from
15 the nearest point of land; and

16 “(ii) in water at least 200 meters in
17 depth.

18 “(4) SAFETY OR STABILITY EXCEPTION.—

19 “(A) SECRETARIAL DETERMINATION.—
20 Paragraph (3) does not apply to the discharge
21 of ballast water if the Secretary determines that
22 compliance with that paragraph would threaten
23 the safety or stability of the vessel, its crew, or
24 is passengers.

1 “(B) MASTER OF THE VESSEL DETER-
2 MINATION.—Paragraph (3) does not apply to
3 the discharge of ballast water if the master of
4 a vessel determines that compliance with that
5 paragraph would threaten the safety or stability
6 of the vessel, its crew, or its passengers because
7 of adverse weather, equipment failure, or any
8 other relevant condition.

9 “(C) NOTIFICATION REQUIRED.—When-
10 ever the master of a vessel is unable to comply
11 with the requirements of paragraph (3) because
12 of a determination made under subparagraph
13 (B), the master of the vessel shall—

14 “(i) notify the Secretary as soon as
15 practicable thereafter but no later than 24
16 hours after making that determination and
17 shall ensure that the determination, the
18 reasons for the determination, and the no-
19 tice are recorded in the vessel’s ballast
20 water record book; and

21 “(ii) undertake ballast water ex-
22 change—

23 “(I) in an alternative area that
24 may be designated by the Secretary,
25 after consultation with the Under Sec-

1 retary, and other appropriate Federal
2 agencies as determined by the Sec-
3 retary, and representatives of States
4 the waters of which may be affected
5 by the discharge of ballast water; or

6 “(II) in accordance with para-
7 graph (6) if safety or stability con-
8 cerns prevent undertaking ballast
9 water exchange in the alternative
10 area.

11 “(D) REVIEW OF CIRCUMSTANCES.—If the
12 master of a vessel conducts a ballast water dis-
13 charge under the provisions of this paragraph,
14 the Secretary shall review the circumstances to
15 determine whether the discharge met the re-
16 quirements of this paragraph. The review under
17 this clause shall be in addition to any other en-
18 forcement authority of the Secretary.

19 “(5) DISCHARGE UNDER WAIVER.—

20 “(A) SUBSTANTIAL BUSINESS HARDSHIP
21 WAIVER.—If, because of the short length of a
22 voyage, the operator of a vessel is unable to dis-
23 charge ballast water in accordance with the re-
24 quirements of paragraph (3)(B) without sub-
25 stantial business hardship, as determined under

1 regulations issued by the Secretary, the oper-
2 ator may request a waiver from the Secretary
3 and discharge the ballast water in accordance
4 with paragraph (6). A request for a waiver
5 under this subparagraph shall be submitted to
6 the Secretary at such time and in such form
7 and manner as the Secretary may require.

8 “(B) SUBSTANTIAL BUSINESS HARD-
9 SHIP.—For purposes of subparagraph (A), the
10 factors taken into account in determining sub-
11 stantial business hardship shall include wheth-
12 er—

13 “(i) compliance with the requirements
14 of paragraph (3)(B) would require a suffi-
15 ciently great change in routing or sched-
16 uling of service as to compromise the eco-
17 nomic or commercial viability of the trade
18 or business in which the vessel is operated;
19 or

20 “(ii) it is reasonable to expect that the
21 trade or business or service provided will
22 be continued only if a waiver is granted
23 under subparagraph (A).

24 “(6) PERMISSIBLE DISCHARGE.—

1 “(A) IN GENERAL.—The discharge of bal-
2 last water shall be considered to be carried out
3 in accordance with this paragraph if it is—

4 “(i) in an area designated for that
5 purpose by the Secretary, after consulta-
6 tion with the Under Secretary, the heads
7 of other appropriate Federal agencies as
8 determined by the Secretary, and rep-
9 resentatives of any State that may be af-
10 fected by discharge of ballast water in that
11 area; or

12 “(ii) into a reception facility described
13 in subsection (f)(2).

14 “(B) LIMITATION ON VOLUME.—The vol-
15 ume of any ballast water discharged under this
16 paragraph may not exceed the volume necessary
17 to ensure the safe operation of the vessel.

18 “(7) CERTAIN GEOGRAPHICALLY LIMITED
19 ROUTES.—Notwithstanding paragraph (1), the oper-
20 ator of a vessel is not required to comply with the
21 requirements of this subsection and subsection
22 (h)(1)—

23 “(A) if the vessel operates exclusively—

24 “(i) within the Great Lakes eco-
25 system; or

1 “(ii) between or among the main
2 group of the Hawaiian Islands; or

3 “(B) if the vessel operates exclusively with-
4 in any area with respect to which the Secretary
5 has determined, after consultation with the
6 Under Secretary, the Administrator, and rep-
7 resentatives of States the waters of which would
8 be affected by the discharge of ballast water
9 from the vessel, that the risk of introducing
10 aquatic nuisance species through ballast water
11 discharge in the areas in which the vessel oper-
12 ates is insignificant.

13 “(8) NATIONAL MARINE SANCTUARIES AND
14 OTHER PROHIBITED AREAS.—

15 “(A) IN GENERAL.—A vessel may not con-
16 duct ballast water exchange or discharge ballast
17 water under this subsection—

18 “(i) within a national marine sanc-
19 tuary designated under the National Ma-
20 rine Sanctuaries Act (16 U.S.C. 1431 et
21 seq.);

22 “(ii) a marine national monument
23 designated under the Act of June 8, 1906
24 (chapter 3060; 16 U.S.C. 433 et seq.),

1 popularly known as the Antiquities Act of
2 1906;

3 “(iii) a national park;

4 “(iv) in waters that are approved by
5 the Administrator as a nondischarge zone
6 under section 312(n)(7) of the Federal
7 Water Pollution Control Act (33 U.S.C.
8 1322(n)(7)); or

9 “(v) in any other waters designated by
10 the Secretary, in consultation with the
11 Under Secretary and the Administrator.

12 “(B) ADDITIONAL AREAS.—The Secretary
13 shall, after consultation with the Under Sec-
14 retary, the Administrator, and other appro-
15 priate Federal and State agencies, as deter-
16 mined by the Secretary, and opportunity for
17 public comment, establish criteria for desig-
18 nating additional areas in which, due to their
19 sensitive ecological nature, restrictions on the
20 discharge of vessel ballast water or sediment
21 containing aquatic nuisance species are war-
22 ranted.

23 “(C) STATE WATERS.—The Governor of
24 any State may submit a written petition to the
25 Secretary to designate an area of State waters

1 that meets the criteria established under sub-
2 paragraph (B) of this paragraph. The petition
3 shall include a detailed analysis as to how the
4 area proposed to be designated meets those cri-
5 teria. An area may not be designated under this
6 paragraph until the Secretary determines, based
7 on evidence provided by the Governor, that ade-
8 quate alternative areas or reception facilities for
9 discharging ballast water or sediment are avail-
10 able. Within 180 days after receiving such a pe-
11 tition, the Secretary shall—

12 “(i) make a determination as to
13 whether the proposal meets the require-
14 ments of this paragraph for designation;
15 and

16 “(ii) either—

17 “(I) publish a written notice of
18 the petition and the proposed restric-
19 tions in the Federal Register; or

20 “(II) notify the Governor in writ-
21 ing that the area proposed for des-
22 ignation does not qualify for designa-
23 tion under this paragraph and include
24 in the notice a detailed explanation of

1 why the area does not qualify for des-
2 ignation under this paragraph.

3 “(D) PROCEDURE; DEADLINE.—Before
4 designating any area in response to a petition
5 under subparagraph (C), the Secretary, after
6 providing an opportunity for public comment,
7 shall publish notice in the Federal Register of
8 the proposed designation. The Secretary and
9 the Under Secretary shall make such informa-
10 tion available through other appropriate mecha-
11 nisms, including a notice to mariners and inclu-
12 sion on nautical charts.

13 “(E) EFFECT ON STATE LAW.—Nothing in
14 this paragraph supersedes any State law in ef-
15 fect as of January 1, 2007, that restricts the
16 discharge of ballast water or sediment in State
17 waters and requires such discharges to be made
18 into reception facilities.

19 “(9) VESSELS WITHOUT PUMPABLE BALLAST
20 WATER OR WITH NO BALLAST ON BOARD.—Not later
21 than 180 days after the date of enactment of the
22 Ballast Water Treatment Act of 2008, the Secretary
23 shall promulgate regulations to minimize the dis-
24 charge of invasive species from vessels entering a
25 United States port or place from outside the United

1 States exclusive economic zone that do not exchange
2 their ballast water pursuant to paragraph (1)(A)(iii)
3 of this subsection and claim no ballast on board, or
4 that claim to be carrying only unpumpable quan-
5 tities of ballast, including, at a minimum, a require-
6 ment that—

7 “(A) such a ship shall conduct saltwater
8 flushing of ballast water tanks—

9 “(i) outside the exclusive economic
10 zone; or

11 “(ii) at a designated alternative ex-
12 change site; and

13 “(B) before being allowed entry into the
14 Great Lakes beyond the St. Lawrence Seaway,
15 the master of such a vessel shall certify that the
16 vessel has complied with each applicable re-
17 quirement under this subsection.

18 “(f) BALLAST WATER TREATMENT REQUIRE-
19 MENTS.—

20 “(1) PERFORMANCE STANDARDS.—A vessel to
21 which this section applies shall conduct ballast water
22 treatment in accordance with the requirements of
23 this subsection before discharging ballast water in
24 waters subject to the jurisdiction of the United

1 States so that the ballast water discharged will con-
2 tain—

3 “(A) less than 1 living organism per 10
4 cubic meters that is 50 or more micrometers in
5 minimum dimension;

6 “(B) less than 1 living organism per 10
7 milliliters that is less than 50 micrometers in
8 minimum dimension and more than 10 microm-
9 eters in minimum dimension;

10 “(C) concentrations of indicator microbes
11 that are less than—

12 “(i) 1 colony-forming unit of
13 toxicogenic *Vibrio cholera* (serotypes O1
14 and O139) per 100 milliliters or less than
15 1 colony-forming unit of that microbe per
16 gram of wet weight of zoological samples;

17 “(ii) 126 colony-forming units of *esch-*
18 *erichia coli* per 100 milliliters; and

19 “(iii) 33 colony-forming units of intes-
20 tinal enterococci per 100 milliliters; and

21 “(D) concentrations of such additional in-
22 dicator microbes and of viruses as may be spec-
23 ified in regulations issued by the Secretary and
24 the Administrator, after consultation with other
25 appropriate Federal agencies as determined by

1 the Secretary and the Administrator, that are
2 less than the amount specified in those regula-
3 tions.

4 “(2) RECEPTION FACILITY EXCEPTION.—

5 “(A) IN GENERAL.—Paragraph (1) does
6 not apply to a vessel that discharges ballast
7 water into—

8 “(i) a land-based facility for the re-
9 ception of ballast water that meets stand-
10 ards issued by the Administrator; or

11 “(ii) a water-based facility for the re-
12 ception of ballast water that meets stand-
13 ards issued by the Secretary.

14 “(B) ISSUANCE OF STANDARDS.—Not
15 later than one year after the date of enactment
16 of the Ballast Water Treatment Act of 2008,
17 the Secretary, in consultation with the heads of
18 other appropriate Federal agencies as deter-
19 mined by the Secretary, shall issue standards
20 for—

21 “(i) the reception of ballast water in
22 land-based and water-based reception fa-
23 cilities; and

24 “(ii) the disposal or treatment of such
25 ballast water in a way that does not impair

1 or damage the environment, human health,
2 property, or resources.

3 “(3) TREATMENT SYSTEM IMPLEMENTATION.—

4 “(A) IMO STANDARD IMPLEMENTATION.—

5 A vessel to which this section applies shall have
6 a ballast water treatment system that meets the
7 standards provided under Regulation D-2 of
8 the International Convention for the Control
9 and Management of Ships’ Ballast Water and
10 Sediments as signed on February 13, 2004, be-
11 ginning on the date of the first drydocking of
12 the vessel after December 31, 2008.

13 “(B) UNITED STATES STANDARD IMPLE-
14 MENTATION.—Paragraph (1) applies to a vessel
15 to which this section applies beginning on the
16 date of the first drydocking of the vessel after
17 December 31, 2011, but not later than Decem-
18 ber 31, 2013.

19 “(C) PERIOD FOR USE OF EQUIPMENT.—

20 The Secretary shall allow a vessel using a treat-
21 ment system installed under this subsection to
22 continue to use that system for 10 years after
23 the date on which that system was first placed
24 in service on the vessel.

1 “(4) TREATMENT SYSTEM APPROVAL RE-
2 QUIRED.—The operator of a vessel to which this sec-
3 tion applies may not use a ballast water treatment
4 system to comply with the requirements of this sub-
5 section unless the system is approved by the Sec-
6 retary. The Secretary, in consultation with the Ad-
7 ministrators, shall issue regulations establishing a
8 process for such approval, after consultation with
9 the heads of other appropriate Federal agencies as
10 determined by the Secretary.

11 “(5) RELIANCE ON CERTAIN REPORTS, DOCU-
12 MENTS, AND RECORDS.—In approving a ballast
13 water treatment system under this subsection, the
14 Secretary may rely on reports, documents, and
15 records of persons that meet such requirements as
16 the Secretary may prescribe.

17 “(6) FEASIBILITY REVIEW.—

18 “(A) IN GENERAL.—Not less than 2 years
19 before January 1, 2012, the Secretary, in con-
20 sultation with the Administrator, shall complete
21 a review to determine whether appropriate tech-
22 nologies are available to achieve the perform-
23 ance standards set forth in paragraph (1). In
24 reviewing the technologies the Secretary, the
25 Administrator, and the heads of other appro-

1 priate Federal agencies as determined by the
2 Secretary, shall consider—

3 “(i) the effectiveness of a technology
4 in achieving the standards;

5 “(ii) feasibility in terms of compat-
6 ibility with ship design and operations;

7 “(iii) safety considerations;

8 “(iv) whether a technology has an ad-
9 verse impact on the environment; and

10 “(v) cost effectiveness.

11 “(B) DELAY IN SCHEDULED APPLICA-
12 TION.—If the Secretary, in consultation with
13 the Administrator, determines, on the basis of
14 the review conducted under subparagraph (A),
15 and after an opportunity for a public hearing,
16 that technology that complies with the stand-
17 ards set forth in paragraph (1) in accordance
18 with the schedule set forth in paragraph (3) is
19 not available for any class of vessels, the Sec-
20 retary shall require use of technology that
21 achieves the performance levels of the best per-
22 forming technology available. If the Secretary
23 finds that no technology is available that will
24 achieve the standards set forth in paragraph
25 (1), then the Secretary shall—

1 “(i) extend the date on which that
2 paragraph applies to vessels for a period of
3 not more than 24 months; and

4 “(ii) recommend action to ensure that
5 compliance with the extended date schedule
6 for that subparagraph is achieved.

7 “(C) MORE PROTECTIVE STANDARDS; EAR-
8 LIER IMPLEMENTATION.—

9 “(i) PERFORMANCE STANDARDS.—If
10 the Secretary and the Administrator deter-
11 mine that ballast water treatment tech-
12 nology exists that exceeds the performance
13 standards required under paragraph (1),
14 the Secretary and the Administrator shall,
15 for any class of vessels, revise the perform-
16 ance standards to incorporate the higher
17 performance standards.

18 “(ii) IMPLEMENTATION.—If the Sec-
19 retary and the Administrator determine
20 that technology that achieves the applica-
21 ble performance standards required under
22 paragraph (1) can be implemented earlier
23 than required by this subsection, the Sec-
24 retary and the Administrator shall, for any
25 class of vessels, accelerate the implementa-

1 tion schedule under paragraph (3). If the
2 Secretary and the Administrator accelerate
3 the implementation schedule pursuant to
4 this clause, the Secretary and the Adminis-
5 trator shall provide at least 24 months no-
6 tice before such accelerated implementation
7 goes into effect.

8 “(iii) DETERMINATIONS NOT MUTU-
9 ALLY EXCLUSIVE.—The Secretary and the
10 Administrator shall take action under both
11 clause (i) and clause (ii) if the Secretary
12 and the Administrator make determina-
13 tions under both clauses.

14 “(7) DELAY OF APPLICATION FOR VESSEL PAR-
15 TICIPATING IN PROMISING TECHNOLOGY EVALUA-
16 TIONS.—

17 “(A) IN GENERAL.—If a vessel participates
18 in a program, including the Shipboard Tech-
19 nology Evaluation Program established under
20 section 1104, using a technology approved by
21 the Secretary to test and evaluate promising
22 ballast water treatment technologies that are
23 likely to result in treatment technologies achiev-
24 ing a standard that is the same as or more
25 stringent than the standard that applies under

1 paragraph (1) before the first date on which
2 paragraph (1) applies to that vessel, the Sec-
3 retary shall allow the vessel to use that tech-
4 nology for a 10-year period and such vessel
5 shall be deemed to be in compliance with the re-
6 quirements of paragraph (1) during that 10-
7 year period.

8 “(B) VESSEL DIVERSITY.—The Sec-
9 retary—

10 “(i) shall seek to ensure that a wide
11 variety of vessel types and voyages are in-
12 cluded in the program; but

13 “(ii) may not grant a delay under this
14 paragraph to more than 5 percent of the
15 vessels to which this section applies.

16 “(C) TERMINATION OF GRACE PERIOD.—
17 The Secretary may terminate the 10-year grace
18 period of a vessel under subparagraph (A) if—

19 “(i) the participation of the vessel in
20 the program is terminated without the con-
21 sent of the Secretary;

22 “(ii) the vessel does not comply with
23 manufacturer’s standards for operating the
24 ballast water treatment technology used on
25 such vessel; or

1 “(iii) the Secretary determines that
2 the approved technology is insufficiently ef-
3 fective or is causing harm to the environ-
4 ment.

5 “(8) REVIEW OF STANDARDS.—

6 “(A) IN GENERAL.—In December 2012
7 and every third year thereafter, the Adminis-
8 trator and the Secretary shall complete review
9 of ballast water treatment standards in effect
10 under this subsection to determine, after con-
11 sultation with the heads of other appropriate
12 Federal agencies determined by the Adminis-
13 trator and the Secretary, if the standards under
14 this subsection should be revised to reduce the
15 amount of organisms or microbes allowed to be
16 discharged, taking into account improvements
17 in the scientific understanding of biological
18 processes leading to the spread of aquatic nui-
19 sance species and improvements in ballast water
20 treatment technology. The Administrator and
21 the Secretary shall revise, by regulation, the re-
22 quirements of this subsection as necessary.

23 “(B) APPLICATION OF ADJUSTED STAND-
24 ARDS.—In the regulations, the Secretary and
25 the Administrator shall provide for the prospec-

1 tive application of the adjusted standards issued
2 under this paragraph to vessels constructed
3 after the date on which the adjusted standards
4 apply and for an orderly phase-in of the ad-
5 justed standards to existing vessels.

6 “(9) HIGH-RISK VOYAGES.—

7 “(A) VESSEL LIST.—Not later than one
8 year after the date of enactment of the Ballast
9 Water Treatment Act of 2008, the Secretary
10 shall publish and regularly update a list of ves-
11 sels, not equipped with ballast water equipment
12 under this section, identified by the States that,
13 due to factors such as the origin of their voy-
14 ages, the frequency of their voyages, the volume
15 of ballast water they carry, the biological make-
16 up of the ballast water, and the fact that they
17 frequently discharge ballast water under an ex-
18 ception to subsection (e), pose a high risk of in-
19 troducing aquatic nuisance species into the wa-
20 ters of those States.

21 “(B) INCENTIVE PROGRAMS.—The Sec-
22 retary shall give priority to vessels on the list
23 for participation in a program described in
24 paragraph (7). Any Federal agency, and any
25 State agency with respect to vessels identified

1 by such State to the Secretary for inclusion on
2 a list under subparagraph (A), may develop and
3 implement technology development programs or
4 other incentives (whether positive or negative)
5 in order to encourage the adoption of ballast
6 water treatment technology by those vessels
7 consistent with the requirements of this section
8 on an expedited basis.

9 “(10) NONAPPLICABILITY OF VESSELS OPER-
10 ATING EXCLUSIVELY IN DETERMINED AREA.—

11 “(A) IN GENERAL.—Except as provided in
12 subparagraph (D), paragraph (1) does not
13 apply to a vessel that operates exclusively with-
14 in a geographically limited area if the Secretary
15 and the Administrator have determined through
16 a rulemaking proceeding, after consultation
17 with the heads of other appropriate Federal
18 agencies as determined by the Secretary and
19 the Administrator, and representatives of States
20 the waters of which could be affected by the
21 discharge of ballast water from the vessel, that
22 the risk of introducing aquatic nuisance species
23 through ballast water discharge from the vessel
24 is insignificant.

1 “(B) CERTAIN VESSELS.—A vessel con-
2 structed before January 1, 2001, that operates
3 exclusively within the Great Lakes ecosystem
4 shall be presumed not to pose a significant risk
5 of introducing aquatic nuisance species unless
6 the Secretary and the Administrator find other-
7 wise in a rulemaking proceeding under subpara-
8 graph (A).

9 “(C) BEST PRACTICES.—The Secretary
10 and the Administrator shall develop, and re-
11 quire a vessel exempted from complying with
12 the requirements of paragraph (1) under this
13 paragraph to follow, best practices to minimize
14 the spreading of aquatic nuisance species in its
15 operation area. The best practices shall be de-
16 veloped in consultation with the Governors of
17 States that may be affected.

18 “(D) STOPPING THE SPREAD OF INFEC-
19 TIOUS DISEASE.—The Secretary, at the request
20 of the Secretary of Agriculture, shall require a
21 vessel to which paragraph (1) does not apply in
22 accordance with subparagraph (A) to have a
23 ballast water treatment system approved by the
24 Secretary under this subsection to stop the

1 spread of infectious diseases to plants and ani-
2 mals as otherwise authorized by law.

3 “(11) TESTING PROTOCOLS AND LABORA-
4 TORIES.—

5 “(A) IN GENERAL.—The Secretary and the
6 Administrator, shall, no later than 90 days
7 after the date of enactment of the Ballast
8 Water Treatment Act of 2008 and without re-
9 gard to chapter 5 of title 5, United States
10 Code, issue interim protocols for verifying the
11 performance of ballast water treatment tech-
12 nologies required by this Act, criteria for certi-
13 fying laboratories to evaluate such technologies,
14 and procedures for approving treatment equip-
15 ment and systems for shipboard use.

16 “(B) PROTOCOLS AND PROCEDURES FOR
17 TREATMENT TECHNOLOGIES.—In developing
18 protocols and procedures for verifying and ap-
19 proving treatment technologies, the Secretary
20 and the Administrator, shall consider using ex-
21 isting protocols and procedures including meth-
22 ods used as part of the Ballast Water Manage-
23 ment Demonstration Program by the Environ-
24 mental Protection Agency as a part of its Envi-
25 ronmental Testing & Verification Program, or

1 by the Secretary as part of the Coast Guard's
2 Shipboard Technology Evaluation Program.

3 “(C) LABORATORIES.—The Secretary and
4 the Administrator shall utilize Federal or non-
5 Federal laboratories that meet standards estab-
6 lished by the Secretary for the purpose of evalu-
7 ating and certifying ballast water treatment
8 technologies and equipment under this sub-
9 section.

10 “(D) REQUIREMENTS; UPDATES.—The
11 Secretary and the Administrator shall periodi-
12 cally review and, if necessary, revise the cri-
13 teria, protocols, and procedures developed under
14 this paragraph.

15 “(12) PROGRAM TO SUPPORT THE PROMULGA-
16 TION AND IMPLEMENTATION OF STANDARDS.—

17 “(A) IN GENERAL.—The Secretary and the
18 Administrator, in coordination with the Under
19 Secretary, the Task Force and other appro-
20 priate Federal agencies, shall carry out a co-
21 ordinated program to support the promulgation
22 and implementation of standards under this
23 subsection to prevent the introduction and
24 spread of aquatic invasive species by vessels.

1 The program established under this section
2 shall, at a minimum—

3 “(i) characterize physical, chemical,
4 and biological harbor conditions relevant to
5 ballast discharge into United States waters
6 to inform the design and implementation
7 of ship vector control technologies and
8 practices;

9 “(ii) develop testing protocols for de-
10 termining the effectiveness of vessel vector
11 monitoring and control technologies and
12 practices;

13 “(iii) demonstrate methods for miti-
14 gating the spread of invasive species by
15 coastal voyages, including exploring the ef-
16 fectiveness of alternative exchange zones in
17 the near coastal areas and other methods
18 proposed to reduce transfers of organisms;

19 “(iv) verify the practical effectiveness
20 of any process for approving a type of al-
21 ternative ballast water management as
22 meeting standards established under this
23 subsection, to ensure that the process pro-
24 duces repeatable and accurate assessments
25 of treatment effectiveness; and

1 “(v) evaluate the effectiveness and re-
2 sidual risk and environmental impacts as-
3 sociated with any standard set with respect
4 to the vessel pathways.

5 “(B) AUTHORIZATION OF APPROPRIA-
6 TIONS.—In addition to other amounts author-
7 ized by this title, to carry out this paragraph
8 there are authorized to be appropriated
9 \$1,500,000 to the Secretary and \$1,500,000 to
10 the Under Secretary for each of fiscal years
11 2008 through 2012.

12 “(g) WARNINGS CONCERNING BALLAST WATER UP-
13 TAKE.—

14 “(1) IN GENERAL.—The Secretary shall notify
15 vessel owners and operators of any area in waters
16 subject to the jurisdiction of the United States in
17 which vessels may not uptake ballast water due to
18 known conditions.

19 “(2) CONTENTS.—The notice shall include—

20 “(A) the coordinates of the area; and

21 “(B) if possible, the location of alternative
22 areas for the uptake of ballast water.

23 “(h) SEDIMENT MANAGEMENT.—

24 “(1) IN GENERAL.—The operator of a vessel to
25 which this section applies may not remove or dispose

1 of sediment from spaces designed to carry ballast
2 water, except—

3 “(A) in accordance with this subsection
4 and the ballast water management plan ap-
5 proved under subsection (c); and

6 “(B)(i) more than 200 nautical miles from
7 the nearest point of land; or

8 “(ii) into a reception facility that meets the
9 requirements of paragraph (3).

10 “(2) DESIGN REQUIREMENTS.—

11 “(A) NEW VESSELS.—After December 31,
12 2008, a vessel to which this section applies may
13 not be operated on waters subject to the juris-
14 diction of the United States, unless that vessel
15 is designed and constructed in accordance with
16 regulations issued under subparagraph (C) and
17 in a manner that—

18 “(i) minimizes the uptake and entrap-
19 ment of sediment;

20 “(ii) facilitates removal of sediment;
21 and

22 “(iii) provides for safe access for sedi-
23 ment removal and sampling.

24 “(B) EXISTING VESSELS.—A vessel to
25 which this section applies that was constructed

1 before January 1, 2009, shall be modified, to
2 the extent practicable, at the first drydocking of
3 the vessel after December 31 2008, but not
4 later than December 31, 2013, to achieve the
5 objectives described in subparagraph (A).

6 “(C) REGULATIONS.—The Secretary shall
7 issue regulations establishing design and con-
8 struction standards to achieve the objectives of
9 subparagraph (A) and providing guidance for
10 modifications and practices under subparagraph
11 (B). The Secretary shall incorporate the stand-
12 ards and guidance in the regulations governing
13 the ballast water management plan approved
14 under subsection (c).

15 “(3) SEDIMENT RECEPTION FACILITIES.—

16 “(A) STANDARDS.—The Secretary, in con-
17 sultation with the heads of other appropriate
18 Federal agencies as determined by the Sec-
19 retary, shall issue regulations governing facili-
20 ties for the reception of vessel sediment from
21 spaces designed to carry ballast water that pro-
22 vide for the disposal of such sediment in a way
23 that does not impair or damage the environ-
24 ment, human health, or property or resources of
25 the disposal area.

1 “(B) DESIGNATION.—The Secretary, in
2 consultation with the heads of other appropriate
3 Federal agencies as determined by the Sec-
4 retary shall designate facilities for the reception
5 of vessel sediment that meet the requirements
6 of the regulations issued under subparagraph
7 (A) at ports and terminals where ballast tanks
8 are cleaned or repaired.

9 “(i) EXAMINATIONS AND CERTIFICATIONS.—

10 “(1) INITIAL EXAMINATION.—

11 “(A) IN GENERAL.—The Secretary shall
12 examine vessels to which this section applies to
13 determine whether—

14 “(i) there is a ballast water manage-
15 ment plan for the vessel that is approved
16 by the Secretary and a ballast water record
17 book on the vessel that meets the require-
18 ments of subsection (d);

19 “(ii) the equipment used for ballast
20 water and sediment management in ac-
21 cordance with the requirements of this sec-
22 tion and the regulations issued under this
23 section is installed and functioning prop-
24 erly.

1 “(B) NEW VESSELS.—For vessels con-
2 structed on or after January 1, 2009, the Sec-
3 retary shall conduct the examination required
4 by subparagraph (A) before the vessel is placed
5 in service.

6 “(C) EXISTING VESSELS.—For vessels con-
7 structed before January 1, 2009, the Secretary
8 shall—

9 “(i) conduct the examination required
10 by subparagraph (A) before the date on
11 which subsection (f)(1) applies to the ves-
12 sel according to the schedule in subsection
13 (f)(3); and

14 “(ii) inspect the vessel’s ballast water
15 record book required by subsection (d).

16 “(D) FOREIGN VESSEL.—In the case of a
17 foreign vessel, the Secretary shall perform the
18 examination required by this paragraph the
19 first time the vessel enters a United States
20 port.

21 “(2) SUBSEQUENT EXAMINATIONS.—In addi-
22 tion to the examination required by paragraph (1),
23 the Secretary shall annually examine vessels to
24 which this section applies, to ensure compliance with

1 the requirements of this section and the regulations
2 issued under this section.

3 “(3) INSPECTION AUTHORITY.—

4 “(A) IN GENERAL.—The Secretary may
5 carry out inspections of any vessel to which this
6 section applies at any time, including the taking
7 of ballast water samples, to ensure compliance
8 with this section. The Secretary shall use all
9 appropriate and practical measures of detection
10 and environmental monitoring such vessels and
11 shall establish adequate procedures for report-
12 ing violations of this section and accumulating
13 evidence regarding such violations.

14 “(B) INVESTIGATIONS.—

15 “(i) IN GENERAL.—Upon receipt of
16 evidence that a violation of this section or
17 a regulation issued under this section has
18 occurred, the Secretary shall cause the
19 matter to be investigated.

20 “(ii) ISSUANCE OF SUBPOENAS.—In
21 an investigation under this subparagraph,
22 the Secretary may issue subpoenas to re-
23 quire the attendance of any witness and
24 the production of documents and other evi-
25 dence.

1 “(iii) COMPELLING COMPLIANCE WITH
2 SUBPOENAS.—In case of refusal to obey a
3 subpoena issued under this subparagraph,
4 the Secretary may request the Attorney
5 General to invoke the aid of the appro-
6 priate district court of the United States to
7 compel compliance.

8 “(4) STATE PROGRAMS.—

9 “(A) SUBMISSION TO SECRETARY.—At any
10 time after the date of issuance of ballast water
11 treatment regulations issued under this section,
12 the Governor of each State desiring to admin-
13 ister its own inspection and enforcement au-
14 thority for ballast water discharges within its
15 jurisdiction may submit to the Secretary a com-
16 plete description of the program the Governor
17 proposes to establish and administer under
18 State law. In addition, the Governor shall sub-
19 mit a statement from the attorney general that
20 the laws of such State provide adequate author-
21 ity to carry out the described program.

22 “(B) APPROVAL.—The Secretary shall ap-
23 prove a program submitted under subparagraph
24 (A), unless the Secretary determines that ade-
25 quate resources do not exist or, in the case of

1 ballast water testing, that adequate scientific
2 expertise does not exist—

3 “(i) to inspect, monitor, and board
4 any vessel to which this section applies at
5 any time, including the taking and testing
6 of ballast water samples, to ensure the ves-
7 sel’s compliance with this section;

8 “(ii) to ensure that any ballast water
9 discharged within the waters subject to the
10 jurisdiction of the State meet the ballast
11 water requirements of this section and the
12 regulations issued under this section, in-
13 cluding any revisions to such requirements
14 and regulations;

15 “(iii) to establish adequate procedures
16 for reporting violations of this section;

17 “(iv) to investigate and abate viola-
18 tions of this section, including civil and
19 criminal penalties and other ways and
20 means of enforcement; and

21 “(v) to ensure that the Secretary re-
22 ceives notice of each violation of the ballast
23 water treatment requirements issued under
24 this section in an expeditious manner.

1 “(C) COMPLIANCE.—Any State program
2 approved under this paragraph shall at all
3 times be conducted in accordance with this sec-
4 tion and regulations issued under this section.

5 “(D) WITHDRAWAL OF APPROVAL.—
6 Whenever the Secretary determines, after public
7 hearing, that a State is not administering a
8 program approved under this paragraph in ac-
9 cordance with this section and regulations
10 issued under this section, the Secretary shall
11 notify the State and, if appropriate corrective
12 action is not taken within a reasonable period
13 of time not to exceed 90 days, the Secretary
14 shall withdraw approval of the program. The
15 Secretary shall not withdraw approval of any
16 program unless the Secretary shall first have
17 notified the State, and made public, in writing,
18 the reasons for such withdrawal.

19 “(E) LIMITATION ON STATUTORY CON-
20 STRUCTION.—Nothing in this paragraph shall
21 limit the authority of the Secretary carry out
22 inspections and investigations of any vessels
23 under paragraph (3).

24 “(5) REQUIRED CERTIFICATE.—If, on the basis
25 of an initial examination under paragraph (1), the

1 Secretary finds that a vessel complies with the re-
2 quirements of this section and the regulations issued
3 under this section, the Secretary shall issue a certifi-
4 cate under this paragraph as evidence of such com-
5 pliance. The certificate shall be valid for a period of
6 not more than 5 years, as specified by the Secretary.
7 The certificate or a true copy shall be maintained on
8 board the vessel.

9 “(6) NOTIFICATION OF VIOLATIONS.—If the
10 Secretary finds, on the basis of an examination
11 under paragraph (1) or (2), investigation under
12 paragraph (3), or any other information, that a ves-
13 sel is being operated in violation of any requirement
14 of this section or regulation issued under this sec-
15 tion, the Secretary shall—

16 “(A) notify, in writing—

17 “(i) the master of the vessel; and

18 “(ii) the captain of the port at the
19 vessel’s next port of call;

20 “(B) remove from the vessel the certificate
21 issued under paragraph (5);

22 “(C) take such other action as may be ap-
23 propriate.

24 “(7) COMPLIANCE MONITORING.—

1 “(A) IN GENERAL.—The Secretary shall
2 establish, by regulation, sampling and other
3 procedures to monitor compliance with the re-
4 quirements of this section and the regulations
5 issued under this section.

6 “(B) USE OF MARKERS.—The Secretary
7 may verify compliance with the discharge re-
8 quirements of subsection (f) and the regulations
9 issued under this section with respect to such
10 requirements through identification of markers
11 associated with a treatment technology’s effec-
12 tiveness, such as the presence of indicators as-
13 sociated with a certified treatment technology.

14 “(8) EDUCATION AND TECHNICAL ASSISTANCE
15 PROGRAMS.—The Secretary may carry out education
16 and technical assistance programs and other meas-
17 ures to promote compliance with the requirements of
18 this section and the regulations issued under this
19 section.

20 “(9) REPORT.—Beginning 1 year after final
21 regulations have been adopted pursuant to this sec-
22 tion after the enactment of the Ballast Water Treat-
23 ment Act of 2008, and annually thereafter, the Sec-
24 retary shall prepare a report summarizing the re-
25 sults of ballast water inspection and enforcement ac-

1 activities. The report shall, at a minimum, include in-
2 formation on the number of vessels inspected and
3 the type of inspections, the status of implementation
4 of treatment technologies, the number of exemptions
5 claimed from ballast water exchange requirements,
6 the number of violations, a summary of enforcement
7 and regulatory actions, and overall compliance sta-
8 tistics. The report shall be made available on the
9 National Ballast Information Clearinghouse estab-
10 lished under section 1102(f).

11 “(j) DETENTION OF VESSELS.—The Secretary, by
12 notice to the owner, charterer, managing operator, agent,
13 master, or other individual in charge of a vessel, may de-
14 tain that vessel if the Secretary has reasonable cause to
15 believe that—

16 “(1) the vessel is a vessel to which this section
17 applies; and

18 “(2) the vessel does not comply with any re-
19 quirement of this section or regulation issued under
20 this section or is being operated in violation of such
21 a requirement or regulation.

22 “(k) SANCTIONS.—

23 “(1) CIVIL PENALTIES.—Any person who vio-
24 lates this section (including a regulation issued
25 under this section) shall be liable for a civil penalty

1 in an amount not to exceed \$32,500. Each day of
2 a continuing violation constitutes a separate viola-
3 tion. A vessel operated in violation of this section
4 (including a regulation issued under this section) is
5 liable in rem for any civil penalty assessed under
6 this subsection for that violation.

7 “(2) CRIMINAL PENALTIES.—Whoever know-
8 ingly violates this section (including a regulation
9 issued under this section) shall be fined under title
10 18, United States, or imprisoned not more than 12
11 years, or both.

12 “(3) REVOCATION OF CLEARANCE.—Except as
13 provided in subsection (j)(2), upon request of the
14 Secretary, the Secretary of the Treasury shall with-
15 hold or revoke the clearance of a vessel required by
16 section 60105 of title 46, United States Code, if the
17 owner or operator of that vessel is in violation of
18 this section or a regulation issued under this section.

19 “(1) ENFORCEMENT.—

20 “(1) ADMINISTRATIVE ACTIONS.—If the Sec-
21 retary finds, after notice and an opportunity for a
22 hearing, that a person has violated this section or a
23 regulation issued under this section, the Secretary
24 may assess a civil penalty for that violation. In de-
25 termining the amount of the civil penalty, the Sec-

1 retary shall take into account the nature, cir-
2 cumstances, extent, and gravity of the prohibited
3 acts committed and, with respect to the violator, the
4 degree of culpability, any history of prior violations,
5 and such other matters as justice may require.

6 “(2) CIVIL ACTIONS.—At the request of the
7 Secretary, the Attorney General may bring a civil
8 action in an appropriate district court of the United
9 States to enforce this section or any regulation
10 issued under this section. Any court before which
11 such an action is brought may award appropriate re-
12 lief, including temporary or permanent injunctions
13 and civil penalties.

14 “(m) CONSULTATION WITH CANADA, MEXICO, AND
15 OTHER FOREIGN GOVERNMENTS.—In developing the
16 guidelines and regulations to be issued under this section,
17 the Secretary is encouraged to consult with the Govern-
18 ment of Canada, the Government of Mexico and any other
19 government of a foreign country that the Secretary, after
20 consultation with the Task Force, determines to be nec-
21 essary to develop and implement an effective international
22 program for preventing the unintentional introduction and
23 spread of aquatic nuisance species through ballast water.

24 “(n) INTERNATIONAL COOPERATION.—The Sec-
25 retary, in cooperation with the Under Secretary, the Sec-

1 retary of State, the Administrator, the heads of other rel-
2 evant Federal agencies, the International Maritime Orga-
3 nization of the United Nations, and the Commission on
4 Environmental Cooperation established pursuant to the
5 North American Free Trade Agreement, is encouraged to
6 enter into negotiations with the governments of foreign
7 countries to develop and implement an effective inter-
8 national program for preventing the unintentional intro-
9 duction and spread of aquatic invasive species. The Sec-
10 retary is particularly encouraged to seek bilateral or multi-
11 lateral agreements with Canada, Mexico, and other na-
12 tions in the Wider Caribbean Region (as defined in the
13 Convention for the Protection and Development of the Ma-
14 rine Environment of the Wider Caribbean, signed at
15 Cartagena on March 24, 1983 (TIAF 11085), to carry
16 out the objectives of this section.

17 “(o) NONDISCRIMINATION.—The Secretary shall en-
18 sure that foreign vessels do not receive more favorable
19 treatment than vessels of the United States when the Sec-
20 retary performs studies, reviews compliance, determines
21 effectiveness, establishes requirements, or performs any
22 other responsibilities under this Act.

23 “(p) CONSULTATION WITH TASK FORCE.—The Sec-
24 retary shall consult with the Task Force in carrying out
25 this section.

1 “(q) PREEMPTION.—

2 “(1) IN GENERAL.—Except as provided in sub-
3 section (i)(4) and paragraph (4) of this subsection
4 but notwithstanding any other provision of law, the
5 provisions of subsections (e) and (f) supersede any
6 provision of State or local law that is inconsistent
7 with the requirements of those subsections or that
8 conflicts with the requirements of those subsections.

9 “(2) GREATER PENALTIES OR FEES.—For pur-
10 pose of paragraph (1), the imposition by State or
11 local law of greater penalties or fees for acts or
12 omissions that are violations of such law and also
13 violations of this Act or the imposition by a State of
14 incentives under subsection (f)(9)(B) shall not be
15 considered to be inconsistent, or to conflict, with the
16 requirements of subsections (e) and (f).

17 “(3) RECEPTION FACILITIES.—The standards
18 issued by the Secretary or the heads of other appro-
19 priate Federal agencies under subsection (f)(2) do
20 not supersede any more stringent standard under
21 any otherwise applicable Federal, State, or local law.

22 “(4) LIMITATION ON APPLICATION.—Until Jan-
23 uary 1, 2012, this subsection does not apply to a
24 State law requiring ballast water treatment and any

1 regulations prescribed under that law as those laws
2 and regulations were in effect on January 1, 2007.

3 “(r) LEGAL ACTIONS.—

4 “(1) CIVIL ACTION.—Any person may petition
5 the Secretary to bring a civil action in an appro-
6 priate district court of the United States to enforce
7 this section, or any regulation promulgated here-
8 under. Within 90 days after receiving such a peti-
9 tion, the Secretary shall—

10 “(A) respond to the person filing the peti-
11 tion with a determination of whether a violation
12 of this section, or any regulation promulgated
13 hereunder, has occurred or is occurring; and

14 “(B) if the Secretary determines that a
15 violation of this section, or any regulation pro-
16 mulgated hereunder, has occurred or is occur-
17 ring—

18 “(i) immediately bring a civil action in
19 an appropriate district court of the United
20 States to enforce this section, or any regu-
21 lation promulgated hereunder; or

22 “(ii) demonstrate that the violation
23 has ceased.

24 “(2) RELIEF.—Any court before which such an
25 action is brought may award appropriate relief, in-

1 cluding temporary or permanent injunctive relief and
2 civil penalties.

3 “(s) COAST GUARD REPORT ON OTHER SOURCES OF
4 VESSEL-BOURNE NUISANCE SPECIES.—

5 “(1) IN GENERAL.—

6 “(A) HULL-FOULING AND OTHER VESSEL
7 SOURCES.—Not later than 180 days after the
8 date of enactment of the Ballast Water Treat-
9 ment Act of 2008, the Secretary shall transmit
10 a report to the Committee on Commerce,
11 Science, and Transportation of the Senate and
12 the Committee on Transportation and Infra-
13 structure of the House of Representatives on
14 vessel-related pathways of harmful aquatic or-
15 ganisms and pathogens other than ballast water
16 and sediment, including vessel hulls and equip-
17 ment, and from vessels equipped with ballast
18 tanks that carry no ballast water on board.

19 “(B) BEST PRACTICES.—

20 “(i) IN GENERAL.—As soon as prac-
21 ticable, the Secretary shall develop best
22 practices standards and procedures de-
23 signed to reduce the introduction and
24 spread of invasive species into and within
25 the United States from vessels and estab-

1 lish a timeframe for implementation of
2 those standards and procedures by vessels.
3 Such standards and procedures shall in-
4 clude designation of geographical locations
5 for uptake and discharge of untreated bal-
6 last water, as well as standards and proce-
7 dure for other vessel pathways of aquatic
8 invasive species.

9 “(ii) REPORT.—The Secretary shall
10 transmit a report to the committees re-
11 ferred to in subparagraph (A) describing
12 the standards and procedures developed
13 under this subparagraph and the imple-
14 mentation timeframe, together with such
15 recommendations as the Secretary deter-
16 mines appropriate.

17 “(iii) REGULATIONS.—The Secretary
18 may issue regulations to incorporate and
19 enforce standards and procedures devel-
20 oped under this paragraph.

21 “(2) TRANSITING VESSELS.—Not later than
22 180 days after the date of enactment of the Ballast
23 Water Treatment Act of 2008, the Secretary shall
24 transmit a report to the Committee on Commerce,
25 Science, and Transportation of the Senate and the

1 Committee on Transportation and Infrastructure of
2 the House of Representatives containing—

3 “(A) an assessment of the magnitude and
4 potential adverse impacts of ballast water oper-
5 ations from foreign vessels designed, adapted,
6 or constructed to carry ballast water that are
7 transiting waters subject to the jurisdiction of
8 the United States; and

9 “(B) recommendations, including legisla-
10 tive recommendations if appropriate, of options
11 for addressing ballast water operations of those
12 vessels.”.

13 (b) DEFINITIONS.—Section 1003 of the Nonindige-
14 nous Aquatic Nuisance Prevention and Control Act of
15 1990 (16 U.S.C. 4702) is amended—

16 (1) by redesignating—

17 (A) paragraphs (1), (2), and (3) as para-
18 graphs (2), (3), and (4), respectively;

19 (B) paragraphs (4), (5), and (6) as para-
20 graphs (8), (9), and (10), respectively;

21 (C) paragraphs (7), (8), (9), and (10) as
22 paragraphs (12), (13), (14), and (15), respec-
23 tively;

24 (D) paragraphs (11) and (12) as para-
25 graphs (17) and (18), respectively;

1 (E) paragraphs (13), (14), and (15) as
2 paragraphs (20), (21), and (22), respectively;

3 (F) paragraph (16) as paragraph (27); and

4 (G) paragraph (17) as paragraph (23);

5 (2) by moving paragraph (23), as so redesign-
6 nated, after paragraph (22), as so redesignated;

7 (3) by inserting before paragraph (2), as so re-
8 designated, the following:

9 “(1) ‘Administrator’ means the Administrator
10 of the Environmental Protection Agency;”;

11 (4) by striking paragraph (4), as so redesign-
12 nated, and inserting the following:

13 “(4) ‘ballast water’ means—

14 “(A) water taken on board a vessel to con-
15 trol trim, list, draught, stability, or stresses of
16 the vessel, including matter suspended in such
17 water; or

18 “(B) any water placed into a ballast tank
19 during cleaning, maintenance, or other oper-
20 ations;”;

21 (5) by inserting after paragraph (4), as so re-
22 designated and amended, the following:

23 “(5) ‘ballast water capacity’ means the total
24 volumetric capacity of any tanks, spaces, or com-
25 partments on a vessel that is used for carrying, load-

1 ing, or discharging ballast water, including any
2 multi-use tank, space, or compartment designed to
3 allow carriage of ballast water;

4 “(6) ‘ballast water management’ means me-
5 chanical, physical, chemical, and biological processes
6 used, either singularly or in combination, to remove,
7 render harmless, or avoid the uptake or discharge of
8 harmful aquatic organisms and pathogens within
9 ballast water and sediment;

10 “(7) ‘constructed’ means a state of construction
11 of a vessel at which—

12 “(A) the keel is laid;

13 “(B) construction identifiable with the spe-
14 cific vessel begins;

15 “(C) assembly of the vessel has begun
16 comprising at least 50 tons or 1 percent of the
17 estimated mass of all structural material of the
18 vessel, whichever is less; or

19 “(D) the vessel undergoes a major conver-
20 sion;”;

21 (6) by inserting after paragraph (10), as so re-
22 designated, the following:

23 “(11) ‘foreign vessel’ has the meaning such
24 term has under section 110 of title 46, United
25 States Code;”;

1 (7) by inserting after paragraph (15), as so re-
2 designated, the following:

3 “(16) ‘major conversion’ means a conversion of
4 a vessel, that—

5 “(A) changes its ballast water carrying ca-
6 pacity by at least 15 percent;

7 “(B) changes the vessel class;

8 “(C) is projected to prolong the vessel’s life
9 by at least 10 years (as determined by the Sec-
10 retary); or

11 “(D) results in modifications to the vessel’s
12 ballast water system, except—

13 “(i) component replacement-in-kind;

14 or

15 “(ii) conversion of a vessel to meet the
16 requirements of section 1101(e);”;

17 (8) by inserting after paragraph (18), as so re-
18 designated, the following:

19 “(19) ‘sediment’ means matter that has settled
20 out of ballast water within a vessel;”;

21 (9) in paragraph (12), as so redesignated, by
22 striking the period at the end and inserting a semi-
23 colon;

24 (10) by inserting after paragraph (23), as so
25 redesignated and moved, the following:

1 “(24) ‘United States port’ means a port, river,
2 harbor, or offshore terminal under the jurisdiction of
3 the United States, including ports located in Puerto
4 Rico, Guam, and the United States Virgin Islands;

5 “(25) ‘vessel of the Armed Forces’ means—

6 “(A) any vessel owned or operated by the
7 Department of Defense, other than a time or
8 voyage chartered vessel; and

9 “(B) any vessel owned or operated by the
10 Department of Homeland Security that is des-
11 ignated by the Secretary as a vessel equivalent
12 to a vessel described in subparagraph (A);

13 “(26) ‘vessel of the United States’ has the
14 meaning such term has under section 116 of title
15 46, United States Code;”; and

16 (11) in paragraph (23), as so redesignated, by
17 striking the period at the end and inserting “;”.

18 (c) REPEAL OF SECTION 1103.—Section 1103 of the
19 Nonindigenous Aquatic Nuisance Prevention and Control
20 Act of 1990 (16 U.S.C. 4713) is repealed.

21 (d) INTERIM FINAL RULE.—The Secretary shall
22 issue an interim final rule as a temporary regulation im-
23 plementing the amendments made by this section as soon
24 as practicable after the date of enactment of this section,
25 without regard to the provisions of chapter 5 of title 5,

1 United States Code. All regulations issued under the au-
2 thority of this subsection that are not earlier superseded
3 by final regulations shall expire not later than one year
4 after the date of enactment of this Act.

5 **SEC. 504. NATIONAL BALLAST WATER MANAGEMENT IN-**
6 **FORMATION.**

7 Section 1102 (16 U.S.C. 4712) is amended—

8 (1) by adding at the end the following:

9 “(g) BALLAST WATER SURVEYS.—

10 “(1) IN GENERAL.—The Secretary shall con-
11 duct the following ballast water surveys:

12 “(A) A survey of the number of living or-
13 ganisms in untreated ballast water of a rep-
14 resentative number of vessels, as determined by
15 the Secretary.

16 “(B) A survey of the number of living or-
17 ganisms in the ballast water of a representative
18 number of vessels, as determined by the Sec-
19 retary, that has been exchanged on the high
20 seas.

21 “(C) Surveys of the number of living orga-
22 nisms in the ballast water of vessels that are
23 participating in a program to test and evaluate
24 promising ballast water treatment, as approved
25 by the Secretary.

1 “(2) REPORTS.—The Secretary shall submit to
2 the Committee on Transportation and Infrastructure
3 of the House of Representatives and the Committee
4 on Commerce, Science, and Transportation of the
5 Senate—

6 “(A) a report on the results of the surveys
7 under subparagraphs (A) and (B) of paragraph
8 (1) by not later than 18 months after the date
9 of enactment of the Ballast Water Treatment
10 Act of 2008; and

11 “(B) a report on the results of the surveys
12 required under subparagraph (C) of paragraph
13 (1) upon completion of each demonstration con-
14 cerned.”;

15 (2) in subsection (b)(1)(B)(ii), by striking
16 “guidelines issued and”;

17 (3) in subsection (b)(2)(B)(ii), by striking “vol-
18 untary guidelines issued, and regulations promul-
19 gated,” and inserting “regulations promulgated”;

20 (4) in subsection (c)(1), by striking “section
21 1101(b)” and inserting “section 1101(a)”;

22 (5) in subsection (f)(1)(B), by striking “guide-
23 lines issued pursuant to section 1101(c)” and insert-
24 ing “regulations issued pursuant to section 1101”.

1 **SEC. 505. BALLAST WATER MANAGEMENT EVALUATION**
2 **AND DEMONSTRATION PROGRAM.**

3 Section 1104 (16 U.S.C. 4714) is amended—

4 (1) by striking the section heading and insert-
5 ing the following:

6 **“SEC. 1104. BALLAST WATER TREATMENT TECHNOLOGY**
7 **EVALUATION AND DEMONSTRATION PRO-**
8 **GRAMS.”;**

9 (2) by striking subsection (a);

10 (3) by redesignating subsection (b) as sub-
11 section (a);

12 (4) by redesignating subsection (c) as sub-
13 section (d);

14 (5) in subsection (a), as so redesignated—

15 (A) by striking so much as precedes para-
16 graph (2) and inserting the following:

17 **“(a) SHIPBOARD TECHNOLOGY EVALUATION PRO-**
18 **GRAM.—**

19 **“(1) IN GENERAL.—**The Secretary shall estab-
20 lish a Shipboard Technology Evaluation Program to
21 evaluate ballast water treatment technologies aboard
22 vessels to prevent aquatic nuisance species from
23 being introduced into and spread through discharges
24 of ballast water in waters of the United States.”;
25 and

1 (B) in paragraph (2) by striking “of the
2 technologies and practices used in the dem-
3 onstration program” and inserting “of ballast
4 water treatment technologies used in the pro-
5 gram”;

6 (6) in subsection (a)(3), as so redesignated, by
7 striking “technologies and practices” and all that
8 follows through “shall—” and inserting “ballast
9 water treatment technologies on vessels under this
10 subsection, the Secretary shall—”;

11 (7) in subsection (a)(3)(A), as so redesignated,
12 by striking clause (i) and redesignating clauses (ii)
13 and (iii) in order as clauses (i) and (ii);

14 (8) by amending subsection (a)(3)(A)(i), as so
15 redesignated, to read as follows:

16 “(i) have ballast water systems condu-
17 cive to testing aboard the vessel; and”;

18 (9) by amending subsection (a)(3)(C), as so re-
19 designated, to read as follows:

20 “(C) seek to use a variety of vessel types.”;

21 (10) by amending subsection (a)(4), as so re-
22 designated, to read as follows:

23 “(4) SELECTION OF BALLAST WATER TREAT-
24 MENT TECHNOLOGIES.—In order for a ballast water
25 treatment technology to be eligible to be installed on

1 vessels for evaluation under this section, such tech-
2 nology must be, at a minimum—

3 “(A) determined by the Secretary to have
4 the demonstrated potential to reduce the num-
5 ber of organisms greater than or equal to 50
6 microns in minimum dimension in discharged
7 ballast water to fewer than 10 living organisms
8 per cubic meter of water;

9 “(B) cost-effective;

10 “(C) environmentally sound;

11 “(D) operationally practical;

12 “(E) able to be retrofitted on existing ves-
13 sels or incorporated in new vessel design (or
14 both);

15 “(F) safe for a vessel and crew; and

16 “(G) accessible to monitoring.”;

17 (11) in subsection (a), as so redesignated, by
18 adding at the end the following:

19 “(6) AUTHORITY OF SECRETARY TO REVIEW
20 AND REVISE CRITERIA.—The Secretary may review
21 and revise the criteria described in paragraph (4)(A)
22 to require ballast water treatment technologies to
23 meet a more stringent ballast water discharge stand-
24 ard, including standards promulgated under section

1 1101(f), before being eligible for installation aboard
2 vessels under the program.”;

3 (12) by inserting after subsection (a), as so re-
4 designated, the following:

5 “(b) SHIPBOARD TECHNOLOGY DEMONSTRATION
6 PROGRAM.—

7 “(1) IN GENERAL.—The Under Secretary, with
8 the concurrence of and in cooperation with the Sec-
9 retary, shall conduct a program to demonstrate bal-
10 last water treatment technologies evaluated aboard
11 vessels under subsection (a) to prevent aquatic nui-
12 sance species from being introduced into and spread
13 through ballast water in waters of the United States.

14 “(2) LOCATION.—The installation and con-
15 struction of ballast water treatment technologies
16 used in the demonstration program under this sub-
17 section shall be performed in the United States.

18 “(3) VESSEL ELIGIBILITY.—Vessels eligible to
19 participate in the demonstration program under this
20 subsection shall consist only of vessels that have
21 been accepted into and are actively participating in
22 the Shipboard Technology Evaluation Program
23 under subsection (a).

24 “(4) GRANTS.—

1 “(A) IN GENERAL.—The Under Secretary
2 shall establish a grant program to provide fund-
3 ing for acquiring, installing, and operating bal-
4 last water treatment technologies aboard vessels
5 participating in the program under this sub-
6 section.

7 “(B) MATCHING REQUIREMENTS.—The
8 amount of Federal funds used for any dem-
9 onstration project under this subsection—

10 “(i) shall not exceed \$1,000,000; and

11 “(ii) shall not exceed 50 percent of
12 the total cost of such project.

13 “(c) ALTERNATIVE SHIP PATHWAY PROGRAM.—

14 “(1) IN GENERAL.—The Under Secretary, with
15 the concurrence of and in cooperation with the Sec-
16 retary, shall conduct a program to demonstrate and
17 verify technologies and practices to monitor and con-
18 trol the introduction of aquatic invasive species by
19 ship pathways other than the release of ballast
20 water.

21 “(2) SELECTION OF METHODS.—The Under
22 Secretary may not select technologies and practices
23 for demonstration or verification under paragraph
24 (1) unless such technologies and practices, in the de-
25 termination of the Under Secretary, in consultation

1 with the Secretary, meet the criteria outlined in sub-
2 paragraphs (B) through (G) of subsection (a)(4).

3 “(3) LOCATION.—The installation and con-
4 struction of technologies and practices for dem-
5 onstration and verification under this subsection
6 shall be performed in the United States.”; and

7 (13) in subsection (d), as so redesignated, by
8 striking “Secretary of the Interior” each place it ap-
9 pears and inserting “Secretary, in consultation with
10 the Under Secretary,”.

11 **SEC. 506. RAPID RESPONSE PLAN.**

12 Subtitle C of title I of the Nonindigenous Aquatic
13 Nuisance Prevention and Control Act of 1990 (16 U.S.C.
14 4721 et seq.) is amended by adding at the end the fol-
15 lowing:

16 **“SEC. 1210. RAPID RESPONSE PLAN.**

17 “(a) PREPARATION BY PRESIDENT.—The President
18 shall prepare and publish a national rapid response plan
19 for killing, removing, or minimizing the spread of aquatic
20 nuisance species in the waters of the United States in ac-
21 cordance with this section.

22 “(b) CONTENTS.—The national rapid response plan
23 shall provide for efficient, coordinated, and effective action
24 to minimize damage from aquatic nuisance species in the
25 navigable waters of the United States, including killing,

1 containing, and removal of the aquatic nuisance species,
2 and shall include the following:

3 “(1) Assignment of duties and responsibilities
4 among Federal departments and agencies in coordi-
5 nation with State and local agencies and port au-
6 thorities and private entities.

7 “(2) Identification, procurement, maintenance,
8 and storage of equipment and supplies needed to fa-
9 cilitate the killing, containment, and removal of
10 aquatic nuisance species under this section.

11 “(3) Establishment or designation by the Presi-
12 dent of Federal aquatic nuisance species response
13 teams, consisting of—

14 “(A) personnel who shall be trained and
15 prepared by the President and shall be available
16 to provide necessary services to carry out the
17 national rapid response plan;

18 “(B) adequate equipment and material
19 needed to facilitate the killing, containment,
20 and removal of aquatic nuisance species under
21 this section; and

22 “(C) a detailed plans to kill, contain, and
23 remove aquatic nuisance species, including
24 measures to protect fisheries and wildlife.

1 “(4) A system of surveillance and notice de-
2 signed to safeguard against, as well as ensure ear-
3 liest possible notice of, the introduction of aquatic
4 nuisance species and imminent threats of such intro-
5 duction to the appropriate State and Federal agen-
6 cies.

7 “(5) Establishment by the President of a na-
8 tional center to provide coordination and direction
9 for operations in carrying out the plan.

10 “(6) Procedures and techniques to be employed
11 in identifying, containing, killing, and removing
12 aquatic nuisance species in the waters of the United
13 States.

14 “(7) A schedule, prepared by the President in
15 cooperation with the States, identifying—

16 “(A) mitigating devices and substances, if
17 any, that may be used in carrying out the plan;

18 “(B) the waters in which such mitigating
19 devices and substances may be used; and

20 “(C) the quantities of such mitigating de-
21 vice or substance which can be used safely in
22 such waters.

23 “(8) A system whereby the State or States af-
24 fected by an aquatic nuisance species may act where
25 necessary to remove such species.

1 “(9) Establishment by the President of criteria
2 and procedures to ensure immediate and effective
3 Federal identification of, and response to, an intro-
4 duction of aquatic nuisance species.

5 “(10) Designation by the President of the Fed-
6 eral official who shall be the Federal on-scene coor-
7 dinator for measures taken to kill, contain, and re-
8 move aquatic nuisance species under this section.

9 “(11) A fish and wildlife response plan for the
10 immediate and effective protection, rescue, and reha-
11 bilitation of, and the minimization of risk of damage
12 to, fish and wildlife resources and their habitat that
13 are harmed or that may be jeopardized by an intro-
14 duction of an aquatic nuisance species.

15 “(c) FEDERAL REMOVAL AUTHORITY.—

16 “(1) REMOVAL REQUIREMENT.—

17 “(A) IN GENERAL.—The President shall
18 ensure, in accordance with the national rapid
19 response plan, effective and immediate killing,
20 containing, and removal of the aquatic nuisance
21 species in the waters of the United States.

22 “(B) DISCRETIONARY AUTHORITY.—In
23 carrying out this paragraph, the President
24 may—

1 “(i) kill, contain, and remove an
2 aquatic nuisance species, at any time; and

3 “(ii) direct or monitor all Federal,
4 State, and private actions to kill, contain,
5 and remove the aquatic nuisance species.

6 “(2) ACTIONS IN ACCORDANCE WITH NATIONAL
7 RAPID RESPONSE PLAN.—Each Federal agency,
8 State, owner or operator, or other person partici-
9 pating in efforts under this subsection shall act in
10 accordance with the national rapid response plan or
11 as directed by the President to carry out the plan.”.

12 **SEC. 507. AUTHORIZATION OF APPROPRIATIONS.**

13 Section 1301(a) of the Nonindigenous Aquatic Nui-
14 sance Prevention and Control Act of 1990 (16 U.S.C.
15 4741(a)) is amended—

16 (1) by striking “and” after the semicolon in
17 paragraph (4)(B);

18 (2) by striking the period at the end of para-
19 graph (5)(B) and inserting a semicolon; and

20 (3) by adding at the end the following:

21 “(6) \$20,000,000 for each of fiscal years 2008
22 through 2012 to the Secretary to carry out section
23 1101;

1 “(7) \$500,000 to the Secretary for each of fis-
2 cal years 2008 through 2013 to carry out section
3 1102(f);

4 “(8) \$6,000,000 to the Under Secretary for
5 each of fiscal years 2008 through 2013 to carry out
6 paragraph (4) of section 1104(b); and

7 “(9) \$1,500,000 to the Under Secretary for
8 each of fiscal years 2008 through 2013 to carry out
9 section 1104(c).”.

10 **TITLE VI—MARITIME**
11 **POLLUTION PREVENTION**

12 **SEC. 601. SHORT TITLE.**

13 This title may be cited as the “Maritime Pollution
14 Prevention Act of 2008”.

15 **SEC. 602. REFERENCES.**

16 Wherever in this title an amendment or repeal is ex-
17 pressed in terms of an amendment to or a repeal of a sec-
18 tion or other provision, the reference shall be considered
19 to be made to a section or other provision of the Act to
20 Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).

21 **SEC. 603. DEFINITIONS.**

22 Section 2(a) (33 U.S.C. 1901(a)) is amended—

23 (1) by redesignating the paragraphs (1)
24 through (12) as paragraphs (2) through (13), re-
25 spectively;

1 (2) by inserting before paragraph (2) (as so re-
2 designated) the following:

3 “(1) ‘Administrator’ means the Administrator
4 of the Environmental Protection Agency.”;

5 (3) in paragraph (5) (as so redesignated) by
6 striking “and V” and inserting “V, and VI”;

7 (4) in paragraph (6) (as so redesignated) by
8 striking “‘discharge’ and ‘garbage’ and ‘harmful
9 substance’ and ‘incident’” and inserting “‘dis-
10 charge’, ‘emission’, ‘garbage’, ‘harmful substance’,
11 and ‘incident’”; and

12 (5) by redesignating paragraphs (7) through
13 (13) (as redesignated) as paragraphs (8) through
14 (14), respectively, and inserting after paragraph (6)
15 (as redesignated) the following:

16 “(7) ‘navigable waters’ includes the territorial
17 sea of the United States (as defined in Presidential
18 Proclamation 5928 of December 27, 1988) and the
19 internal waters of the United States;”.

20 **SEC. 604. APPLICABILITY.**

21 Section 3 (33 U.S.C. 1902) is amended—

22 (1) in subsection (a)—

23 (A) by striking “and” at the end of para-
24 graph (3);

1 (B) by striking the period at the end of
2 paragraph (4) and inserting “; and”; and

3 (C) by adding at the end the following:

4 “(5) with respect to Annex VI to the Conven-
5 tion, and other than with respect to a ship referred
6 to in paragraph (1)—

7 “(A) to a ship that is in a port, shipyard,
8 offshore terminal, or the internal waters of the
9 United States;

10 “(B) to a ship that is bound for, or depart-
11 ing from, a port, shipyard, offshore terminal, or
12 the internal waters of the United States, and is
13 in—

14 “(i) the navigable waters of the
15 United States;

16 “(ii) an emission control area des-
17 ignated pursuant to section 4; or

18 “(iii) any other area that the Admin-
19 istrator, in consultation with the Secretary
20 and each State in which any part of the
21 area is located, has designated by order as
22 being an area from which emissions from
23 ships are of concern with respect to protec-
24 tion of public health, welfare, or the envi-
25 ronment;

1 “(C) to a ship that is entitled to fly the
2 flag of, or operating under the authority of, a
3 party to Annex VI, and is in—

4 “(i) the navigable waters of the
5 United States;

6 “(ii) an emission control area des-
7 ignated under section 4; or

8 “(iii) any other area that the Admin-
9 istrator, in consultation with the Secretary
10 and each State in which any part of the
11 area is located, has designated by order as
12 being an area from which emissions from
13 ships are of concern with respect to protec-
14 tion of public health, welfare, or the envi-
15 ronment; and

16 “(D) to the extent consistent with inter-
17 national law, to any other ship that is in—

18 “(i) the exclusive economic zone of the
19 United States;

20 “(ii) the navigable waters of the
21 United States;

22 “(iii) an emission control area des-
23 ignated under section 4; or

24 “(iv) any other area that the Adminis-
25 trator, in consultation with the Secretary

1 and each State in which any part of the
2 area is located, has designated by order as
3 being an area from which emissions from
4 ships are of concern with respect to protec-
5 tion of public health, welfare, or the envi-
6 ronment.”;

7 (2) in subsection (b)—

8 (A) in paragraph (1) by striking “para-
9 graph (2)” and inserting “paragraphs (2) and
10 (3)”;

11 (B) by adding at the end the following:

12 “(3) With respect to Annex VI the Administrator, or
13 the Secretary, as relevant to their authorities pursuant to
14 this Act, may determine that some or all of the require-
15 ments under this Act shall apply to one or more classes
16 of public vessels, except that such a determination by the
17 Administrator shall have no effect unless the head of the
18 Department or agency under which the vessels operate
19 concurs in the determination. This paragraph does not
20 apply during time of war or during a declared national
21 emergency.”;

22 (3) by redesignating subsections (e) through (g)
23 as subsections (d) through (h), respectively, and in-
24 serting after subsection (b) the following:

1 “(c) APPLICATION TO OTHER PERSONS.—This Act
2 shall apply to all persons to the extent necessary to ensure
3 compliance with Annex VI to the Convention.”; and

4 (4) in subsection (e), as redesignated—

5 (A) by inserting “or the Administrator,
6 consistent with section 4 of this Act,” after
7 “Secretary”;

8 (B) by striking “of section (3)” and insert-
9 ing “of this section”; and

10 (C) by striking “Protocol, including regula-
11 tions conforming to and giving effect to the re-
12 quirements of Annex V” and inserting “Pro-
13 tocol (or the applicable Annex), including regu-
14 lations conforming to and giving effect to the
15 requirements of Annex V and Annex VI”.

16 **SEC. 605. ADMINISTRATION AND ENFORCEMENT.**

17 Section 4 (33 U.S.C. 1903) is amended—

18 (1) by redesignating subsections (b) and (c) as
19 subsections (c) and (d), respectively, and inserting
20 after subsection (a) the following:

21 “(b) DUTY OF THE ADMINISTRATOR.—In addition to
22 other duties specified in this Act, the Administrator and
23 the Secretary, respectively, shall have the following duties
24 and authorities:

1 “(1) The Administrator shall, and no other per-
2 son may, issue Engine International Air Pollution
3 Prevention certificates in accordance with Annex VI
4 and the International Maritime Organization’s Tech-
5 nical Code on Control of Emissions of Nitrogen Ox-
6 ides from Marine Diesel Engines, on behalf of the
7 United States for a vessel of the United States as
8 that term is defined in section 116 of title 46,
9 United States Code. The issuance of Engine Inter-
10 national Air Pollution Prevention certificates shall
11 be consistent with any applicable requirements of
12 the Clean Air Act or regulations prescribed under
13 that Act.

14 “(2) The Administrator shall have authority to
15 administer regulations 12, 13, 14, 15, 16, 17, 18,
16 and 19 of Annex VI to the Convention.

17 “(3) The Administrator shall, only as specified
18 in section 8(f), have authority to enforce Annex VI
19 of the Convention.”;

20 (2) in subsection (c), as redesignated, by redesi-
21 gnating paragraph (2) as paragraph (4), and insert-
22 ing after paragraph (1) the following:

23 “(2) In addition to the authority the Secretary has
24 to prescribe regulations under this Act, the Administrator
25 shall also prescribe any necessary or desired regulations

1 to carry out the provisions of regulations 12, 13, 14, 15,
2 16, 17, 18, and 19 of Annex VI to the Convention.

3 “(3) In prescribing any regulations under this sec-
4 tion, the Secretary and the Administrator shall consult
5 with each other, and with respect to regulation 19, with
6 the Secretary of the Interior.”; and

7 (3) by adding at the end of subsection (c), as
8 redesignated, the following:

9 “(5) No standard issued by any person or Federal
10 authority, with respect to emissions from tank vessels sub-
11 ject to regulation 15 of Annex VI to the Convention, shall
12 be effective until 6 months after the required notification
13 to the International Maritime Organization by the Sec-
14 retary.”.

15 **SEC. 606. CERTIFICATES.**

16 Section 5 (33 U.S.C. 1904) is amended—

17 (1) in subsection (a) by striking “The Sec-
18 retary” and inserting “Except as provided in section
19 4(b)(1), the Secretary”;

20 (2) in subsection (b) by striking “Secretary
21 under the authority of the MARPOL protocol.” and
22 inserting “Secretary or the Administrator under the
23 authority of this Act.”; and

1 (3) in subsection (e) by striking “environment.”
2 and inserting “environment or the public health and
3 welfare.”.

4 **SEC. 607. RECEPTION FACILITIES.**

5 Section 6 (33 U.S.C. 1905) is amended—

6 (1) in subsection (a) by adding at the end the
7 following:

8 “(3) The Secretary and the Administrator, after con-
9 sulting with appropriate Federal agencies, shall jointly
10 prescribe regulations setting criteria for determining the
11 adequacy of reception facilities for receiving ozone deplet-
12 ing substances, equipment containing such substances,
13 and exhaust gas cleaning residues at a port or terminal,
14 and stating any additional measures and requirements as
15 are appropriate to ensure such adequacy. Persons in
16 charge of ports and terminals shall provide reception fa-
17 cilities, or ensure that reception facilities are available, in
18 accordance with those regulations. The Secretary and the
19 Administrator may jointly prescribe regulations to certify,
20 and may issue certificates to the effect, that a port’s or
21 terminal’s facilities for receiving ozone depleting sub-
22 stances, equipment containing such substances, and ex-
23 haust gas cleaning residues from ships are adequate.”;

24 (2) in subsection (b) by inserting “or the Ad-
25 ministrator” after “Secretary”;

1 (3) in subsection (e) by striking paragraph (2)
2 and inserting the following:

3 “(2) The Secretary may deny the entry of a ship to
4 a port or terminal required by the MARPOL Protocol, this
5 Act, or regulations prescribed under this section relating
6 to the provision of adequate reception facilities for gar-
7 bage, ozone depleting substances, equipment containing
8 those substances, or exhaust gas cleaning residues, if the
9 port or terminal is not in compliance with the MARPOL
10 Protocol, this Act, or those regulations.”;

11 (4) in subsection (f)(1) by striking “Secretary
12 is” and inserting “Secretary and the Administrator
13 are”; and

14 (5) in subsection (f)(2) by striking “(A)”.

15 **SEC. 608. INSPECTIONS.**

16 Section 8(f) (33 U.S.C. 1907(f)) is amended to read
17 as follows:

18 “(f)(1) The Secretary may inspect a ship to which
19 this Act applies as provided under section 3(a)(5), to
20 verify whether the ship is in compliance with Annex VI
21 to the Convention and this Act.

22 “(2) If an inspection under this subsection or any
23 other information indicates that a violation has occurred,
24 the Secretary, or the Administrator in a matter referred

1 by the Secretary, may undertake enforcement action under
2 this section.

3 “(3) Notwithstanding subsection (b) and paragraph
4 (2) of this subsection, the Administrator shall have all of
5 the authorities of the Secretary, as specified in subsection
6 (b) of this section, for the purposes of enforcing regula-
7 tions 17 and 18 of Annex VI to the Convention to the
8 extent that shoreside violations are the subject of the ac-
9 tion and in any other matter referred to the Administrator
10 by the Secretary.”.

11 **SEC. 609. AMENDMENTS TO THE PROTOCOL.**

12 Section 10(b) (33 U.S.C. 1909(b)) is amended by in-
13 serting “or the Administrator as provided for in this Act,”
14 after “Secretary,”.

15 **SEC. 610. PENALTIES.**

16 Section 9 (33 U.S.C. 1908) is amended—

17 (1) by striking “Protocol,,” each place it ap-
18 pears and inserting “Protocol,”;

19 (2) in subsection (b)—

20 (A) by inserting “, or the Administrator as
21 provided for in this Act” after “Secretary” the
22 first place it appears;

23 (B) in paragraph (2), by inserting “, or
24 the Administrator as provided for in this Act,”
25 after “Secretary”; and

1 (C) in the matter after paragraph (2)—

2 (i) by inserting “, or the Adminis-
3 trator as provided for in this Act” after
4 “Secretary” the first place it appears; and

5 (ii) by inserting “, or the Adminis-
6 trator as provided for in this Act,” after
7 “Secretary” the second and third places it
8 appears;

9 (3) in subsection (c), by inserting “, or the Ad-
10 ministrator as provided for in this Act,” after “Sec-
11 retary” each place it appears; and

12 (4) in subsection (f), by inserting “, or the Ad-
13 ministrator as provided for in this Act” after “Sec-
14 retary” the first place appears.

15 **SEC. 611. EFFECT ON OTHER LAWS.**

16 Section 15 (33 U.S.C. 1911) is amended to read as
17 follows:

18 **“SEC. 15. EFFECT ON OTHER LAWS.**

19 “Authorities, requirements, and remedies of this Act
20 supplement and neither amend nor repeal any other au-
21 thorities, requirements, or remedies conferred by any
22 other provision of law. Nothing in this Act shall limit,
23 deny, amend, modify, or repeal any other authority, re-
24 quirement, or remedy available to the United States or

1 any other person, except as expressly provided in this
2 Act.”.

3 **TITLE VII—PORT SECURITY**

4 **SEC. 701. MARITIME HOMELAND SECURITY PUBLIC AWARE-** 5 **NESS PROGRAM.**

6 The Secretary of Homeland Security shall establish
7 a program to help prevent acts of terrorism and other ac-
8 tivities that jeopardize maritime homeland security, by
9 seeking the cooperation of the commercial and recreational
10 boating industries and the public to improve awareness of
11 activity in the maritime domain and report suspicious or
12 unusual activity.

13 **SEC. 702. TRANSPORTATION WORKER IDENTIFICATION** 14 **CREDENTIAL.**

15 (a) ASSESSMENT OF TWIC PROGRAM IMPLEMENTA-
16 TION.—

17 (1) IN GENERAL.—Not later than 120 days
18 after implementing the Transportation Worker Iden-
19 tification Credential program (in this section re-
20 ferred to as “TWIC”) at the ten ports designated
21 top priority by the Secretary of Homeland Security,
22 as required by section 70105(i)(2)(A) of title 46,
23 United States Code, the Secretary shall submit to
24 the Committee on Homeland Security of the House
25 of Representatives, the Committee on Commerce,

1 Science, and Transportation of the Senate, and the
2 Committee on Homeland Security and Governmental
3 Affairs of the Senate and to the Comptroller General
4 of the United States a report containing an assess-
5 ment of the progress of the program's implementa-
6 tion. The report shall include—

7 (A) the number of workers enrolled in the
8 program to date and the extent to which key
9 metrics and contract requirements have been
10 met; and

11 (B) an overview of the challenges encoun-
12 tered during implementation of the enrollment
13 process, and plans for how these challenges will
14 be addressed as the program is implemented at
15 additional ports.

16 (2) GAO ASSESSMENT.—The Comptroller Gen-
17 eral shall review the report and submit to the Com-
18 mittee on Homeland Security of the House of Rep-
19 resentatives, the Committee on Commerce, Science,
20 and Transportation of the Senate, and the Com-
21 mittee on Homeland Security and Governmental Af-
22 fairs of the Senate an assessment of the report's
23 findings and recommendations.

24 (b) ASSESSMENT OF TWIC PILOT.—

1 (1) IN GENERAL.—Not later than 120 days
2 after completing the pilot program under section
3 70105(k)(1) of title 46, United States Code, to test
4 TWIC access control technologies at port facilities
5 and vessels nationwide, the Secretary of Homeland
6 Security shall submit to the Committee on Home-
7 land Security of the House of Representatives, the
8 Committee on Commerce, Science, and Transpor-
9 tation of the Senate, and the Committee on Home-
10 land Security and Governmental Affairs of the Sen-
11 ate and to the Comptroller General a report con-
12 taining an assessment of the results of the pilot. The
13 report shall include—

14 (A) the findings of the pilot program with
15 respect to key technical and operational aspects
16 of implementing TWIC technologies in the mar-
17 itime sector;

18 (B) a comprehensive listing of the extent
19 to which established metrics were achieved dur-
20 ing the pilot program; and

21 (C) an analysis of the viability of those
22 technologies for use in the maritime environ-
23 ment, including any challenges to implementing
24 those technologies and strategies for mitigating
25 identified challenges.

1 (2) GAO ASSESSMENT.—The Comptroller Gen-
2 eral shall review the report and submit to the Com-
3 mittee on Homeland Security of the House of Rep-
4 resentatives, the Committee on Commerce, Science,
5 and Transportation of the Senate, and the Com-
6 mittee on Homeland Security and Governmental Af-
7 fairs of the Senate an assessment of the report's
8 findings and recommendations.

9 **SEC. 703. STUDY TO IDENTIFY REDUNDANT BACKGROUND**
10 **RECORDS CHECKS.**

11 (a) STUDY.—The Comptroller General of the United
12 States shall conduct a study comparing those background
13 records checks required under section 70105 of title 46,
14 United States Code, and those conducted by States for
15 similar homeland security purposes.

16 (b) REPORT.—Not later than 6 months after the date
17 of enactment of this Act, the Comptroller General of the
18 United States shall submit a report to the Committee on
19 Homeland Security of the House of Representatives, the
20 Committee on Transportation and Infrastructure of the
21 House of Representatives, the Committee on Commerce,
22 Science, and Transportation of the Senate, and the Com-
23 mittee on Homeland Security and Governmental Affairs
24 of the Senate on the results of the study, including—

1 (4) an analysis of the hurdles faced by the De-
2 partment in developing these centers;

3 (5) information on the number of security clear-
4 ances attained by State, local, and tribal officials
5 participating in the program; and

6 (6) an examination of the relationship between
7 the Interagency Operational Centers and State, local
8 and regional fusion centers participating in the De-
9 partment of Homeland Security's State, Local, and
10 Regional Fusion Center Initiative under section 511
11 of the Implementing the Recommendations of the 9/
12 11 Commission Act of 2007 (Public Law 110-53),
13 with a particular emphasis on—

14 (A) how the centers collaborate and coordi-
15 nate their efforts; and

16 (B) the resources allocated by the Coast
17 Guard to both initiatives.

18 **SEC. 705. MARITIME SECURITY RESPONSE TEAMS.**

19 (a) **IN GENERAL.**—Section 70106 of title 46, United
20 States Code, is amended by striking subsection (c) and
21 inserting the following:

22 “(c) **MARITIME SECURITY RESPONSE TEAMS.**—

23 “(1) **IN GENERAL.**—In addition to the maritime
24 safety and security teams, the Secretary shall estab-
25 lish no less than two maritime security response

1 teams to act as the Coast Guard's rapidly deployable
2 counterterrorism and law enforcement response
3 units that can apply advanced interdiction skills in
4 response to threats of maritime terrorism.

5 “(2) MINIMIZATION OF RESPONSE TIME.—The
6 maritime security response teams shall be stationed
7 in such a way to minimize, to the extent practicable,
8 the response time to any reported maritime terrorist
9 threat.

10 “(d) COORDINATION WITH OTHER AGENCIES.—To
11 the maximum extent feasible, each maritime safety and
12 security team and maritime security response team shall
13 coordinate its activities with other Federal, State, and
14 local law enforcement and emergency response agencies.”.

15 **SEC. 706. COAST GUARD DETECTION CANINE TEAM PRO-**
16 **GRAM EXPANSION.**

17 (a) DEFINITIONS.—For purposes of this section:

18 (1) CANINE DETECTION TEAM.—The term “de-
19 tection canine team” means a canine and a canine
20 handler that are trained to detect narcotics or explo-
21 sives, or other threats as defined by the Secretary.

22 (2) SECRETARY.—The term “Secretary” means
23 the Secretary of Homeland Security.

24 (b) DETECTION CANINE TEAMS.—

1 (1) INCREASED CAPACITY.—Not later than 240
2 days after the date of enactment of this Act, the
3 Secretary shall—

4 (A) begin to increase the number of detec-
5 tion canine teams certified by the Coast Guard
6 for the purposes of maritime-related security by
7 no fewer than 10 canine teams annually
8 through fiscal year 2012; and

9 (B) encourage owners and operators of
10 port facilities, passenger cruise liners, ocean-
11 going cargo vessels, and other vessels identified
12 by the Secretary to strengthen security through
13 the use of highly trained detection canine
14 teams.

15 (2) CANINE PROCUREMENT.—The Secretary,
16 acting through the Commandant of the Coast
17 Guard, shall—

18 (A) procure detection canine teams as effi-
19 ciently as possible, including, to the greatest ex-
20 tent possible, through increased domestic breed-
21 ing, while meeting the performance needs and
22 criteria established by the Commandant;

23 (B) support expansion and upgrading of
24 existing canine training facilities operated by

1 the department in which the Coast Guard is op-
2 erating; and

3 (C) as appropriate, partner with other
4 Federal, State, or local agencies, nonprofit or-
5 ganizations, universities, or the private sector to
6 increase the breeding and training capacity for
7 Coast Guard canine detection teams.

8 (c) DEPLOYMENT.—The Secretary shall prioritize de-
9 ployment of the additional canine teams to ports based
10 on risk, consistent with the Security and Accountability
11 For Every Port Act of 2006 (Public Law 109–347).

12 (d) AUTHORIZATION.—There are authorized to be ap-
13 propriated to the Secretary such sums as may be nec-
14 essary to carry out this section for fiscal years 2008
15 through 2012.

16 **SEC. 707. COAST GUARD PORT ASSISTANCE PROGRAM.**

17 Section 70110 of title 46, United States Code, is
18 amended by adding at the end the following:

19 “(f) COAST GUARD ASSISTANCE PROGRAM.—

20 “(1) IN GENERAL.—The Secretary may lend,
21 lease, donate, or otherwise provide equipment, and
22 provide technical training and support, to the owner
23 or operator of a foreign port or facility—

1 “(A) to assist in bringing the port or facil-
2 ity into compliance with applicable International
3 Ship and Port Facility Code standards;

4 “(B) to assist the port or facility in meet-
5 ing standards established under section 70109A
6 of this chapter; and

7 “(C) to assist the port or facility in exceed-
8 ing the standards described in subparagraphs
9 (A) and (B).

10 “(2) CONDITIONS.—The Secretary—

11 “(A) shall provide such assistance based
12 upon an assessment of the risks to the security
13 of the United States and the inability of the
14 owner or operator of the port or facility other-
15 wise to bring the port or facility into compli-
16 ance with those standards and to maintain com-
17 pliance with them;

18 “(B) may not provide such assistance un-
19 less the port or facility has been subjected to a
20 comprehensive port security assessment by the
21 Coast Guard or a third party entity certified by
22 the Secretary under section 70110A(b) to vali-
23 date foreign port or facility compliance with
24 International Ship and Port Facility Code
25 standards; and

1 “(C) may only lend, lease, or otherwise
2 provide equipment that the Secretary has first
3 determined is not required by the Coast Guard
4 for the performance of its missions.”.

5 **SEC. 708. MARITIME BIOMETRIC IDENTIFICATION.**

6 (a) **IN GENERAL.**—The Secretary of Homeland Secu-
7 rity, acting through the Commandant of the Coast Guard,
8 may conduct, in the maritime environment, a pilot pro-
9 gram for the mobile biometric identification of suspected
10 individuals, including terrorists, to enhance border secu-
11 rity and for other purposes.

12 (b) **REQUIREMENTS.**—The Secretary shall ensure
13 that the pilot program is coordinated with other biometric
14 identification programs within the Department of Home-
15 land Security and shall evaluate the costs and feasibility
16 of expanding the capability to all Coast Guard cutters, sta-
17 tions and deployable maritime teams, and other appro-
18 priate Department of Homeland Security maritime vessels
19 and units.

20 (c) **DEFINITION.**—For purposes of this section, the
21 term “biometric identification” means use of fingerprint
22 and digital photography images.

23 (d) **AUTHORIZATION OF APPROPRIATIONS.**—There
24 are authorized such sums as appropriate to carry out this
25 section.

1 **SEC. 709. REVIEW OF POTENTIAL THREATS.**

2 Not later than 1 year after the date of enactment
3 of this Act, the Secretary of Homeland Security shall sub-
4 mit to the Committee on Homeland Security of the House
5 of Representatives and the Committee on Commerce,
6 Science, and Transportation of the Senate a report ana-
7 lyzing the threat, vulnerability, and consequence of a ter-
8 rorist attack on gasoline and chemical cargo shipments in
9 port activity areas in the United States.

10 **SEC. 710. PORT SECURITY PILOT.**

11 The Secretary of Homeland Security shall establish
12 a pilot program to test and deploy preventive radiological
13 or nuclear detection equipment on Coast Guard vessels
14 and other locations in select port regions to enhance bor-
15 der security and for other purposes. The pilot program
16 shall leverage existing Federal grant funding to support
17 this program and the procurement of additional equip-
18 ment.

19 **SEC. 711. ADVANCE NOTICE OF PORT ARRIVAL OF SIGNIFI-**
20 **CANT OR FATAL INCIDENTS INVOLVING U.S.**
21 **PERSONS.**

22 (a) **REQUIREMENT.**—The Secretary of Homeland Se-
23 curity shall require the owner or operator of a cruise ship
24 that embarks or disembarks passengers in a United States
25 port to notify the Secretary of any covered security inci-
26 dent that occurs on the cruise ship in the course of the

1 voyage (or voyage segment) in which a U.S. person is in-
2 volved, in conjunction with any advance notice of arrival
3 to a United States port required by part 160 of title 33,
4 Code of Federal Regulations.

5 (b) DEFINITIONS.—For the purposes of this section:

6 (1) COVERED SECURITY INCIDENT.—The term
7 “covered security incident” means any criminal act
8 or omission that results in death or bodily injury, all
9 sexual assaults and missing persons, or any other in-
10 cident that poses a significant threat to the cruise
11 ship, any cruise ship passenger, any port facility, or
12 any person in or near the port.

13 (2) CRUISE SHIP.—The term “cruise ship”
14 means a vessel on an international voyage that em-
15 barks or disembarks passengers at a port of United
16 States jurisdiction to which subpart C of part 160
17 of title 33, Code of Federal Regulations, applies and
18 that provides overnight accommodations.

19 (3) U.S. PERSON.—The term “U.S. person”
20 means a citizen of the United States and an alien
21 lawfully admitted for permanent residence (as de-
22 fined in section 101(a)(20) of the Immigration and
23 Nationality Act (8 U.S.C. 1101 (a)(20)).

24 (4) UNITED STATES.—The term “United
25 States” means the 50 States, the District of Colum-

1 (B) by inserting “or facility” after “port”
2 each place it appears; and

3 (C) by striking “PORTS” in the heading
4 for subsection (e) and inserting “PORTS, FA-
5 CILITIES,”.

6 (2) The chapter analysis for chapter 701 of title
7 46, United States Code, is amended by striking the
8 item relating to section 70110 and inserting the fol-
9 lowing:

“70110. Actions and assistance for foreign ports or facilities and United States territories”.

10 **SEC. 713. SEASONAL WORKERS.**

11 (a) **STUDY.**—The Comptroller General of the United
12 States shall conduct a study on the effects that the Trans-
13 portation Worker Identification Card (in this section re-
14 ferred to as “TWIC”) required by section 70105 of title
15 46, United States Code, has on companies that employ
16 seasonal employees.

17 (b) **REPORT.**—Not later than one year after the date
18 of enactment of this Act, the Comptroller General shall
19 submit a report to the Committee on Transportation and
20 Infrastructure and the Committee on Homeland Security
21 of the House of Representatives and the Committee on
22 Commerce, Science, and Transportation of the Senate on
23 the results of the study, including—

1 (1) costs associated in requiring seasonal em-
2 ployees to obtain TWIC cards on companies

3 (2) whether the Coast Guard and Transpor-
4 tation Security Administration are processing TWIC
5 applications quickly enough for seasonal workers to
6 obtain TWIC certification;

7 (3) whether TWIC compliance costs or other
8 factors have led to a reduction in service;

9 (3) the impact of TWIC on the recruiting and
10 hiring of seasonal and other temporary employees;
11 and

12 (4) an assessment of possible alternatives to
13 TWIC certification that may be used for seasonal
14 employees including any security vulnerabilities cre-
15 ated by those alternatives.

16 **SEC. 714. COMPARATIVE RISK ASSESSMENT OF VESSEL-**
17 **BASED AND FACILITY-BASED LIQUEFIED NAT-**
18 **URAL GAS REGASIFICATION PROCESSES.**

19 (a) IN GENERAL.—Within 90 days after the date of
20 enactment of this Act, the Secretary of Homeland Secu-
21 rity, acting through the Commandant of the Coast Guard,
22 shall enter into an arrangement for the performance of
23 an independent study to conduct a comparative risk as-
24 sessment examining the relative safety and security risk
25 associated with vessel-based and facility-based liquefied

1 natural gas regasification processes conducted within 3
2 miles from land versus such processes conducted more
3 than 3 miles from land.

4 (b) REPORT.—Not later than 1 year after the date
5 of enactment of this Act, the Secretary Homeland Secu-
6 rity, acting through the Commandant, shall provide a re-
7 port on the findings and conclusions of the study required
8 by this section to the Committees on Homeland Security,
9 Transportation and Infrastructure, and Energy and Com-
10 merce of the House of Representatives, and the Commit-
11 tees on Homeland Security and Governmental Affairs and
12 Commerce, Science, and Transportation of the Senate.

13 **SEC. 715. PILOT PROGRAM FOR FINGERPRINTING OF MARI-**
14 **TIME WORKERS.**

15 (a) IN GENERAL.—Within 180 days after the date
16 of enactment of this Act, the Secretary of Homeland Secu-
17 rity shall establish procedures providing for an individual
18 who is required to be fingerprinted for purposes of obtain-
19 ing a transportation security card under section 70105 of
20 title 46, United States Code, to be fingerprinted at any
21 facility operated by or under contract with an agency of
22 the Department of Homeland Security that fingerprints
23 the public for the Department.

24 (b) EXPIRATION.—This section expires on December
25 31, 2012.

1 **SEC. 716. TRANSPORTATION SECURITY CARDS ON VESSELS.**

2 Section 70105(b)(2) of title 46, United States Code,
3 is amended—

4 (1) in subparagraph (B), by inserting after
5 “title” the following: “allowed unescorted access to
6 a secure area designated in a vessel security plan ap-
7 proved under section 70103 of this title”; and

8 (2) in subparagraph (D), by inserting after
9 “tank vessel” the following: “allowed unescorted ac-
10 cess to a secure area designated in a vessel security
11 plan approved under section 70103 of this title”.

12 **SEC. 717. INTERNATIONAL LABOR STUDY.**

13 The Comptroller General of the United States shall
14 conduct a study of methods to conduct a background secu-
15 rity investigation of an individual who possesses a biomet-
16 ric identification card that complies with International
17 Labor Convention number 185 that are equivalent to the
18 investigation conducted on individuals applying for a visa
19 to enter the United States. The Comptroller General shall
20 submit a report on the study within 180 days after the
21 date of enactment of this Act to the Committee on Trans-
22 portation and Infrastructure and the Committee on
23 Homeland Security of the House of Representatives and
24 the Committee on Commerce, Science, and Transportation
25 of the Senate.

1 **SEC. 718. MARITIME SECURITY ADVISORY COMMITTEES.**

2 Section 70112 of title 46, United States Code, is
3 amended—

4 (1) by amending subsection (b)(5) to read as
5 follows:

6 “(5)(A) The National Maritime Security Advisory
7 Committee shall be composed of—

8 “(i) at least 1 individual who represents the in-
9 terests of the port authorities;

10 “(ii) at least 1 individual who represents the in-
11 terests of the facilities owners or operators;

12 “(iii) at least 1 individual who represents the
13 interests of the terminal owners or operators;

14 “(iv) at least 1 individual who represents the
15 interests of the vessel owners or operators;

16 “(v) at least 1 individual who represents the in-
17 terests of the maritime labor organizations;

18 “(vi) at least 1 individual who represents the
19 interests of the academic community;

20 “(vii) at least 1 individual who represents the
21 interests of State or local governments; and

22 “(viii) at least 1 individual who represents the
23 interests of the maritime industry.

24 “(B) Each Area Maritime Security Advisory
25 Committee shall be composed of individuals who rep-
26 represents the interests of the port industry, terminal

1 operators, port labor organizations, and other users
2 of the port areas.”; and

3 (2) in subsection (g)—

4 (A) in paragraph (1)(A), by striking
5 “2008;” and inserting “2010;”;

6 (B) by repealing paragraph (2);

7 (C) by striking “(1)”;

8 (D) by redesignating subparagraphs (A)
9 and (B) as paragraphs (1) and (2).

10 **SEC. 719. SEAMEN’S SHORESIDE ACCESS.**

11 Each facility security plan approved under section
12 70103(c) of title 46, United States Code, shall provide a
13 system for seamen assigned to a vessel at that facility,
14 pilots, and representatives of seamen’s welfare and labor
15 organizations to board and depart the vessel through the
16 facility in a timely manner at no cost to the individual.

17 **SEC. 720. WATERSIDE SECURITY AROUND LIQUEFIED NAT-
18 URAL GAS TERMINALS AND LIQUEFIED NAT-
19 URAL GAS TANKERS.**

20 (a) **ENFORCEMENT OF SECURITY ZONES.**—Con-
21 sistent with other provisions of law, any security zone es-
22 tablished by the Coast Guard around a tanker containing
23 liquified natural gas shall be enforced by the Coast Guard.
24 If the Coast Guard must enforce multiple simultaneous
25 security zones, the Coast Guard shall allocate resources

1 so as to deter to the maximum extent practicable a trans-
2 portation security incident (as that term is defined in
3 section 70101 of title 46, United States Code).

4 (b) LIMITATION ON RELIANCE ON STATE AND LOCAL
5 GOVERNMENT.—Any security arrangement approved as
6 part of a facility security plan approved after the date of
7 enactment of this Act under section 70103 of title 46,
8 United States Code, for a liquefied natural gas terminal
9 on or adjacent to the navigable waters of the United
10 States, or to assist in the enforcement of any security zone
11 established by the Coast Guard around a tanker con-
12 taining liquefied natural gas, may not be based upon the
13 provision of security by a State or local government unless
14 the State or local government has entered into a contract,
15 cooperative agreement, or other arrangement with the ter-
16 minal operator to provide such services and the Secretary
17 of the department in which the Coast Guard is operating,
18 acting through the Commandant of the Coast Guard, en-
19 sures that the waterborne patrols operated as part of that
20 security arrangement by a State or local government have
21 the training, resources, personnel, equipment, and experi-
22 ence necessary to deter to the maximum extent practicable
23 a transportation security incident (as that term is defined
24 in section 70101 of title 46, United States Code).

1 (c) DETERMINATION REQUIRED FOR NEW LNG TER-
 2 MINALS.—The Secretary of the department in which the
 3 Coast Guard is operating, acting through the Com-
 4 mandant of the Coast Guard, may not approve a facility
 5 security plan under section 70103 of title 46, United
 6 States Code, for a new liquefied natural gas terminal the
 7 construction of which is begun after the date of enactment
 8 of this Act unless the Secretary determines that the Coast
 9 Guard has available to the sector in which the terminal
 10 is located the resources it needs to carry out the naviga-
 11 tion and maritime security risk management measures
 12 identified in the waterway suitability report prepared pur-
 13 suant to the Ports and Waterways Safety Act.

14 **TITLE VIII—COAST GUARD INTE-**
 15 **GRATED DEEPWATER PRO-**
 16 **GRAM**

17 **SEC. 801. SHORT TITLE.**

18 This title may be cited as the “Integrated Deepwater
 19 Program Reform Act”.

20 **SEC. 802. IMPLEMENTATION OF COAST GUARD INTE-**
 21 **GRATED DEEPWATER ACQUISITION PRO-**
 22 **GRAM.**

23 (a) USE OF PRIVATE SECTOR ENTITY AS A LEAD
 24 SYSTEMS INTEGRATOR.—

1 (1) IN GENERAL.—Except as otherwise pro-
2 vided in this subsection, the Secretary may not use
3 a private sector entity as a lead systems integrator
4 for procurements under, or in support of, the Deep-
5 water Program beginning on the earlier of October
6 1, 2011, or the date on which the Secretary certifies
7 in writing to the Committee on Transportation and
8 Infrastructure and the Committee on Homeland Se-
9 curity of the House of Representatives and the Com-
10 mittee on Commerce, Science, and Transportation of
11 the Senate that the Coast Guard has available and
12 can retain sufficient contracting personnel and ex-
13 pertise within the Coast Guard, through an arrange-
14 ment with other Federal agencies, or through con-
15 tracts or other arrangements with private sector en-
16 tities, to perform the functions and responsibilities
17 of the lead system integrator in an efficient and
18 cost-effective manner.

19 (2) COMPLETION OF EXISTING DELIVERY OR-
20 DERS AND TASK ORDERS.—The Secretary may use
21 a private sector entity as a lead systems integrator
22 to complete any delivery order or task order under
23 the Deepwater Program that was issued to the lead
24 systems integrator on or before the date of enact-
25 ment of this Act.

1 (3) ASSISTANCE OF OTHER FEDERAL AGEN-
2 CIES.—In any case in which the Secretary is the sys-
3 tems integrator under the Deepwater Program, the
4 Secretary may obtain any type of assistance the Sec-
5 retary considers appropriate, with any systems inte-
6 gration functions, from any Federal agency with ex-
7 perience in systems integration involving maritime
8 vessels and aircraft.

9 (4) ASSISTANCE OF PRIVATE SECTOR ENTI-
10 TIES.—In any case in which the Secretary is the sys-
11 tems integrator under the Deepwater Program, the
12 Secretary may, subject to the availability of appro-
13 priations, obtain by grant, contract, or cooperative
14 agreement any type of assistance the Secretary con-
15 siders appropriate, with any systems integration
16 functions, from any private sector entity with experi-
17 ence in systems integration involving maritime ves-
18 sels and aircraft.

19 (b) COMPETITION.—

20 (1) IN GENERAL.—Except as otherwise pro-
21 vided in this subsection, the Secretary shall use full
22 and open competition for each class of asset acquisi-
23 tions under the Deepwater Program for which an
24 outside contractor is used, if the asset is procured
25 directly by the Coast Guard or by the Integrated

1 Coast Guard System acting under a contract with
2 the Coast Guard.

3 (2) EXCEPTION.—The Secretary may use a pro-
4 curement method that is less than full and open
5 competition to procure an asset under the Deep-
6 water Program, if—

7 (A) the Secretary determines that such
8 method is in the best interests of the Federal
9 Government; and

10 (B) by not later than 30 days before the
11 date of the award of a contract for the procure-
12 ment, the Secretary submits to the Committee
13 on Transportation and Infrastructure and the
14 Committee on Homeland Security of the House
15 of Representatives and the Committee on Com-
16 merce, Science, and Transportation of the Sen-
17 ate a report explaining why such procurement
18 is in the best interests of the Federal Govern-
19 ment.

20 (3) LIMITATION ON APPLICATION.—Paragraph
21 (1) shall not apply to a contract, subcontract, or
22 task order that was issued before the date of enact-
23 ment of this Act, if there is no change in the quan-
24 tity of assets or the specific type of assets procured.

1 (c) REQUIRED CONTRACT TERMS.—The Secretary
2 shall include in each contract, subcontract, and task order
3 issued under the Deepwater Program after the date of en-
4 actment of this Act the following provisions, as applicable:

5 (1) TECHNICAL REVIEWS.—A requirement that
6 the Secretary shall conduct a technical review of all
7 proposed designs, design changes, and engineering
8 changes, and a requirement that the contractor must
9 specifically address all engineering concerns identi-
10 fied in the technical reviews, before any funds may
11 be obligated.

12 (2) RESPONSIBILITY FOR TECHNICAL REQUIRE-
13 MENTS.—A requirement that the Secretary shall
14 maintain the authority to establish, approve, and
15 maintain technical requirements.

16 (3) COST ESTIMATE OF MAJOR CHANGES.—A
17 requirement that an independent cost estimate must
18 be prepared and approved by the Secretary before
19 the execution of any change order costing more than
20 5 percent of the unit cost approved in the Deepwater
21 Program baseline in effect as of May 2007.

22 (4) PERFORMANCE MEASUREMENT.—A require-
23 ment that any measurement of contractor and sub-
24 contractor performance must be based on the status
25 of all work performed, including the extent to which

1 the work performed met all cost, schedule, and mis-
2 sion performance requirements outlined in the Deep-
3 water Program contract.

4 (5) EARLY OPERATIONAL ASSESSMENT.—For
5 the acquisition of any cutter class for which an
6 Early Operational Assessment has not been devel-
7 oped—

8 (A) a requirement that the Secretary of
9 the Department in which the Coast Guard is
10 operating shall cause an Early Operational As-
11 sessment to be conducted by the Department of
12 the Navy after the development of the prelimi-
13 nary design of the cutter and before the con-
14 duct of the critical design review of the cutter;
15 and

16 (B) a requirement that the Coast Guard
17 shall develop a plan to address the findings pre-
18 sented in the Early Operational Assessment.

19 (6) TRANSIENT ELECTROMAGNETIC PULSE
20 EMANATION.—For the acquisition or upgrade of air,
21 surface, or shore assets for which compliance with
22 transient electromagnetic pulse emanation (TEM-
23 PEST) is a requirement, a provision specifying that
24 the standard for determining such compliance shall

1 be the air, surface, or shore asset standard then
2 used by the Department of the Navy.

3 (7) OFFSHORE PATROL CUTTER UNDERWAY RE-
4 QUIREMENT.—For any contract issued to acquire an
5 Offshore Patrol Cutter, provisions specifying the
6 service life, fatigue life, days underway in general
7 Atlantic and North Pacific Sea conditions, maximum
8 range, and maximum speed the cutter shall be built
9 to achieve.

10 (8) INSPECTOR GENERAL ACCESS.—A require-
11 ment that the Department of Homeland Security's
12 Office of the Inspector General shall have access to
13 all records maintained by all contractors working on
14 the Deepwater Program, and shall have the right to
15 privately interview any contractor personnel.

16 (d) LIFE CYCLE COST ESTIMATE.—

17 (1) IN GENERAL.—The Secretary shall develop
18 an authoritative life cycle cost estimate for the
19 Deepwater Program.

20 (2) CONTENTS.—The life cycle cost estimate
21 shall include asset acquisition and logistics support
22 decisions and planned operational tempo and loca-
23 tions as of the date of enactment of this Act.

24 (3) SUBMITTAL.—The Secretary shall—

1 (A) submit the life cycle cost estimate to
2 the Committee on Transportation and Infra-
3 structure and the Committee on Homeland Se-
4 curity of the House of Representatives and the
5 Committee on Commerce, Science, and Trans-
6 portation of the Senate within 4 months after
7 the date of enactment of this Act; and

8 (B) submit updates of the life cycle cost
9 estimate to such Committees annually.

10 (e) CONTRACT OFFICERS.—The Secretary shall as-
11 sign a separate contract officer for each class of cutter
12 and aircraft acquired or rehabilitated under the Deep-
13 water Program, including the National Security Cutter,
14 the Offshore Patrol Cutter, the Fast Response Cutter A,
15 the Fast Response Cutter B, maritime patrol aircraft, the
16 aircraft HC-130J, the helicopter HH-65, the helicopter
17 HH-60, and the vertical unmanned aerial vehicle.

18 (f) TECHNOLOGY RISK REPORT.—The Secretary
19 shall submit to the Committee on Transportation and In-
20 frastructure and the Committee on Homeland Security of
21 the House of Representatives and the Committee on Com-
22 merce, Science, and Transportation of the Senate a report
23 identifying the technology risks and level of maturity for
24 major technologies used on each class of asset acquisitions
25 under the Deepwater Program, including the Fast Re-

1 sponse Cutter A (FRC-A), the Fast Response Cutter B
2 (FRC-B), the Offshore Patrol Cutter (OPC), and the
3 Vertical Unmanned Aerial Vehicle (VUAV), not later than
4 90 days before the date of award of a contract for such
5 an acquisition.

6 (g) SUBMISSION OF ASSESSMENT RESULTS AND
7 PLANS TO CONGRESS.—The Commandant of the Coast
8 Guard shall submit to the Committee on Transportation
9 and Infrastructure and the Committee on Homeland Secu-
10 rity of the House of Representatives and the Committee
11 on Commerce, Science, and Transportation of the Sen-
12 ate—

13 (1) the results of each Early Operational As-
14 sessment conducted pursuant to subsection (c)(5)(A)
15 and the plan approved by the Commandant pursuant
16 to subsection (c)(5)(B) for addressing the findings
17 of such assessment, within 30 days after the Com-
18 mandant approves the plan; and

19 (2) a report describing how the recommenda-
20 tions of each Early Operational Assessment con-
21 ducted pursuant to subsection (c)(5)(A) on the first
22 in class of a new cutter class have been addressed
23 in the design on which construction is to begin, with-
24 in 30 days before initiation of construction.

1 **SEC. 803. CHIEF ACQUISITION OFFICER.**

2 (a) IN GENERAL.—Chapter 3 of title 14, United
3 States Code, is further amended by adding at the end the
4 following:

5 **“§ 56. Chief Acquisition Officer**

6 “(a) ESTABLISHMENT OF AGENCY CHIEF ACQUI-
7 TION OFFICER.—The Commandant shall appoint or des-
8 ignate a career reserved employee as Chief Acquisition Of-
9 ficer for the Coast Guard, who shall—

10 “(1) have acquisition management as that offi-
11 cial’s primary duty; and

12 “(2) report directly to the Commandant to ad-
13 vise and assist the Commandant to ensure that the
14 mission of the Coast Guard is achieved through the
15 management of the Coast Guard’s acquisition activi-
16 ties.

17 “(b) AUTHORITY AND FUNCTIONS OF THE CHIEF
18 ACQUISITION OFFICER.—The functions of the Chief Ac-
19 quisition Officer shall include—

20 “(1) monitoring the performance of acquisition
21 activities and acquisition programs of the Coast
22 Guard, evaluating the performance of those pro-
23 grams on the basis of applicable performance meas-
24 urements, and advising the Commandant regarding
25 the appropriate business strategy to achieve the mis-
26 sion of the Coast Guard;

1 “(2) increasing the use of full and open com-
2 petition in the acquisition of property and services
3 by the Coast Guard by establishing policies, proce-
4 dures, and practices that ensure that the Coast
5 Guard receives a sufficient number of sealed bids or
6 competitive proposals from responsible sources to
7 fulfill the Government’s requirements (including per-
8 formance and delivery schedules) at the lowest cost
9 or best value considering the nature of the property
10 or service procured;

11 “(3) ensuring the use of detailed performance
12 specifications in instances in which performance-
13 based contracting is used;

14 “(4) making acquisition decisions consistent
15 with all applicable laws and establishing clear lines
16 of authority, accountability, and responsibility for
17 acquisition decisionmaking within the Coast Guard;

18 “(5) managing the direction of acquisition pol-
19 icy for the Coast Guard, including implementation of
20 the unique acquisition policies, regulations, and
21 standards of the Coast Guard;

22 “(6) developing and maintaining an acquisition
23 career management program in the Coast Guard to
24 ensure that there is an adequate professional work-
25 force; and

1 “(7) as part of the strategic planning and per-
2 formance evaluation process required under section
3 306 of title 5 and sections 1105(a)(28), 1115, 1116,
4 and 9703 of title 31—

5 “(A) assessing the requirements estab-
6 lished for Coast Guard personnel regarding
7 knowledge and skill in acquisition resources
8 management and the adequacy of such require-
9 ments for facilitating the achievement of the
10 performance goals established for acquisition
11 management;

12 “(B) in order to rectify any deficiency in
13 meeting such requirements, developing strate-
14 gies and specific plans for hiring, training, and
15 professional development; and

16 “(C) reporting to the Commandant on the
17 progress made in improving acquisition man-
18 agement capability.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
20 at the beginning of such chapter is amended by adding
21 at the end the following:

 “56. Chief Acquisition Officer.”.

22 (c) SPECIAL RATE SUPPLEMENTS.—

23 (1) REQUIREMENT TO ESTABLISH.—Not later
24 than 1 year after the date of enactment of this Act
25 and in accordance with part 9701.333 of title 5,

1 Code of Federal Regulations, the Commandant of
2 the Coast Guard shall establish special rate supple-
3 ments that provide higher pay levels for employees
4 necessary to carry out the amendment made by this
5 section.

6 (2) SUBJECT TO APPROPRIATIONS.—The re-
7 quirement under paragraph (1) is subject to the
8 availability of appropriations.

9 **SEC. 804. TESTING AND CERTIFICATION.**

10 (a) IN GENERAL.—The Secretary shall—

11 (1) cause each cutter, other than a National Se-
12 curity Cutter, acquired by the Coast Guard and de-
13 livered after the date of enactment of this Act to be
14 classed by the American Bureau of Shipping, before
15 acceptance of delivery;

16 (2) cause the design and construction of each
17 National Security Cutter, other than National Secu-
18 rity Cutter 1 and 2, to be certified by an inde-
19 pendent third party with expertise in vessel design
20 and construction certification to be able to meet a
21 185-underway-day requirement under general Atlan-
22 tic and North Pacific sea conditions for a period of
23 at least 30 years;

24 (3) cause all electronics on all aircraft, surface,
25 and shore assets that require TEMPEST certifi-

1 cation and that are delivered after the date of enact-
2 ment of this Act to be tested and certified in accord-
3 ance with TEMPEST standards and communica-
4 tions security (COMSEC) standards by an inde-
5 pendent third party that is authorized by the Fed-
6 eral Government to perform such testing and certifi-
7 cation; and

8 (4) cause all aircraft and aircraft engines ac-
9 quired by the Coast Guard and delivered after the
10 date of enactment of this Act to be certified for air-
11 worthiness by an independent third party with ex-
12 pertise in aircraft and aircraft engine certification,
13 before acceptance of delivery.

14 (b) **FIRST IN CLASS OF A MAJOR ASSET ACQUISI-**
15 **TION.**—The Secretary shall cause the first in class of a
16 major asset acquisition of a cutter or an aircraft to be
17 subjected to an assessment of operational capability con-
18 ducted by the Secretary of the Navy.

19 (c) **FINAL ARBITER.**—The Secretary shall be the
20 final arbiter of all technical disputes regarding designs
21 and acquisitions of vessels and aircraft for the Coast
22 Guard.

23 **SEC. 805. NATIONAL SECURITY CUTTERS.**

24 (a) **NATIONAL SECURITY CUTTERS 1 AND 2.**—

1 (1) REPORT ON OPTIONS UNDER CONSIDER-
2 ATION.—The Secretary shall submit to the Com-
3 mittee on Transportation and Infrastructure and the
4 Committee on Homeland Security of the House of
5 Representatives and the Committee on Commerce,
6 Science, and Transportation of the Senate—

7 (A) within 120 days after the date of en-
8 actment of this Act, a report describing in de-
9 tail the cost increases that have been experi-
10 enced on National Security Cutters 1 and 2
11 since the date of the issuance of the task orders
12 for construction of those cutters and explaining
13 the causes of these cost increases; and

14 (B) within 180 days after the date of en-
15 actment of this Act, a report on the options
16 that the Coast Guard is considering to
17 strengthen the hulls of National Security Cutter
18 1 and National Security Cutter 2, including—

19 (i) the costs of each of the options
20 under consideration;

21 (ii) a schedule for when the hull
22 strengthening repairs are anticipated to be
23 performed; and

24 (iii) the impact that the weight likely
25 to be added to each the cutter by each op-

1 tion will have on the cutter's ability to
2 meet both the original performance re-
3 quirements included in the Deepwater Pro-
4 gram contract and the performance re-
5 quirements created by contract Amend-
6 ment Modification 00042 dated February
7 7, 2007.

8 (2) DESIGN ASSESSMENT.—Not later than 30
9 days before the Coast Guard signs any contract, de-
10 livery order, or task order to strengthen the hull of
11 either of National Security Cutter 1 or 2 to resolve
12 the structural design and performance issues identi-
13 fied in the Department of Homeland Security In-
14 spector General's report OIG-07-23 dated January
15 2007, the Secretary shall submit to the Committee
16 on Transportation and Infrastructure and the Com-
17 mittee on Homeland Security of the House of Rep-
18 resentatives and the Committee on Commerce,
19 Science, and Transportation of the Senate all results
20 of an assessment of the proposed hull strengthening
21 design conducted by the Naval Surface Warfare
22 Center, Carderock Division, including a description
23 in detail of the extent to which the hull strength-
24 ening measures to be implemented on those cutters
25 will enable the cutters to meet a 185-underway-day

1 requirement under general Atlantic and North Pa-
2 cific sea conditions for a period of at least 30 years.

3 (b) NATIONAL SECURITY CUTTERS 3 THROUGH 8.—
4 Not later than 30 days before the Coast Guard signs any
5 contract, delivery order, or task order authorizing con-
6 struction of National Security Cutters 3 through 8, the
7 Secretary shall submit to the Committee on Transpor-
8 tation and Infrastructure and the Committee on Home-
9 land Security of the House of Representatives and the
10 Committee on Commerce, Science, and Transportation of
11 the Senate all results of an assessment of the proposed
12 designs to resolve the structural design, safety, and per-
13 formance issues identified by the Department of Home-
14 land Security Office of Inspector General report OIG-07-
15 23 for the hulls of those cutters conducted by the Naval
16 Surface Warfare Center, Carderock Division, including a
17 description in detail of the extent to which such designs
18 will enable the cutters to meet a 185-underway-day re-
19 quirement under general Atlantic and North Pacific sea
20 conditions.

21 **SEC. 806. MISCELLANEOUS REPORTS.**

22 (a) IN GENERAL.—The Secretary shall submit the
23 following reports to the Committee on Transportation and
24 Infrastructure and the Committee on Homeland Security

1 of the House of Representatives and the Committee on
2 Commerce, Science, and Transportation of the Senate:

3 (1) Within 4 months after the date of enact-
4 ment of this Act, a justification for why 8 National
5 Security Cutters are required to meet the oper-
6 ational needs of the Coast Guard, including—

7 (A) how many days per year each National
8 Security Cutter will be underway at sea;

9 (B) where each National Security Cutter
10 will be home ported;

11 (C) the amount of funding that will be re-
12 quired to establish home port operations for
13 each National Security Cutter;

14 (D) the extent to which 8 National Secu-
15 rity Cutters deployed without vertical un-
16 manned aerial vehicles (VUAV) will meet or ex-
17 ceed the mission capability (including surveil-
18 lance capacity) of the 12 Hamilton-class high
19 endurance cutters that the National Security
20 Cutters will replace;

21 (E) the business case in support of con-
22 structing National Security Cutters 3 through
23 8, including a cost-benefit analysis; and

24 (F) an analysis of how many Offshore Pa-
25 trol Cutters would be required to provide the

1 patrol coverage provided by a National Security
2 Cutter.

3 (2) Within 4 months after the date of enact-
4 ment of this Act, a report on—

5 (A) the impact that deployment of a Na-
6 tional Security Cutter and other cutter assets
7 without the vertical unmanned aerial vehicle
8 (VUAV) will have on the amount of patrol cov-
9 erage that will be able to be provided during
10 missions conducted by the National Security
11 Cutter and all other cutters planned to be
12 equipped with a VUAV;

13 (B) how the coverage gap will be made up;

14 (C) an update on the current status of the
15 development of the VUAV; and

16 (D) the timeline detailing the major mile-
17 stones to be achieved during development of the
18 VUAV and identifying the delivery date for the
19 first and last VUAV.

20 (3) Within 30 days after the elevation to flag-
21 level for resolution of any design or other dispute re-
22 garding the Deepwater Program contract or an item
23 to be procured under that contract, including a de-
24 tailed description of the issue and the rationale un-

1 derlying the decision taken by the flag officer to re-
2 solve the issue.

3 (4) Within 4 months after the date of enact-
4 ment of this Act, a report detailing the total number
5 of change orders that have been created by the
6 Coast Guard under the Deepwater Program before
7 the date of enactment of this Act, the total cost of
8 these change orders, and their impact on the Deep-
9 water Program schedule.

10 (5) Within 180 days after the date of enact-
11 ment of this Act, a report detailing the technology
12 risks and level of maturity for major technologies
13 used on maritime patrol aircraft, the HC-130J, and
14 the National Security Cutter.

15 (6) Not less than 60 days before signing a con-
16 tract to acquire any vessel or aircraft, a report com-
17 paring the cost of purchasing that vessel or aircraft
18 directly from the manufacturer or shipyard with the
19 cost of procuring it through the Integrated Coast
20 Guard System.

21 (7) Within 30 days after the Program Execu-
22 tive Officer of the Deepwater Program becomes
23 aware of a likely cost overrun exceeding 5 percent of
24 the overall asset acquisition contract cost or schedule
25 delay exceeding 5 percent of the estimated asset con-

1 struction period under the Deepwater Program, a
2 report by the Commandant containing a description
3 of the cost overrun or delay, an explanation of the
4 overrun or delay, a description of Coast Guard's re-
5 sponse, and a description of significant delays in the
6 procurement schedule likely to be caused by the
7 overrun or delay.

8 (8) Within 90 days after the date of enactment
9 of this Act, articulation of a doctrine and description
10 of an anticipated implementation of a plan for man-
11 agement of acquisitions programs, financial manage-
12 ment (including earned value management and cost
13 estimating), engineering and logistics management,
14 and contract management, that includes—

15 (A) a description of how the Coast Guard
16 will cultivate among uniformed personnel exper-
17 tise in acquisitions management and financial
18 management;

19 (B) a description of the processes that will
20 be followed to draft and ensure technical review
21 of procurement packages, including statements
22 of work, for any class of assets acquired by the
23 Coast Guard;

24 (C) a description of how the Coast Guard
25 will conduct an independent cost estimating

1 process, including independently developing cost
2 estimates for major change orders; and

3 (D) a description of how Coast Guard will
4 strengthen the management of change orders.

5 (9) Within 4 months after the date of enact-
6 ment of this Act, a report on the development of a
7 new acquisitions office within the Coast Guard de-
8 scribing the specific staffing structure for that direc-
9 torate, including—

10 (A) identification of all managerial posi-
11 tions proposed as part of the office, the func-
12 tions that each managerial position will fill, and
13 the number of employees each manager will su-
14 pervise; and

15 (B) a formal organizational chart and
16 identification of when managerial positions are
17 to be filled.

18 (10) Ninety days prior to the issuance of a Re-
19 quest for Proposals for construction of an Offshore
20 Patrol Cutter, a report detailing the service life, fa-
21 tigue life, maximum range, maximum speed, and
22 number of days underway under general Atlantic
23 and North Pacific Sea conditions the cutter shall be
24 built to achieve.

1 (11) The Secretary shall report annually on the
2 percentage of the total amount of funds expended on
3 procurements under the Deepwater Program that
4 has been paid to each of small businesses and minor-
5 ity-owned businesses.

6 (12) Within 120 days after the date of enact-
7 ment of this Act, a report on any Coast Guard mis-
8 sion performance gap due to the removal of Deep-
9 water Program assets from service. The report shall
10 include the following:

11 (A) A description of the mission perform-
12 ance gap detailing the geographic regions and
13 Coast Guard capabilities affected.

14 (B) An analysis of factors affecting the
15 mission performance gap that are unrelated to
16 the Deepwater Program, including deployment
17 of Coast Guard assets overseas and continuous
18 vessel shortages.

19 (C) A description of measures being taken
20 in the near term to fill the mission performance
21 gap, including what those measures are and
22 when they will be implemented.

23 (D) A description of measures being taken
24 in the long term to fill the mission performance

1 gap, including what those measures are and
2 when they will be implemented.

3 (E) A description of the potential alter-
4 natives to fill the mission performance gap, in-
5 cluding any acquisition or lease considered and
6 the reasons they were not pursued.

7 (b) REPORT REQUIRED ON ACCEPTANCE OF DELIV-
8 ERY OF INCOMPLETE ASSET.—

9 (1) IN GENERAL.—If the Secretary accepts de-
10 livery of an asset after the date of enactment of this
11 Act for which a contractually required certification
12 cannot be achieved within 30 days after the date of
13 delivery or with any system that is not fully func-
14 tional for the mission for which it was intended, the
15 Secretary shall submit to the Committee on Trans-
16 portation and Infrastructure and the Committee on
17 Homeland Security of the House of Representatives
18 and the Committee on Commerce, Science, and
19 Transportation of the United States Senate within
20 30 days after accepting delivery of the asset a report
21 explaining why acceptance of the asset in such a
22 condition is in the best interests of the United
23 States Government.

24 (2) CONTENTS.—The report shall—

1 (A) specify the systems that are not able
2 to achieve contractually required certifications
3 within 30 days after the date of delivery and
4 the systems that are not fully functional at the
5 time of delivery for the missions for which they
6 were intended;

7 (B) identify milestones for the completion
8 of required certifications and to make all sys-
9 tems fully functional; and

10 (C) identify when the milestones will be
11 completed, who will complete them, and the cost
12 to complete them.

13 **SEC. 807. USE OF THE NAVAL SEA SYSTEMS COMMAND, THE**
14 **NAVAL AIR SYSTEMS COMMAND, AND THE**
15 **SPACE AND NAVAL WARFARE SYSTEMS COM-**
16 **MAND TO ASSIST THE COAST GUARD IN EX-**
17 **ERCISING TECHNICAL AUTHORITY FOR THE**
18 **DEEPWATER PROGRAM AND OTHER COAST**
19 **GUARD ACQUISITION PROGRAMS.**

20 (a) FINDINGS.—Congress finds that the Coast
21 Guard's use of the technical, contractual, and program
22 management oversight expertise of the Department of the
23 Navy in ship and aircraft production complements and
24 augments the Coast Guard's organic expertise as it pro-
25 cures assets for the Deepwater Program.

1 (b) INTER-SERVICE TECHNICAL ASSISTANCE.—The
2 Secretary may enter into a memorandum of understanding
3 or a memorandum of agreement with the Secretary of the
4 Navy to provide for the use of the Navy Systems Com-
5 mands to assist the Coast Guard with the oversight of
6 Coast Guard major acquisition programs. Such memo-
7 randum of understanding or memorandum of agreement
8 shall, at a minimum provide for—

9 (1) the exchange of technical assistance and
10 support that the Coast Guard Chief Engineer and
11 the Coast Guard Chief Information Officer, as Coast
12 Guard Technical Authorities, may identify;

13 (2) the use, as appropriate, of Navy technical
14 expertise; and

15 (3) the temporary assignment or exchange of
16 personnel between the Coast Guard and the Navy
17 Systems Commands to facilitate the development of
18 organic capabilities in the Coast Guard.

19 (c) TECHNICAL AUTHORITIES.—The Coast Guard
20 Chief Engineer, Chief Information Officer, and Chief Ac-
21 quisition Officer shall adopt, to the extent practicable, pro-
22 cedures that are similar to those used by the Navy Senior
23 Acquisition Official to ensure the Coast Guard Technical
24 Authorities, or designated Technical Warrant Holders, ap-
25 prove all technical requirements.

1 (d) COORDINATION.—The Secretary, acting through
2 the Commandant of the Coast Guard, may coordinate with
3 the Secretary of the Navy, acting through the Chief of
4 Naval Operations, to develop processes by which the as-
5 sistance will be requested from the Navy Systems Com-
6 mands and provided to the Coast Guard.

7 (e) REPORT.—Not later than 120 days after the date
8 of enactment of this Act and every twelve months there-
9 after, the Commandant of the Coast Guard shall report
10 to the Committee on Transportation and Infrastructure
11 and the Committee on Homeland Security of the House
12 of Representatives and the Committee on Commerce,
13 Science, and Transportation of the Senate on the activities
14 undertaken pursuant to such memorandum of under-
15 standing or memorandum of agreement.

16 **SEC. 808. DEFINITIONS.**

17 In this title:

18 (1) DEEPWATER PROGRAM.—The term “Deep-
19 water Program” means the Integrated Deepwater
20 Systems Program described by the Coast Guard in
21 its report to Congress entitled “Revised Deepwater
22 Implementation Plan 2005”, dated March 25, 2005.
23 The Deepwater Program primarily involves the pro-
24 curement of cutter and aviation assets that operate
25 more than 50 miles offshore.

1 (2) SECRETARY.—The term “Secretary” means
2 the Secretary of the department in which the Coast
3 Guard is operating.

4 **TITLE IX—MINORITY SERVING**
5 **INSTITUTIONS**

6 **SEC. 901. MSI MANAGEMENT INTERNSHIP PROGRAM.**

7 (a) ESTABLISHMENT AND PURPOSE.—The Com-
8 mandant of the Coast Guard shall establish a two part
9 management internship program for students at minority
10 serving institutions (MSI) to intern at Coast Guard head-
11 quarters or a Coast Guard regional office, to be known
12 as the “MSI Management Internship Program”, to de-
13 velop a cadre of civilian, career mid-level and senior man-
14 agers for the Coast Guard.

15 (b) OPERATION.—The MSI Management Internship
16 Program shall be managed by the Secretary of Homeland
17 Security, acting through the Commandant of the Coast
18 Guard, in coordination with National Association for
19 Equal Opportunity in Higher Education, the Hispanic As-
20 sociation of Colleges and Universities, and the American
21 Indian Higher Education Consortium.

22 (c) CRITERIA FOR SELECTION.—Participation in the
23 MSI Management Internship Program shall be open to
24 sophomores, juniors, and seniors at minority serving insti-
25 tutions, with an emphasis on such students who are major-

1 ing in management or business administration, inter-
2 national affairs, political science, marine sciences, criminal
3 justice, or any other major related to homeland security.

4 (d) AUTHORIZATION OF APPROPRIATIONS.—There
5 are authorized to be appropriated \$2,000,000 to the Com-
6 mandant to carry out this section.

7 **SEC. 902. MSI INITIATIVES.**

8 (a) ESTABLISHMENT OF MSI STUDENT PRE-COM-
9 MISSIONING INITIATIVE.—The Commandant of the Coast
10 Guard shall establish an MSI component of the College
11 Student Pre-Commissioning Initiative (to be known as the
12 “MSI Student Pre-Commissioning Initiative Program”) to
13 ensure greater participation by students from MSIs in the
14 College Student Pre-Commissioning Initiative.

15 (b) PARTICIPATION IN OFFICER CANDIDATE
16 SCHOOL.—The Commandant of the Coast Guard shall en-
17 sure that graduates of the MSI Student Pre-Commis-
18 sioning Initiative Program are included in the first enroll-
19 ment for Officer Candidate School that commences after
20 the date of enactment of this title and each enrollment
21 period thereafter.

22 (c) REPORTS.—Not later than 90 days after the con-
23 clusion of each academic year with respect to which the
24 College Student Pre-Commissioning Initiative and the
25 MSI Student Pre-Commissioning Initiative Program is

1 carried out beginning with the first full academic year
2 after the date of the enactment of this title, the Com-
3 mandant shall submit to the Committee on Transportation
4 and Infrastructure and the Committee on Homeland Secu-
5 rity of the House of Representatives and the Committee
6 on Commerce of the Senate a report on the number of
7 students in the College Student Pre-Commissioning Initia-
8 tive and the number of students in the MSI Student Pre-
9 Commissioning Initiative Program, outreach efforts, and
10 demographic information of enrollees including, age, gen-
11 der, race, and disability.

12 (d) ESTABLISHMENT OF MSI AVIATION OFFICER
13 CORPS INITIATIVE.—The Commandant of the Coast
14 Guard shall establish an MSI Aviation Officer Corps Ini-
15 tiative to increase the diversity of the Coast Guard Avia-
16 tion Officer Corps through an integrated recruiting, acces-
17 sion, training, and assignment process that offers guaran-
18 teed flight school opportunities to students from minority
19 serving institutions.

20 (e) AUTHORIZATION OF APPROPRIATIONS.—There
21 are authorized to be appropriated \$3,000,000 to the Com-
22 mandant to carry out this section.

1 **SEC. 903. COAST GUARD-MSI COOPERATIVE TECHNOLOGY**
2 **PROGRAM.**

3 (a) ESTABLISHMENT.—The Commandant of the
4 Coast Guard shall establish a Coast Guard Laboratory of
5 Excellence-MSI Cooperative Technology Program at three
6 minority serving institutions to focus on priority security
7 areas for the Coast Guard, such as global maritime sur-
8 veillance, resilience, and recovery.

9 (b) COLLABORATION.—The Commandant shall en-
10 courage collaboration among the minority serving institu-
11 tions selected under subsection (a) and institutions of
12 higher education with institutional research and academic
13 program resources and experience.

14 (c) PARTNERSHIPS.—The heads of the laboratories
15 established at the minority serving institutions pursuant
16 to subsection (a) may seek to establish partnerships with
17 the private sector, especially small, disadvantaged busi-
18 nesses, to—

19 (1) develop increased research and development
20 capacity;

21 (2) increase the number of baccalaureate and
22 graduate degree holders in science, technology, engi-
23 neering, mathematics (STEM), and information
24 technology or other fields critical to the mission of
25 the Coast Guard; and

1 (3) strengthen instructional ability among fac-
2 ulty.

3 (d) AUTHORIZATION OF APPROPRIATIONS.—There
4 are authorized to be appropriated \$2,500,000 to the Com-
5 mandant to carry out this section, including for instru-
6 mentation acquisition and funding undergraduate student
7 scholarships, graduate fellowships, and faculty-post doc-
8 toral study.

9 **SEC. 904. DEFINITION.**

10 For purposes of this title, the terms “minority serv-
11 ing institution”, “minority serving institutions”, and
12 “MSI” mean a historically Black college or university (as
13 defined in section 322 of the Higher Education Act of
14 1965), a Hispanic-serving institution (as defined in sec-
15 tion 502 of such Act), a Tribal College or University (as
16 defined in section 316 of such Act), a Predominantly
17 Black institution (as defined in section 499A(c) of such
18 Act), or a Native American-serving nontribal institution
19 (as defined in section 499A(e) of such Act).

1 **TITLE X—APPEALS TO NA-**
2 **TIONAL TRANSPORTATION**
3 **SAFETY BOARD**

4 **SEC. 1001. RIGHTS OF APPEAL REGARDING LICENSES, CER-**
5 **TIFICATES OF REGISTRY, AND MERCHANT**
6 **MARINERS' DOCUMENTS.**

7 (a) DENIAL OF ISSUANCE OR RENEWAL.—

8 (1) LICENSES AND CERTIFICATES OF REG-
9 ISTRY.—Section 7101 of title 46, United States
10 Code, is amended by adding at the end the following
11 new subsection:

12 “(j) APPEALS TO THE NATIONAL TRANSPORTATION
13 SAFETY BOARD.—

14 “(1) IN GENERAL.—An individual whose appli-
15 cation for the issuance or renewal of a license or cer-
16 tificate of registry has been denied under this chap-
17 ter by the Secretary may appeal that decision to the
18 National Transportation Safety Board, unless the
19 individual holds a license or certificate that—

20 “(A) is suspended at the time of the de-
21 nial; or

22 “(B) was revoked within the one-year pe-
23 riod ending on the date of the denial.

24 “(2) PROCEDURE.—The Board shall conduct a
25 hearing on the appeal. The Board is not bound by

1 findings of fact of the Secretary but is bound by all
2 validly adopted interpretations of laws and regula-
3 tions the Secretary carries out unless the Board
4 finds an interpretation is arbitrary, capricious, or
5 otherwise not according to law. At the end of the
6 hearing, the Board shall decide whether the indi-
7 vidual meets the requirements for issuance or re-
8 newal of the license or certificate of registry under
9 applicable regulations and standards. The Secretary
10 is bound by the Board's decision.”.

11 (2) MERCHANT MARINERS' DOCUMENTS.—Sec-
12 tion 7302 of title 46, United States Code, is amend-
13 ed by adding at the end the following new sub-
14 section:

15 “(h) APPEALS TO THE NATIONAL TRANSPORTATION
16 SAFETY BOARD.—

17 “(1) IN GENERAL.—An individual whose appli-
18 cation for the issuance or renewal of a merchant
19 mariners' document has been denied under this
20 chapter by the Secretary may appeal that decision to
21 the National Transportation Safety Board, unless
22 the individual holds a merchant mariners' document
23 that—

24 “(A) is suspended at the time of the de-
25 nial; or

1 “(B) was revoked within the one-year pe-
2 riod ending on the date of denial.

3 “(2) PROCEDURE.—The Board shall conduct a
4 hearing on the appeal. The Board is not bound by
5 findings of fact of the Secretary but is bound by all
6 validly adopted interpretations of laws and regula-
7 tions the Secretary carries out unless the Board
8 finds an interpretation is arbitrary, capricious, or
9 otherwise not according to law. At the end of the
10 hearing, the Board shall decide whether the indi-
11 vidual meets the requirements for issuance or re-
12 newal of the document under applicable regulations
13 and standards. The Secretary is bound by the
14 Board’s decision.”.

15 (b) SUSPENSION AND REVOCATION.—Chapter 77 of
16 title 46, United States Code, is amended—

17 (1) in section 7702—

18 (A) by striking subsection (b); and

19 (B) by redesignating subsections (c) and

20 (d) as subsections (b) and (c), respectively;

21 (2) by adding at the end the following new sec-
22 tions:

1 **“§ 7707. Appeals to the National Transportation Safe-**
2 **ty Board**

3 “(a) IN GENERAL.—An individual whose license, cer-
4 tificate of registry, or merchant mariners’ document has
5 been suspended or revoked under this chapter by the Sec-
6 retary may appeal that decision within 30 days to the Na-
7 tional Transportation Safety Board. The Board shall af-
8 firm or reverse the order after providing notice and an
9 opportunity for a hearing on the record. In conducting the
10 hearing under this section, the Board is not bound by find-
11 ings of fact of the Secretary but is bound by all validly
12 adopted interpretations of laws and regulations the Sec-
13 retary carries out and of written agency policy guidance
14 available to the public related to sanctions to be imposed
15 under this section, unless the Board finds an interpreta-
16 tion is arbitrary, capricious, or otherwise not according to
17 law.

18 “(b) EFFECTIVENESS OF ORDER PENDING AP-
19 PEAL.—

20 “(1) IN GENERAL.—Except as provided in para-
21 graph (2), upon the filing by an individual of an ap-
22 peal with the Board under this subsection, the order
23 of the Secretary suspending or revoking the license,
24 certificate of registry, or merchant mariners’ docu-
25 ment is stayed.

1 “(2) EXCEPTION.—If the Secretary notifies the
2 Board that the Secretary has determined there ex-
3 ists an emergency affecting safety in maritime trans-
4 portation requires the immediate effectiveness of the
5 order—

6 “(A) the order shall remain in effect pend-
7 ing disposition of the appeal;

8 “(B) the Board shall make a final disposi-
9 tion of the appeal not later than 60 days after
10 the Secretary so notifies the Board; and

11 “(C) if the Board does not act within such
12 60-day period, the order shall continue in effect
13 unless modified by the Secretary.

14 “(c) REVIEW OF EMERGENCY ORDER.—A person af-
15 fected by the immediate effectiveness of the Secretary’s
16 order under subsection (b)(2) may petition for a review
17 by the Board under procedures promulgated by the Board
18 of the Secretary’s determination that an emergency exists.
19 Such petition shall be filed with the Board not later than
20 48 hours after the order is received by the person. If the
21 Board finds that an emergency does not exist that requires
22 the immediate application of the order in the interest of
23 safety in maritime transportation, the order shall be
24 stayed, notwithstanding subsection (b). The Board shall

1 dispose of a petition under this subsection not later than
2 5 days after the date on which the petition is filed.

3 “(d) JUDICIAL REVIEW.—An individual who is sub-
4 stantially affected by an order of the Board under this
5 section, or the Secretary if the Secretary decides that an
6 order of the Board will have a significant adverse effect
7 on carrying out this part, may obtain judicial review of
8 the order. The Secretary shall be made a party to the judi-
9 cial review proceedings. In those proceedings, findings of
10 fact of the Board are conclusive if supported by substan-
11 tial evidence.

12 **“§ 7708. Limitations on the Coast Guard’s conduct of**
13 **administrative proceedings**

14 “The Coast Guard shall not conduct any administra-
15 tive proceeding under section 7101, 7302, 7503, chapter
16 77, or section 9303 of this title under any contractual rela-
17 tionship or interagency agreement with the National
18 Transportation Safety Board after October 1, 2009.”; and

19 (3) in the analysis at the beginning of the chap-
20 ter by adding at the end the following new items:

“Sec. 7707. Appeals to the National Transportation Safety Board.

“Sec. 7708. Limitations on the Coast Guard’s conduct of administrative pro-
ceedings.”.

21 (c) EFFECTIVE DATE.—This section shall take effect
22 on October 1, 2008.

1 **SEC. 1002. AUTHORITIES OF NATIONAL TRANSPORTATION**
2 **SAFETY BOARD.**

3 (a) REVIEW OF OTHER AGENCY ACTION.—Section
4 1133 of title 49, United States Code, is amended by strik-
5 ing paragraph (3) and inserting the following:

6 “(3) the denial, amendment, modification, sus-
7 pension, or revocation of a license, certificate, docu-
8 ment, or register in a proceeding under section
9 7101, 7302, 7503, or 9303, or chapter 77, of title
10 46; and”.

11 (b) JUDICIAL REVIEW.—

12 (1) IN GENERAL.—Section 1153 of title 49,
13 United States Code, is amended—

14 (A) in the heading for subsection (b) by in-
15 sserting “and maritime” after “aviation”; and

16 (B) by adding at the end the following new
17 subsection:

18 “(d) SECRETARY SEEKING JUDICIAL REVIEW OF
19 MARITIME MATTERS.—If the Secretary of the department
20 in which the Coast Guard is operating decides that an
21 order of the Board under chapter 77 of title 46 will have
22 a significant impact on carrying out this chapter with re-
23 spect to a maritime matter, the Secretary may obtain judi-
24 cial review of the order. Findings of fact of the Board are
25 conclusive in those proceedings if supported by substantial
26 evidence.”.

1 (c) EFFECTIVE DATE.—This section shall take effect
2 on October 1, 2008.

3 **SEC. 1003. TRANSFER OF PENDING APPEALS TO THE NA-**
4 **TIONAL TRANSPORTATION SAFETY BOARD.**

5 (a) ADMINISTRATION OF PENDING DOCKET.—

6 (1) TRANSFER OF PENDING CASES.—On Octo-
7 ber 1, 2008, any pending cases remaining undecided
8 by the Coast Guard Office of Administrative Law
9 Judges shall be transferred to the National Trans-
10 portation Safety Board for adjudication. Such cases
11 shall be sequenced into the docket of the National
12 Transportation Safety Board Office of Administra-
13 tive Law Judges in the same order as the dates of
14 filing with the Coast Guard.

15 (2) DETAIL OF ADMINISTRATIVE LAW
16 JUDGES.—The Secretary of the department in which
17 the Coast Guard is operating shall, if requested by
18 the Chairman of the National Transportation Safety
19 Board, make available to the Board via temporary
20 detail not to exceed 180 days, and thereafter at the
21 discretion of the Secretary, Administrative Law
22 Judges currently employed by the Coast Guard suffi-
23 cient to address the docket of maritime enforcement
24 cases transferred by this subsection to the National

1 Transportation Safety Board and those subsequently
2 filed with the National Transportation Safety Board.

3 (3) ADMINISTRATIVE ASSISTANCE.—The Sec-
4 retary of the department in which the Coast Guard
5 is operating shall, if requested by the Chairman of
6 the National Transportation Safety Board, make
7 available assistance from the administrative offices
8 of the Coast Guard Office of the Administrative Law
9 Judges sufficient administrative personnel and other
10 resources adequate to effect an orderly transfer of
11 pending cases to the National Transportation Safety
12 Board.

13 (b) TRANSFER OF FUNDS.—For each of fiscal years
14 2009 and 2010, 80 percent of all funding appropriated
15 for the Coast Guard's Office of Administrative Law
16 Judges shall be transferred as an interagency transfer to
17 the National Transportation Safety Board and used for
18 the Safety Board Office of Administrative Law Judges.

19 (c) MARITIME ENFORCEMENT APPEALS ACTIVITY.—

20 (1) IN GENERAL.—The National Transpor-
21 tation Safety Board may establish within the Na-
22 tional Transportation Safety Board Office of Admin-
23 istrative Law Judges a maritime enforcement ap-
24 peals activity, to operate in concert or parallel with
25 the aviation enforcement appeals activity currently

1 existing, sufficient to handle maritime enforcement
2 appeals under title 46, United States Code, as
3 amended by this title.

4 (2) FILLING OF ADMINISTRATIVE LAW JUDGE
5 POSITIONS.—Any Administrative Law Judge posi-
6 tion established by the National Transportation
7 Safety Board to address the cases and responsibil-
8 ities transferred under this section shall be filled
9 through the established Administrative Law Judge
10 hiring process.

11 (3) LIMITATION ON EFFECT.—This section
12 shall not be construed—

13 (A) to transfer from the Coast Guard any
14 personnel, offices, or equipment funded under
15 this provision; or

16 (B) to authorize requiring any person to
17 transfer from the Coast Guard to the National
18 Transportation Safety Board.

19 (4) EXEMPTION FROM REGULATIONS RELATING
20 TO REDUCTIONS IN FORCE.—Any redesignation of
21 agency responsibilities under this title is exempt
22 from subpart C of part 351 of title 5, Code of Fed-
23 eral Regulations, and does not constitute a transfer
24 of function (as that term is defined in section
25 351.203 of that title) for purposes of that subpart.

1 **SEC. 1004. RULEMAKING REQUIREMENTS.**

2 (a) INTERIM FINAL RULE.—The National Transpor-
3 tation Safety Board shall issue an interim final rule as
4 a temporary regulation implementing this title (including
5 the amendments made by this title) as soon as practicable
6 after the date of enactment of this Act, without regard
7 to chapter 5 of title 5, United States Code. All regulations
8 prescribed under the authority of this subsection that are
9 not earlier superseded by final regulations shall expire not
10 later than 1 year after the date of enactment of this Act.

11 (b) INITIATION OF RULEMAKING.—The Board may
12 initiate a rulemaking to implement this title (including the
13 amendments made by this title) as soon as practicable
14 after the date of enactment of this Act. The final rule
15 issued pursuant to that rulemaking may supersede the in-
16 terim final rule issued under this section.

17 **SEC. 1005. ADMINISTRATIVE LAW JUDGE RECRUITING PRO-**
18 **GRAM.**

19 (a) IN GENERAL.—Within 60 days after the date of
20 enactment of this Act, the Secretary of the department
21 in which the Coast Guard is operating shall establish a
22 program to recruit qualified individuals from appropriate
23 sources in an effort to achieve a workforce drawn from
24 all segments of society in the Coast Guard's Administra-
25 tive Law Judge program. This program shall include—

1 (1) improved outreach efforts to include organi-
2 zations outside the Federal Government in order to
3 increase the number of minority candidates in the
4 selection pool for Administrative Law Judges from
5 which the Coast Guard selects their judges; and

6 (2) recruitment of minority candidates for
7 Coast Guard Administrative Law Judges from other
8 Federal agencies.

9 (b) REPORT.—The Secretary shall provide a report
10 to the Committee on Transportation and Infrastructure
11 of the House of Representatives and the Committee on
12 Commerce, Science, and Transportation of the Senate by
13 October 1 of each year detailing the activities of the Coast
14 Guard to comply with the requirements of this section.

15 **TITLE XI—MARINE SAFETY**

16 **SEC. 1101. MARINE SAFETY.**

17 (a) ESTABLISH MARINE SAFETY AS A COAST GUARD
18 FUNCTION.—Chapter 5 of title 14, United States Code,
19 is further amended by adding at the end the following new
20 section:

21 **“§ 100. Marine safety**

22 “To protect life, property, and the environment on,
23 under, and over waters subject to the jurisdiction of the
24 United States and on vessels subject to the jurisdiction

1 of the United States, the Commandant shall promote mar-
2 itime safety as follows:

3 “(1) By taking actions necessary and in the
4 public interest to protect such life, property, and the
5 environment.

6 “(2) Based on the following priorities:

7 “(A) Preventing marine casualties and
8 threats to the environment.

9 “(B) Minimizing the impacts of marine
10 casualties and environmental threats.

11 “(C) Maximizing lives and property saved
12 and environment protected in the event of a
13 marine casualty.”.

14 (b) CLERICAL AMENDMENT.—The analysis at the be-
15 ginning of such chapter is amended by adding at the end
16 the following new item:

“100. Marine safety.”.

17 **SEC. 1102. MARINE SAFETY STAFF.**

18 (a) IN GENERAL.—Chapter 3 of title 14, United
19 States Code, is further amended by adding at the end the
20 following new section:

21 **“§ 57. Marine safety staff**

22 “(a) ASSISTANT COMMANDANT FOR MARINE SAFE-
23 TY.—(1) There shall be in the Coast Guard an Assistant
24 Commandant for Marine Safety who shall be a Rear Ad-

1 miral or civilian from the Senior Executive Service (career
2 reserved) selected by the Secretary.

3 “(2) The Assistant Commandant for Marine Safety
4 shall serve as the principal advisor to the Commandant
5 regarding marine safety, and carry out the duties and
6 powers delegated and imposed by the Secretary under sec-
7 tion 631(b).

8 “(b) CHIEF OF MARINE SAFETY.—(1) There shall be
9 in each Coast Guard sector a Chief of Marine Safety
10 who—

11 “(A) shall be at least a Commander or civilian
12 at level GS-14; and

13 “(B) shall be colocated with the Coast Guard
14 officer in command of that sector.

15 “(2) The chief of marine safety for a sector—

16 “(A) is responsible for all individuals who, on
17 behalf of the Coast Guard, inspect or examine ves-
18 sels, conduct marine casualty investigations, or per-
19 form other marine safety responsibilities defined in
20 section 631(b) in the sector; and

21 “(B) if not the Coast Guard officer in command
22 of that sector, is the principle advisor to that officers
23 regarding marine safety matters in that sector.

24 “(c) QUALIFICATIONS.—(1) The Assistant Com-
25 mandant for Marine Safety and the Chiefs of Marine Safe-

1 ty of sectors, and all marine safety inspectors, investiga-
2 tors, examiners, and other professional staff assigned to
3 the marine safety program of the Coast Guard, shall be
4 appointed on the basis of their—

5 “(A) knowledge, skill, and practical experience
6 in—

7 “(i) the construction and operation of com-
8 mercial vessels; and

9 “(ii) judging the character, strength, sta-
10 bility, and safety qualities of such vessels and
11 their equipment; and

12 “(B) knowledge about the qualifications and
13 training of vessel personnel.

14 “(2) Marine inspectors shall have the training, expe-
15 rience, and qualifications equivalent to that required for
16 a surveyor of a similar position of a classification society
17 recognized by the Secretary under section 3316 of title
18 46 for the type of vessel, system, or equipment that is
19 inspected.

20 “(3) Marine casualty investigators shall have the
21 training, experience, and qualifications in investigation,
22 accident reconstruction, human factors, and documenta-
23 tion equivalent to that required for a marine casualty in-
24 vestigator of the National Transportation Safety Board.

1 “(4) The Chief of Marine Safety of a sector shall be
2 a qualified marine casualty investigator and marine in-
3 spector qualified to inspect vessels, vessel systems, and
4 equipment commonly found in the sector.

5 “(5) Each individual signing a letter of qualification
6 for marine safety personnel must hold a letter of qualifica-
7 tion for the type they are signing.

8 “(6) The Assistant Commandant for Marine Safety
9 shall be a qualified marine casualty investigator and a ma-
10 rine inspector qualified for types of vessels, vessel systems,
11 and equipment.

12 **“§ 58. Limited duty officers**

13 “(a) ESTABLISHMENT.—The Commandant shall es-
14 tablish in the Coast Guard a limited duty officer program
15 for marine safety.

16 “(b) OFFICER ELIGIBILITY.—(1) Only commissioned
17 officers in the Coast Guard with grade not above com-
18 mander and chief warrant officers who have more than
19 four years of marine safety experience may serve as lim-
20 ited duty officers under such program.

21 “(2) The Commandant may establish other limita-
22 tions on eligibility that the Commandant believes are nec-
23 essary for the good of the marine safety program.

1 “(3) Notwithstanding section 41a and chapter 11 of
2 this title, the Commandant shall, by regulation, establish
3 procedures pertaining to—

4 “(A) the promotion of commissioned officers
5 and chief warrant officers who serve as limited duty
6 officers, including the maintenance of a separate
7 promotion list for commissioned officers who serve
8 as limited duty officers;

9 “(B) the discharge, retirement, and revocation
10 of commissions of such officers; and

11 “(C) the separation for cause of such officers.

12 “(4) The Commandant shall ensure that the proce-
13 dures promulgated under paragraph (3)(A) encourage a
14 specialization in marine safety and do not, in any way,
15 inhibit or prejudice the orderly promotion or advancement
16 of commissioned officers and chief warrant officers who
17 serve as limited duty officers.

18 “(5) The Commandant shall, by regulation, prescribe
19 a step increase in the pay system for limited duty officers
20 in the marine safety program.

21 “(c) RECRUITMENT.—(1) The Commandant shall, by
22 regulation, establish procedures pertaining to the recruit-
23 ment of graduates from the United States Merchant Ma-
24 rine Academy and the State maritime colleges and individ-

1 uals holding licenses issued under chapter 71 of title 46
2 to serve as limited duty officers.

3 “(2) Not later than the date of the submission of the
4 President’s budget request under section 1105 of title 31
5 for each fiscal year, the Commandant shall submit to the
6 Committee on Transportation and Infrastructure of the
7 House of Representatives and the Committee on Com-
8 merce, Science, and Transportation of the Senate a report
9 on the Coast Guard’s efforts to recruit graduates from the
10 United States Merchant Marine Academy and the State
11 maritime colleges and individuals holding licenses issued
12 under chapter 71 of title 46 to serve as limited duty offi-
13 cers. The report shall include information on the number
14 of graduates recruited, the lengths of service, the retention
15 rates, and other activities undertaken by the Coast Guard
16 to sustain or increase the numbers of recruits and officers.

17 **“§ 59. Center for Expertise for Marine Safety**

18 “(a) ESTABLISHMENT.—The Commandant of the
19 Coast Guard may establish and operate a one or more
20 Centers for Expertise for Marine Safety (in this section
21 referred to as a ‘Center’).

22 “(b) MISSIONS.—The Centers shall—

23 “(1) be used to provide and facilitate education,
24 training, and research in marine safety including
25 vessel inspection and casualty investigation;

1 “(2) develop a repository of information on ma-
2 rine safety; and

3 “(3) perform any other missions as the Com-
4 mandant may specify.

5 “(c) JOINT OPERATION WITH EDUCATIONAL INSTI-
6 TUTION AUTHORIZED.—The Commandant may enter into
7 an agreement with an appropriate official of an institution
8 of higher education to—

9 “(1) provide for joint operation of a Center;
10 and

11 “(2) provide necessary administrative services
12 for a Center, including administration and allocation
13 of funds.

14 “(d) ACCEPTANCE OF DONATIONS.—(1) Except as
15 provided in paragraph (2), the Commandant may accept,
16 on behalf of a Center, donations to be used to defray the
17 costs of the Center or to enhance the operation of the Cen-
18 ter. Those donations may be accepted from any State or
19 local government, any foreign government, any foundation
20 or other charitable organization (including any that is or-
21 ganized or operates under the laws of a foreign country),
22 or any individual.

23 “(2) The Commandant may not accept a donation
24 under paragraph (1) if the acceptance of the donation
25 would compromise or appear to compromise—

1 “(A) the ability of the Coast Guard or the de-
2 partment in which the Coast Guard is operating, any
3 employee of the Coast Guard or the department, or
4 any member of the armed forces to carry out any re-
5 sponsibility or duty in a fair and objective manner;
6 or

7 “(B) the integrity of any program of the Coast
8 Guard, the department in which the Coast Guard is
9 operating, or of any person involved in such a pro-
10 gram.

11 “(3) The Commandant shall prescribe written guid-
12 ance setting forth the criteria to be used in determining
13 whether or not the acceptance of a donation from a foreign
14 source would have a result described in paragraph (2).

15 **“§ 60. Marine industry training program.**

16 “(a) IN GENERAL.—The Commandant shall, by pol-
17 icy, establish a program under which an officer, member,
18 or employee of the Coast Guard may be assigned to a pri-
19 vate entity to further the institutional interests of the
20 Coast Guard with regard to marine safety, including for
21 the purpose of providing training to an officer, member,
22 or employee. Policies to carry out the program—

23 “(1) with regard to an employee of the Coast
24 Guard, shall include provisions, consistent with sec-

1 tions 3702 through 3704 of title 5, as to matters
2 concerning—

3 “(A) the duration and termination of as-
4 signments;

5 “(B) reimbursements; and

6 “(C) status, entitlements, benefits, and ob-
7 ligations of program participants; and

8 “(2) shall require the Commandant, before ap-
9 proving the assignment of an officer, member, or
10 employee of the Coast Guard to a private entity, to
11 determine that the assignment is an effective use of
12 the Coast Guard’s funds, taking into account the
13 best interests of the Coast Guard and the costs and
14 benefits of alternative methods of achieving the same
15 results and objectives.

16 “(b) ANNUAL REPORT.—Not later than the date of
17 the submission each year of the President’s budget request
18 under section 1105 of title 31, the Commandant shall sub-
19 mit to the Committee on Transportation and Infrastruc-
20 ture of the House of Representatives and the Committee
21 on Commerce, Science, and Transportation of the Senate
22 a report that describes—

23 “(1) the number of officers, members, and em-
24 ployees of the Coast Guard assigned to private enti-
25 ties under this section;

1 “(2) the specific benefit that accrues to the
2 Coast Guard for each assignment.”.

3 (b) CERTIFICATES OF INSPECTION.—Section 3309 of
4 title 46, United States Code, is amended by adding at the
5 end the following:

6 “(d) A certificate of inspection issued under this sec-
7 tion shall be signed by the individuals that inspected the
8 vessel.”.

9 (c) CLERICAL AMENDMENT.—The table of sections
10 at the beginning of such chapter is amended by adding
11 at the end the following new items:

“57. Marine safety staff.

“58. Limited duty officers.

“59. Center for Expertise for Marine Safety.

“60. Marine industry training program.”.

12 **SEC. 1103. MARINE SAFETY MISSION PRIORITIES AND LONG**
13 **TERM GOALS.**

14 (a) IN GENERAL.—Chapter 21 of title 46, United
15 States Code, is further amended by adding after section
16 2116, as added by section 313 of this Act, the following
17 new section:

18 **“§ 2117. Marine Safety Strategy, goals, and perform-**
19 **ance assessments**

20 “(a) LONG-TERM STRATEGY AND GOALS.—In con-
21 junction with existing federally required strategic planning
22 efforts, the Secretary shall develop a long-term strategy
23 for improving vessel safety and the safety of individuals

1 on vessels. The strategy shall include the issuance each
2 year of an annual plan and schedule for achieving the fol-
3 lowing goals:

4 “(1) Reducing the number and rates of marine
5 casualties.

6 “(2) Improving the consistency and effective-
7 ness of vessel and operator enforcement and compli-
8 ance programs.

9 “(3) Identifying and targeting enforcement ef-
10 forts at high-risk vessels and operators.

11 “(4) Improving research efforts to enhance and
12 promote vessel and operator safety and performance.

13 “(b) CONTENTS OF STRATEGY AND ANNUAL
14 PLANS.—

15 “(1) MEASURABLE GOALS.—The strategy and
16 annual plans shall include specific numeric or meas-
17 urable goals designed to achieve the goals set forth
18 in subsection (a). The purposes of the numeric or
19 measurable goals are the following:

20 “(A) To increase the number of safety ex-
21 aminations on all high-risk vessels.

22 “(B) To eliminate the backlog of marine
23 safety-related rulemakings.

24 “(C) To improve the quality and effective-
25 ness of marine safety information databases by

1 ensuring that all Coast Guard personnel accu-
2 rately and effectively report all safety, casualty,
3 and injury information.

4 “(D) To provide for a sufficient number of
5 Coast Guard marine safety personnel, and pro-
6 vide adequate facilities and equipment to carry
7 out the powers and duties delegated and im-
8 posed by the Secretary under section 631(b).

9 “(2) RESOURCE NEEDS.—The strategy and an-
10 nual plans shall include estimates of—

11 “(A) the funds and staff resources needed
12 to accomplish each activity included in the
13 strategy and plans; and

14 “(B) the staff skills and training needed
15 for timely and effective accomplishment of each
16 goal.

17 “(c) SUBMISSION WITH THE PRESIDENT’S BUDG-
18 ET.—Beginning with fiscal year 2010 and each fiscal year
19 thereafter, the Secretary shall submit to Congress the
20 strategy and annual plan at the same time as the Presi-
21 dent’s budget submission under section 1105 of title 31.

22 “(d) ACHIEVEMENT OF GOALS.—

23 “(1) PROGRESS ASSESSMENT.—No less fre-
24 quently than semiannually, the Coast Guard Com-
25 mandant and the Assistant Commandant for Marine

1 Safety shall jointly assess the progress of the Coast
2 Guard toward achieving the goals set forth in sub-
3 section (b). The Commandant and the Assistant
4 Commandant shall jointly convey their assessment to
5 the employees of the Assistant Commandant and
6 shall identify any deficiencies that should be rem-
7 edied before the next progress assessment.

8 “(2) REPORT TO CONGRESS.—The Secretary
9 shall report annually to the Committee on Transpor-
10 tation and Infrastructure of the House of Represent-
11 atives and the Committee on Commerce, Science,
12 and Transportation of the Senate—

13 “(A) on the performance of the marine
14 safety program in achieving the goals of the
15 marine safety strategy and annual plan under
16 subsection (a) for the year covered by the re-
17 port;

18 “(B) on the program’s mission perform-
19 ance in achieving numerical measurable goals
20 established under subsection (b); and

21 “(C) recommendations on how to improve
22 performance of the program.”.

23 (b) CLERICAL AMENDMENT.—The analysis for such
24 chapter is amended by adding at the end the following
25 new item:

“2117. Marine Safety Strategy, goals, and performance assessments.”.

1 **SEC. 1104. POWERS AND DUTIES.**

2 Section 631 of title 14, United States Code, is
3 amended—

4 (1) by inserting “(a)” before the first sentence;

5 and

6 (2) by adding at the end the following new sub-
7 section:

8 “(b) The Assistant Commandant for Marine Safety
9 shall serve as the principle advisor to the Commandant
10 regarding—

11 “(1) the operation, regulation, inspection, iden-
12 tification, manning, and measurement of vessels, in-
13 cluding plan approval and the application of load
14 lines;

15 “(2) approval of materials, equipment, appli-
16 ances, and associated equipment;

17 “(3) the reporting and investigation of marine
18 casualties and accidents;

19 “(4) the licensing, certification, documentation,
20 protection and relief of merchant seamen;

21 “(5) suspension and revocation of licenses and
22 certificates;

23 “(6) enforcement of manning requirements, citi-
24 zenship requirements, control of log books;

25 “(7) documentation and numbering of vessels;

26 “(8) State boating safety programs;

1 “(9) commercial instruments and maritime
2 liens;

3 “(10) the administration of bridge safety;

4 “(11) administration of the navigation rules;

5 “(12) the prevention of pollution from vessels;

6 “(13) ports and waterways safety;

7 “(14) waterways management; including regula-
8 tion for regattas and marine parades;

9 “(15) aids to navigation; and

10 “(16) other duties and powers of the Secretary
11 related to marine safety and stewardship.

12 “(c) OTHER AUTHORITY NOT AFFECTED.—Nothing
13 in subsection (b) affects—

14 “(1) the authority of Coast Guard officers and
15 members to enforce marine safety regulations using
16 authority under section 89 of this title; or

17 “(2) the exercise of authority under section 91
18 of this title and the provisions of law codified at sec-
19 tions 191 through 195 of title 50 on the date of en-
20 actment of this paragraph.”.

21 **SEC. 1105. APPEALS AND WAIVERS.**

22 (a) IN GENERAL.—Chapter 5 of title 14, United
23 States Code, is further amended by inserting at the end
24 the following new section:

1 **“§ 102. Appeals and waivers**

2 “Except for the Commandant of the Coast Guard,
3 any individual adjudicating an appeal of a decision or
4 granting a waiver regarding marine safety, including in-
5 spection or manning and threats to the environment, shall
6 be a qualified specialist with the training, experience and
7 qualifications in marine safety to judge the facts and cir-
8 cumstances involved in the appeal or waiver and make a
9 judgment regarding the merits of the appeal or waiver.
10 In the case of an appeal or waiver involving an inspected
11 vessel, vessel systems or equipment, the individual shall
12 hold a letter of qualification to inspect the type of vessel,
13 vessel systems or equipment involved in the appeal or
14 waiver.”.

15 (b) CLERICAL AMENDMENT.—The analysis for such
16 chapter is further amended by adding at the end the fol-
17 lowing new item:

“102. Appeals and waivers.”.

18 **SEC. 1106. COAST GUARD ACADEMY.**

19 (a) IN GENERAL.—Chapter 9 of title 14, United
20 States Code, is amended by adding at the end the fol-
21 lowing new section:

22 **“§ 199. Marine safety curriculum**

23 “The Commandant of the Coast Guard shall ensure
24 that professional courses of study in marine safety are
25 provided at the Coast Guard Academy, and during other

1 officer accession programs, to give Coast Guard cadets
2 and other officer candidates a background and under-
3 standing of the marine safety program. These courses may
4 include such topics as program history, vessel design and
5 construction, vessel inspection, casualty investigation, and
6 administrative law and regulations.”.

7 (b) CLERICAL AMENDMENT.—The analysis for such
8 chapter is further amended by adding at the end the fol-
9 lowing new item:

“199. Marine safety curriculum.”.

10 **SEC. 1107. GEOGRAPHIC STABILITY.**

11 (a) IN GENERAL.—Chapter 11 of title 14, United
12 States Code, is further amended by inserting after section
13 336 the following new section:

14 **“§ 337. Geographic stability**

15 “The Commandant shall establish procedures that
16 provide geographic stability to interested Coast Guard of-
17 ficers, employees, and members assigned to the marine
18 safety program carried out under section 100 who have
19 a minimum of 10 years of service in the marine safety
20 program.”.

21 (b) CLERICAL AMENDMENT.—The analysis for such
22 chapter is further amended by adding at the end the fol-
23 lowing new item:

“337. Geographic stability.”.

1 **SEC. 1108. APPRENTICE PROGRAM.**

2 (a) IN GENERAL.—Chapter 11 of title 14, United
3 States Code, is further amended by inserting after section
4 337, as added by section 1107 of this Act, the following
5 new section:

6 **“§ 338. Apprentice program**

7 “Any officer, member, or employee of the Coast
8 Guard in training to become a marine inspector shall serve
9 a minimum of one-year apprenticeship, unless otherwise
10 directed by the Commandant of the Coast Guard, under
11 the guidance of a qualified inspector before conducting un-
12 supervised inspections of vessels under part B of subtitle
13 II of title 46. The Commandant may authorize shorter ap-
14 prentice periods for certain qualifications, as appro-
15 priate.”.

16 (b) CLERICAL AMENDMENT.—The analysis for such
17 chapter is further amended by adding at the end the fol-
18 lowing new item:

“338. Apprentice program.”.

19 **SEC. 1109. REPORT REGARDING CIVILIAN MARINE INSPEC-**
20 **TORS.**

21 Not later than one year after the date of enactment
22 of this Act, the Commandant of the Coast Guard shall
23 submit to the Committee on Transportation and Infra-
24 structure of the House of Representatives and the Com-
25 mittee on Commerce, Science, and Transportation of the

- 1 Senate a report on Coast Guard's efforts to recruit and
- 2 retain civilian marine inspectors and investigators and the
- 3 impact of such recruitment and retention efforts on Coast
- 4 Guard organizational performance.