

110TH CONGRESS
2^D SESSION

H. R. 2830

AN ACT

To authorize appropriations for the Coast Guard for fiscal year 2008, to amend the Immigration and Nationality Act and title 18, United States Code, to combat the crime of alien smuggling and related activities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. ORGANIZATION OF ACT INTO DIVISIONS; TABLE**
 2 **OF CONTENTS.**

3 (a) DIVISIONS.—This Act is organized into two divi-
 4 sions as follows:

5 (1) Division A—Coast Guard Authorization Act
 6 of 2008.

7 (2) Division B—Alien Smuggling and Ter-
 8 rorism Prevention Act of 2008.

9 (b) TABLE OF CONTENTS.—The table of contents for
 10 this Act is as follows:

Sec. 1. Organization of Act into divisions; table of contents.

DIVISION A—COAST GUARD AUTHORIZATION ACT OF 2008

TITLE I—AUTHORIZATION

Sec. 100. Short title.

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.
- Sec. 222. Policy on sexual harassment and sexual violence at the Coast Guard Academy.
- Sec. 223. Home port of Coast Guard vessels in Guam.

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.
- Sec. 333. Delegation of authority to classification societies regarding offshore facilities.
- Sec. 334. Requirement for pilots to carry and utilize portable electronic navigational device.

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.
- Sec. 430. Newtown Creek, New York City, New York.
- Sec. 431. Land conveyance, Coast Guard property in Marquette County, Michigan, to the City of Marquette, Michigan.

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.
- Sec. 721. Review of Liquefied Natural Gas Facilities.
- Sec. 722. Use of secondary authentication for transportation security cards.
- Sec. 723. Report on State and local law enforcement augmentation of Coast Guard resources with respect to security zones and United States ports.
- Sec. 724. Assessment of transportation security card enrollment sites.

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.

TITLE XII—ADDITIONAL MISCELLANEOUS PROVISIONS

- Sec. 1201. Mission requirement analysis for navigable portions of the Rio Grande River, Texas, international water boundary.
- Sec. 1202. Operation of submersible or semi-submersible vessel without nationality.
- Sec. 1203. Legal authority of the coast guard to carry out its homeland security missions not impaired.

DIVISION B—ALIEN SMUGGLING AND TERRORISM PREVENTION
ACT OF 2008

- Sec. 101. Short title.
- Sec. 102. Findings.
- Sec. 103. Checks against terrorist watchlist.
- Sec. 104. Strengthening prosecution and punishment of alien smugglers.
- Sec. 105. Maritime law enforcement.
- Sec. 106. Amendment to the sentencing guidelines.

1 **DIVISION A—COAST GUARD**
2 **AUTHORIZATION ACT OF 2008**
3 **TITLE I—AUTHORIZATION**

4 **SEC. 100. SHORT TITLE.**

5 This division may be cited as the “Coast Guard Au-
6 thorization Act of 2008”.

1 **SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

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

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

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

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

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

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

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

22 (2) For the acquisition, construction, rebuild-
23 ing, and improvement of aids to navigation, shore
24 and offshore facilities, vessels, and aircraft, includ-
25 ing equipment related thereto, \$1,125,083,000, of
26 which—

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

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

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

10 (3) To the Commandant of the Coast Guard for
11 research, development, test, and evaluation of tech-
12 nologies, materials, and human factors directly relat-
13 ing to improving the performance of the Coast
14 Guard's mission in search and rescue, aids to navi-
15 gation, marine safety, marine environmental protec-
16 tion, enforcement of laws and treaties, ice oper-
17 ations, oceanographic research, and defense readi-
18 ness, \$25,000,000, to remain available until ex-
19 pended, of which \$2,000,000 shall be derived from
20 the Oil Spill Liability Trust Fund to carry out the
21 purposes of section 1012(a)(5) of the Oil Pollution
22 Act of 1990.

23 (4) For retired pay (including the payment of
24 obligations otherwise chargeable to lapsed appropria-
25 tions for this purpose), payments under the Retired

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

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

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

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

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

10 **SEC. 103. TRANSFER OF BRIDGE ADMINISTRATION PRO-**
11 **GRAM AUTHORITY AND FUNCTIONS.**

12 (a) TRANSFER.—

13 (1) AUTHORITY AND FUNCTIONS.—Notwith-
14 standing section 888(b) of the Homeland Security
15 Act of 2002 (6 U.S.C. 468(b)) or any other provi-
16 sion of law, the authorities of the Secretary of
17 Homeland Security to approve the construction, al-
18 teration, or operation of a bridge, drawbridge, or
19 causeway across or over the navigable waters of the
20 United States and to require the alteration, repair,
21 or removal of that bridge, drawbridge, or causeway,
22 pursuant to the Bridge Act of 1906 (34 Stat. 84; 33
23 U.S.C. 491 et seq.), the General Bridge Act of 1946
24 (60 Stat. 847, 33 U.S.C. 525 note), the Truman-
25 Hobbs Act (54 Stat. 497; 33 U.S.C. 511 et seq.),

1 and the International Bridge Act of 1972 (60 Stat.
 2 847; 33 U.S.C. 525 et seq.), and the functions re-
 3 lated thereto, are hereby transferred to the Sec-
 4 retary of Transportation.

5 (2) TRANSFER AND ADMINISTRATION OF BAL-
 6 ANCES.—Any unobligated balances of prior appro-
 7 priations provided for the alteration of bridges are
 8 transferred and shall be available to the Secretary of
 9 Transportation to carry out the functions and au-
 10 thorities transferred by subsection (a).

11 **TITLE II—COAST GUARD**

12 **SEC. 201. APPOINTMENT OF CIVILIAN COAST GUARD** 13 **JUDGES.**

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

17 **“§ 153. Appointment of judges**

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

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

“153. Appointment of judges.”.

1 **SEC. 202. INDUSTRIAL ACTIVITIES.**

2 Section 151 of title 14, United States Code, is
3 amended—

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

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

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

12 **SEC. 203. REIMBURSEMENT FOR MEDICAL-RELATED TRAV-**
13 **EL EXPENSES.**

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

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

20 “In any case in which a covered beneficiary (as de-
21 fined in section 1072(5) of title 10) resides on an island
22 that is located in the 48 contiguous States and the District
23 of Columbia and that lacks public access roads to the
24 mainland and is referred by a primary care physician to
25 a specialty care provider (as defined in section 1074i(b)
26 of title 10) on the mainland who provides services less

1 than 100 miles from the location where the beneficiary re-
 2 sides, the Secretary shall reimburse the reasonable travel
 3 expenses of the covered beneficiary and, when accompani-
 4 ment by an adult is necessary, for a parent or guardian
 5 of the covered beneficiary or another member of the cov-
 6 ered beneficiary's family who is at least 21 years of age.”.

7 (b) CLERICAL AMENDMENT.—The analysis for such
 8 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.”.

9 **SEC. 204. COMMISSIONED OFFICERS.**

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

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

15 “(a) MAXIMUM TOTAL NUMBER.—The total number
 16 of Coast Guard commissioned officers on the active duty
 17 promotion list, excluding warrant officers, shall not exceed
 18 6,700; except that the Commandant may temporarily in-
 19 crease that number by up to 2 percent for no more than
 20 60 days following the date of the commissioning of a Coast
 21 Guard Academy class.

22 “(b) DISTRIBUTION PERCENTAGES BY GRADE.—

23 “(1) REQUIRED.—The total number of commis-
 24 sioned officers authorized by this section shall be

1 distributed in grade in the following percentages:
2 0.375 percent for rear admiral; 0.375 percent for
3 rear admiral (lower half); 6.0 percent for captain;
4 15.0 percent for commander; and 22.0 percent for
5 lieutenant commander.

6 “(2) DISCRETIONARY.—The Secretary shall
7 prescribe the percentages applicable to the grades of
8 lieutenant, lieutenant (junior grade), and ensign.

9 “(3) AUTHORITY OF SECRETARY TO REDUCE
10 PERCENTAGE.—The Secretary—

11 “(A) may reduce, as the needs of the Coast
12 Guard require, any of the percentages set forth
13 in paragraph (1); and

14 “(B) shall apply that total percentage re-
15 duction to any other lower grade or combination
16 of lower grades.

17 “(c) COMPUTATIONS.—

18 “(1) IN GENERAL.—The Secretary shall com-
19 pute, at least once each year, the total number of
20 commissioned officers authorized to serve in each
21 grade by applying the grade distribution percentages
22 established by or under this section to the total
23 number of commissioned officers listed on the cur-
24 rent active duty promotion list.

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

5 “(3) TREATMENT OF OFFICERS SERVING OUT-
6 SIDE COAST GUARD.—The number of commissioned
7 officers on the active duty promotion list below the
8 rank of rear admiral (lower half) serving with other
9 Federal departments or agencies on a reimbursable
10 basis or excluded under section 324(d) of title 49
11 shall not be counted against the total number of
12 commissioned officers authorized to serve in each
13 grade.

14 “(d) USE OF NUMBERS; TEMPORARY INCREASES.—
15 The numbers resulting from computations under sub-
16 section (c) shall be, for all purposes, the authorized num-
17 ber in each grade; except that the authorized number for
18 a grade is temporarily increased during the period between
19 one computation and the next by the number of officers
20 originally appointed in that grade during that period and
21 the number of officers of that grade for whom vacancies
22 exist in the next higher grade but whose promotion has
23 been delayed for any reason.

24 “(e) OFFICERS SERVING COAST GUARD ACADEMY
25 AND RESERVE.—The number of officers authorized to be

1 serving on active duty in each grade of the permanent
 2 commissioned teaching staff of the Coast Guard Academy
 3 and of the Reserve serving in connection with organizing,
 4 administering, recruiting, instructing, or training the re-
 5 serve components shall be prescribed by the Secretary.”.

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

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

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

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

14 (1) by striking paragraph (4);

15 (2) in paragraph (5)—

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

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

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

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

23 (3) by adding at the end of paragraph (6) the
 24 following:

1 “(E) The Master Chief Petty Officer of the
2 Coast Guard.”.

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

5 (A) in subsection (a) by inserting “or, in the
6 case of the Coast Guard, the Commandant” after
7 “concerned”; and

8 (B) by striking subsection (c).

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

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

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

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

17 **SEC. 206. GRANTS TO INTERNATIONAL MARITIME ORGANI-**
18 **ZATIONS.**

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

21 “(c) GRANTS TO INTERNATIONAL MARITIME ORGA-
22 NIZATIONS.—After consultation with the Secretary of
23 State, the Commandant may make grants to, or enter into
24 cooperative agreements, contracts, or other agreements
25 with, international maritime organizations for the purpose

1 of acquiring information or data about merchant vessel in-
2 spections, security, safety, classification, and port state or
3 flag state law enforcement or oversight.”.

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

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

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

9 “With regard to a member of the Coast Guard who
10 serves on active duty, a duty assignment in support of a
11 declaration of a major disaster or emergency by the Presi-
12 dent under the Robert T. Stafford Disaster Relief and
13 Emergency Assistance Act (42 U.S.C. 5121 et seq.) shall
14 be treated, for the purpose of section 701(f)(2) of title
15 10, a duty assignment in support of a contingency oper-
16 ation.”.

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

“426. Emergency leave retention authority.”.

20 **SEC. 208. ENFORCEMENT AUTHORITY.**

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

1 **“§ 99. Enforcement authority**

2 “Subject to guidelines approved by the Secretary,
3 members of the Coast Guard, in the performance of offi-
4 cial duties, may—

5 “(1) carry a firearm; and

6 “(2) while at a facility (as defined in section
7 70101 of title 46)—

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

11 “(B) seize property as otherwise provided
12 by law.”.

13 (b) **CONFORMING REPEAL.**—The first section added
14 to title 46, United States Code, by the amendment made
15 by subsection (a) of section 801 of the Coast Guard and
16 Maritime Transportation Act of 2004 (118 Stat. 1078),
17 and the item relating to such first section enacted by the
18 amendment made by subsection (b) of such section 801,
19 are repealed.

20 (c) **CLERICAL AMENDMENT.**—The analysis for such
21 chapter is amended by adding at the end the following:

“99. Enforcement authority.”.

22 **SEC. 209. REPEAL.**

23 Section 216 of title 14, United States Code, and the
24 item relating to such section in the analysis for chapter
25 11 of such title, are repealed.

1 **SEC. 210. ADMIRALS AND VICE ADMIRALS.**

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

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

7 **“§ 50. Vice admirals**

8 “(a)(1) The President may designate 4 positions of
9 importance and responsibility that shall be held by officers
10 who—

11 “(A) while so serving, shall have the grade of
12 vice admiral, with the pay and allowances of that
13 grade; and

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

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

18 “(A) The Deputy Commandant for Mission
19 Support.

20 “(B) The Deputy Commandant for National
21 Operations and Policy.

22 “(C) The Commander, Force Readiness Com-
23 mand.

24 “(D) The Commander, Operations Command.

25 “(3) The President may appoint, by and with the ad-
26 vice and consent of the Senate, and reappoint, by and with

1 the advice and consent of the Senate, to each of the posi-
2 tions designated under paragraph (1) an officer of the
3 Coast Guard who is serving on active duty above the grade
4 of captain. The Commandant shall make recommendations
5 for those appointments.

6 “(b)(1) The appointment and the grade of vice admiral under this section shall be effective on the date the
7 officer assumes that duty and, except as provided in paragraph (2) of this subsection or in section 51(d) of this
8 title, shall terminate on the date the officer is detached
9 from that duty.

12 “(2) An officer who is appointed to a position designated under subsection (a) shall continue to hold the
13 grade of vice admiral—

15 “(A) while under orders transferring the officer
16 to another position designated under subsection (a),
17 beginning on the date the officer is detached from
18 duty and terminating on the date before the day the
19 officer assumes the subsequent duty, but not for
20 more than 60 days;

21 “(B) while hospitalized, beginning on the day of
22 the hospitalization and ending on the day the officer
23 is discharged from the hospital, but not for more
24 than 180 days; and

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

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

8 “(2) An officer serving in a grade above rear admiral
9 who holds the permanent grade of rear admiral (lower
10 half) shall be considered for promotion to the permanent
11 grade of rear admiral as if the officer was serving in the
12 officer’s permanent grade.

13 “(d) Whenever a vacancy occurs in a position des-
14 ignated under subsection (a), the Commandant shall in-
15 form the President of the qualifications needed by an offi-
16 cer serving in that position to carry out effectively the du-
17 ties and responsibilities of that position.”.

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

20 (d) CONFORMING AMENDMENT.—Section 51 of that
21 title is amended—

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

24 “(a) An officer, other than the Commandant, who,
25 while serving in the grade of admiral or vice admiral, is

1 retired for physical disability shall be placed on the retired
2 list with the highest grade in which that officer served.

3 “(b) An officer, other than the Commandant, who is
4 retired while serving in the grade of admiral or vice admiral,
5 or who, after serving at least two and one-half years
6 in the grade of admiral or vice admiral, is retired while
7 serving in a lower grade, may in the discretion of the
8 President, be retired with the highest grade in which that
9 officer served.

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

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

17 (e) CLERICAL AMENDMENTS.—

18 (1) The heading for section 47 of that title is
19 amended by striking “**assignment**” and inserting
20 “**appointment**”.

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

23 (A) by striking the item relating to section
24 47 and inserting the following:

“47. Vice Commandant; appointment.”;

1 (B) by striking the item relating to section
2 50 and inserting the following:

“50. Vice admirals.”;

3 and

4 (C) by striking the item relating to section
5 50a.

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

9 **SEC. 211. MERCHANT MARINER MEDICAL ADVISORY COM-**
10 **MITTEE.**

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

14 **“§ 7115. Merchant Mariner Medical Advisory Com-**
15 **mittee**

16 “(a) ESTABLISHMENT.—

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

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

22 “(A) medical certification determinations
23 for issuance of merchant mariner credentials;

1 “(B) medical standards and guidelines for
2 the physical qualifications of operators of com-
3 mercial vessels;

4 “(C) medical examiner education; and

5 “(D) medical research.

6 “(b) MEMBERSHIP.—

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

10 “(A) ten who are health-care professionals
11 with particular expertise, knowledge, or experi-
12 ence regarding the medical examinations of
13 merchant mariners or occupational medicine;
14 and

15 “(B) four who are professional mariners
16 with knowledge and experience in mariner occu-
17 pational requirements.

18 “(2) STATUS OF MEMBERS.—Members of the
19 Committee shall not be considered Federal employ-
20 ees or otherwise in the service or the employment of
21 the Federal Government, except that members shall
22 be considered special Government employees, as de-
23 fined in section 202(a) of title 18, United States
24 Code, and shall be subject to any administrative
25 standards of conduct applicable to the employees of

1 the department in which the Coast Guard is oper-
2 ating.

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

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

7 “(2) TERMS.—Each member shall be appointed
8 for a term of three years, except that, of the mem-
9 bers first appointed, three members shall be ap-
10 pointed for a term of two years and three members
11 shall be appointed for a term of one year.

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

16 “(d) CHAIRMAN AND VICE CHAIRMAN.—The Sec-
17 retary shall designate one member of the Committee as
18 the Chairman and one member as the Vice Chairman. The
19 Vice Chairman shall act as Chairman in the absence or
20 incapacity of, or in the event of a vacancy in the office
21 of, the Chairman.

22 “(e) COMPENSATION; REIMBURSEMENT.—Members
23 of the Committee shall serve without compensation, except
24 that, while engaged in the performance of duties away
25 from their homes or regular places of business of the mem-

1 ber, the member of the Committee may be allowed travel
2 expenses, including per diem in lieu of subsistence, as au-
3 thorized by section 5703 of title 5.

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

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

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

“7115. Merchant Mariner Medical Advisory Committee.”.

14 **SEC. 212. RESERVE COMMISSIONED WARRANT OFFICER TO**
15 **LIEUTENANT PROGRAM.**

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

18 “(a) The president may appoint temporary commis-
19 sioned officers—

20 “(1) in the Regular Coast Guard in a grade,
21 not above lieutenant, appropriate to their qualifica-
22 tions, experience, and length of service, as the needs
23 of the Coast Guard may require, from among the
24 commissioned warrant officers, warrant officers, and
25 enlisted members of the Coast Guard, and from

1 holders of licenses issued under chapter 71 of title
2 46; and

3 “(2) in the Coast Guard Reserve in a grade,
4 not above lieutenant, appropriate to their qualifica-
5 tions, experience, and length of service, as the needs
6 of the Coast Guard may require, from among the
7 commissioned warrant officers of the Coast Guard
8 Reserve.”.

9 **SEC. 213. ENHANCED STATUS QUO OFFICER PROMOTION**
10 **SYSTEM.**

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

13 (1) in section 253(a)—

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

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

18 (2) in section 258—

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

21 (B) in subsection (a) (as so designated) by
22 striking the colon at the end of the material
23 preceding paragraph (1) and inserting “—”;
24 and

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

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

2 “(1) In addition to the information provided
3 pursuant to subsection (a), the Secretary may fur-
4 nish the selection board—

5 “(A) specific direction relating to the needs
6 of the Coast Guard for officers having par-
7 ticular skills, including direction relating to the
8 need for a minimum number of officers with
9 particular skills within a specialty; and

10 “(B) any other guidance that the Secretary
11 believes may be necessary to enable the board
12 to properly perform its functions.

13 “(2) Selections made based on the direction and
14 guidance provided under this subsection shall not ex-
15 ceed the maximum percentage of officers who may
16 be selected from below the announced promotion
17 zone at any given selection board convened under
18 section 251 of this title.”;

19 (3) in section 259(a), by inserting after “whom
20 the board” the following: “, giving due consideration
21 to the needs of the Coast Guard for officers with
22 particular skills so noted in specific direction fur-
23 nished to the board by the Secretary under section
24 258 of this title,”; and

1 (4) in section 260(b), by inserting after “quali-
2 fied for promotion” the following: “to meet the
3 needs of the service (as noted in specific direction
4 furnished the board by the Secretary under section
5 258 of this title)”.

6 **SEC. 214. LASER TRAINING SYSTEM.**

7 (a) IN GENERAL.—Within one year after the date of
8 enactment of this Act, the Secretary of the department
9 in which the Coast Guard shall test an integrated laser
10 engagement system for the training of members of the
11 Coast Guard assigned to small vessels in the use of indi-
12 vidual weapons and machine guns on those vessels. The
13 test shall be conducted on vessels on the Great Lakes
14 using similar laser equipment used by other Federal agen-
15 cies. However, that equipment shall be adapted for use
16 in the marine environment.

17 (b) REPORT.—The Secretary shall submit a report to
18 the Committee on Transportation and Infrastructure and
19 the Committee on Homeland Security of the House of
20 Representatives and the Committee on Commerce,
21 Science, and Transportation of the Senate within 6
22 months after the conclusions of the test required under
23 subsection (a) on the costs and benefits of using the sys-
24 tem regionally and nationwide to train members of the

1 Coast Guard in the use of individual weapons and machine
2 guns.

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

4 (a) **AUTHORITY TO FIRE AT OR INTO A VESSEL.**—
5 Section 637(c) of title 14, United States Code, is amend-
6 ed—

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

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

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

12 “(3) any other vessel or aircraft on government
13 noncommercial service when—

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

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

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

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

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

5 **“§ 55. District Ombudsmen**

6 “(a) IN GENERAL.—The Commandant shall appoint
7 an employee of the Coast Guard in each Coast Guard Dis-
8 trict as a District Ombudsman to serve as a liaison be-
9 tween ports, terminal operators, shipowners, and labor
10 representatives and the Coast Guard.

11 “(b) PURPOSE.—The purpose of the District Om-
12 budsman shall be the following:

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

16 “(2) To improve communications between and
17 among port stakeholders including, port and ter-
18 minal operators, ship owners, labor representatives,
19 and the Coast Guard.

20 “(3) To seek to resolve disputes between the
21 Coast Guard and all petitioners regarding require-
22 ments imposed or services provided by the Coast
23 Guard.

24 “(c) FUNCTIONS.—

25 “(1) COMPLAINTS.—The District Ombudsman
26 may examine complaints brought to the attention of

1 the District Ombudsman by a petitioner operating in
2 a port or by Coast Guard personnel.

3 “(2) GUIDELINES FOR DISPUTES.—

4 “(A) IN GENERAL.—The District Ombuds-
5 man shall develop guidelines regarding the
6 types of disputes with respect to which the Dis-
7 trict Ombudsman will provide assistance.

8 “(B) LIMITATION.—The District Ombuds-
9 man shall not provide assistance with respect to
10 a dispute unless it involves the impact of Coast
11 Guard requirements on port business and the
12 flow of commerce.

13 “(C) PRIORITY.—In providing such assist-
14 ance, the District Ombudsman shall give pri-
15 ority to complaints brought by petitioners who
16 believe they will suffer a significant hardship as
17 the result of implementing a Coast Guard re-
18 quirement or being denied a Coast Guard serv-
19 ice.

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

23 “(4) ACCESS TO INFORMATION.—The District
24 Ombudsman shall have access to any Coast Guard
25 document, including any record or report, that will

1 aid the District Ombudsman in obtaining the infor-
2 mation needed to conduct an investigation of a com-
3 pliant.

4 “(5) REPORTS.—At the conclusion of an inves-
5 tigation, the District Ombudsman shall submit a re-
6 port on the findings and recommendations of the
7 District Ombudsman, to the Commander of the Dis-
8 trict in which the petitioner who brought the com-
9 plaint is located or operating.

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

13 “(A) in a timely fashion; and

14 “(B) not later than 4 months after the
15 complaint is officially accepted by the District
16 Ombudsman.

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

21 “(e) ANNUAL REPORTS.—The Secretary shall report
22 annually to the Committee on Transportation and Infra-
23 structure of the House of Representatives and the Com-
24 mittee on Commerce, Science, and Transportation of the

1 Senate on the matters brought before the District Om-
2 budsmen, including—

3 “(1) the number of matters brought before each
4 District Ombudsman;

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

6 “(3) the eventual resolution of each such mat-
7 ter.”.

8 (b) CLERICAL AMENDMENT.—The analysis at the be-
9 ginning of that chapter is amended by adding at the end
10 the following new item:

“55. District Ombudsmen.”.

11 **SEC. 217. ENSURING CONTRACTING WITH SMALL BUSINESS**
12 **CONCERNS AND DISADVANTAGED BUSINESS**
13 **CONCERNS.**

14 (a) REQUIREMENTS FOR PRIME CONTRACTS.—The
15 Secretary shall include in each contract awarded for pro-
16 curement of goods or services acquired for the Coast
17 Guard—

18 (1) a requirement that the contractor shall im-
19 plement a plan for the award, in accordance with
20 other applicable requirements, of subcontracts under
21 the contract to small business concerns, including
22 small business concerns owned and controlled by so-
23 cially and economically disadvantaged individuals,
24 small business concerns owned and controlled by
25 women, small business concerns owned and con-

1 trolled by service-disabled veterans, HUBZone small
2 business concerns, small business concerns partici-
3 pating in the program under section 8(a) of the
4 Small Business Act (15 U.S.C. 637(a)), institutions
5 receiving assistance under title III or V of the High-
6 er Education Act of 1965 (20 U.S.C. 1051 et seq.,
7 1101 et seq.), and Alaska Native Corporations cre-
8 ated pursuant to the Alaska Native Claims Settle-
9 ment Act (43 U.S.C. 1601 et seq.), including the
10 terms of such plan; and

11 (2) a requirement that the contractor shall sub-
12 mit to the Secretary, during performance of the con-
13 tract, periodic reports describing the extent to which
14 the contractor has complied with such plan, includ-
15 ing specification (by total dollar amount and by per-
16 centage of the total dollar value of the contract) of
17 the value of subcontracts awarded at all tiers of sub-
18 contracting to small business concerns, institutions,
19 and corporations referred to in subsection (a)(1).

20 (b) UTILIZATION OF ALLIANCES.—The Secretary
21 shall seek to facilitate award of contracts by the United
22 States under the Deepwater Program to alliances of small
23 business concerns, institutions, and corporations referred
24 to in subsection (a)(1).

25 (c) ANNUAL REPORT.—

1 (1) IN GENERAL.—The Secretary shall submit
2 to the Committee on Transportation and Infrastruc-
3 ture and the Committee on Homeland Security of
4 the House of Representatives and the Committee on
5 Commerce, Science, and Transportation of the Sen-
6 ate by October 31 each year a report on the award
7 of contracts under the Deepwater Program to small
8 business concerns, institutions, and corporations re-
9 ferred to in subsection (a)(1) during the preceding
10 fiscal year.

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

13 (A) specification of the value of such con-
14 tracts, by dollar amount and as a percentage of
15 the total dollar value of all contracts awarded
16 by the United States under the Deepwater Pro-
17 gram in such fiscal year;

18 (B) specification of the total dollar value of
19 such contracts awarded to each of the cat-
20 egories of small business concerns, institutions,
21 and corporations referred to in subsection
22 (a)(1); and

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

1 (i) why the percentage is less than 25
2 percent; and

3 (ii) what will be done to ensure that
4 the percentage for the following fiscal year
5 will not be less than 25 percent.

6 (d) DEFINITIONS.—In this section:

7 (1) DEEPWATER PROGRAM.—The term “Deep-
8 water Program” means the Integrated Deepwater
9 Systems Program described by the Coast Guard in
10 its report to Congress entitled “Revised Deepwater
11 Implementation Plan 2005”, dated March 25, 2005.
12 The Deepwater Program primarily involves the pro-
13 curement of cutter and aviation assets that operate
14 more than 50 miles offshore.

15 (2) SECRETARY.—The term “Secretary” means
16 the Secretary of the department in which the Coast
17 Guard is operating.

18 **SEC. 218. ASSISTANT COMMANDANT FOR PORT AND WA-**
19 **TERWAY SECURITY.**

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

1 **“§ 61. Assistant Commandant for Port and Waterway**
2 **Security**

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

7 “(b) The Assistant Commandant for Port and Water-
8 way Security shall serve as the principal advisor to the
9 Commandant regarding port and waterway security and
10 shall carry out the duties and powers delegated and im-
11 posed by the Secretary.”.

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

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

15 **SEC. 219. SMALL BUSINESS PROCUREMENTS.**

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

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

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

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

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

7 “(2) SOCIALLY AND ECONOMICALLY DISADVAN-
8 TAGED INDIVIDUALS.—The term ‘socially and eco-
9 nomically disadvantaged individuals’ has the mean-
10 ing that term has under section 8(d) of the Small
11 Business Act (15 U.S.C. 637(d)) and relevant sub-
12 contracting regulations issued pursuant to that Act,
13 except that women shall be presumed to be socially
14 and economically disadvantaged individuals for pur-
15 poses of this subsection.

16 “(c) REGULATIONS.—The Secretary shall issue final
17 regulations governing the administration of the program
18 created by this section by one year after the date of enact-
19 ment of this section. To the maximum extent feasible,
20 these regulations shall impose requirements similar to
21 those of part 26 of title 49, Code of Federal Regulations,
22 with respect to setting overall and contract goals, good
23 faith efforts, and the contract award process, counting of
24 credit for the participation of businesses owned and con-
25 trolled by socially and economically disadvantaged individ-

1 uals, and determining whether businesses are eligible to
2 participate in the program.

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

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

“678. Disadvantaged business enterprise program.”.

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

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

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

13 “Officers and members of the Coast Guard are au-
14 thorized to enforce chapter 551 of title 46. The Secretary
15 shall establish a program for these officers and members
16 to enforce that chapter, including the application of those
17 laws to vessels that support the exploration, development,
18 and production of oil, gas, or mineral resources in the Gulf
19 of Mexico.”.

20 (b) CLERICAL AMENDMENT.—The analysis for that
21 chapter is amended by adding at the end the following
22 new item:

“101. Enforcement of coastwise trade laws.”.

23 (c) REPORT.—The Secretary of the department in
24 which the Coast Guard is operating shall submit a report

1 to the Committee on Transportation and Infrastructure
2 of the House of Representatives and the Senate Com-
3 mittee on Commerce, Science, and Transportation within
4 one year after the date of enactment of this Act on the
5 enforcement strategies and enforcement actions taken to
6 enforce the coastwise trade laws.

7 **SEC. 221. NOMINATION AND APPOINTMENT OF CADETS AT**
8 **THE COAST GUARD ACADEMY.**

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

12 “(a) NOMINATION AND COMPETITIVE APPOINTMENT
13 OF CADETS.—

14 “(1) ELIGIBILITY FOR NOMINATION.—An indi-
15 vidual may be nominated for a competitive appoint-
16 ment as a cadet at the Coast Guard Academy only
17 if the individual—

18 “(A) is a citizen or national of the United
19 States; and

20 “(B) meets the minimum requirements
21 that the Secretary shall establish.

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

1 “(A) A Senator may nominate residents of
2 the State represented by that Senator.

3 “(B) A Member of the House of Rep-
4 resentatives may nominate residents of the
5 State in which the congressional district rep-
6 resented by that Member is located.

7 “(C) A Delegate to the House of Rep-
8 resentatives from the District of Columbia, the
9 Virgin Islands, Guam, or American Samoa may
10 nominate residents of the jurisdiction rep-
11 resented by that Delegate.

12 “(D) The Resident Commissioner to the
13 United States from Puerto Rico may nominate
14 residents of Puerto Rico.

15 “(E) The Governor of the Northern Mar-
16 iana Islands may nominate residents of the
17 Northern Mariana Islands.

18 “(3) ALLOCATION OF POSITIONS.—Positions for
19 competitive appointments shall be allocated each
20 year as follows:

21 “(A) Positions shall be allocated for resi-
22 dents of each State nominated by the Members
23 of Congress from that State in proportion to
24 the representation in Congress from that State.

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

3 “(C) One position each shall be allocated
4 for residents of the Virgin Islands, Guam, and
5 American Samoa, respectively.

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

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

10 “(F) Two positions shall be allocated for
11 individuals nominated by the Panama Canal
12 Commission.

13 “(4) COMPETITIVE SYSTEM FOR APPOINT-
14 MENT.—

15 “(A) ESTABLISHMENT OF SYSTEM.—The
16 Secretary shall establish a competitive system
17 for selecting for appointment individuals nomi-
18 nated under paragraph (1) to fill the positions
19 allocated under paragraph (3). The system
20 must determine the relative merit of each indi-
21 vidual based on competitive examinations, an
22 assessment of the individual’s academic back-
23 ground, and other effective indicators of moti-
24 vation and probability of successful completion
25 of training at the Academy.

1 “(B) APPOINTMENTS BY JURISDICTION.—
2 The Secretary shall appoint individuals to fill
3 the positions allocated under subsection (c) for
4 each jurisdiction in the order of merit of the in-
5 dividuals nominated from that jurisdiction.

6 “(C) REMAINING UNFILLED POSITIONS.—
7 If positions remain unfilled after the appoint-
8 ments are made under paragraph (2), the Sec-
9 retary shall appoint individuals to fill the posi-
10 tions in the order of merit of the remaining in-
11 dividuals nominated from all jurisdictions.

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

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

18 “(B) Without limit—

19 “(i) children of individuals who died
20 while on active duty in the armed forces of
21 the United States;

22 “(ii) children of individuals who are
23 determined by the Secretary of Veterans
24 Affairs to have a service-connected dis-
25 ability rated at not less than 100 percent

1 resulting from wounds or injuries received
2 in, diseases contracted in, or preexisting
3 injury or disease aggravated by, active
4 service;

5 “(iii) children of members of the
6 armed forces of the United States who are
7 in a missing status as defined in section
8 551(2) of title 37; and

9 “(iv) children of civilian employees of
10 the armed forces of the United States who
11 are in missing status as defined in section
12 5561(5) of title 5.

13 “(C) Not more than 25 enlisted members
14 of the Coast Guard;

15 “(D) Not more than 20 qualified individ-
16 uals with qualities the Secretary considers to be
17 of special value to the Academy and that the
18 Secretary considers will achieve a national de-
19 mographic balance at the Academy.

20 “(6) ADDITIONAL APPOINTMENTS FROM PAR-
21 TICULAR AREAS.—

22 “(A) OTHER COUNTRIES IN WESTERN
23 HEMISPHERE.—The President may appoint in-
24 dividuals from countries in the Western Hemi-
25 sphere other than the United States to receive

1 instruction at the Academy. Not more than 12
2 individuals may receive instruction under this
3 subsection at the same time, and not more than
4 2 individuals from the same country may re-
5 ceive instruction under this subsection at the
6 same time.

7 “(B) OTHER COUNTRIES GENERALLY.—

8 “(i) APPOINTMENT.—The Secretary,
9 with the approval of the Secretary of
10 State, may appoint individuals from coun-
11 tries other than the United States to re-
12 ceive instruction at the Academy. Not
13 more than 20 individuals may receive in-
14 struction under this subsection at the same
15 time.

16 “(ii) REIMBURSEMENT.—The Sec-
17 retary shall ensure that the country from
18 which an individual comes under this sub-
19 section will reimburse the Secretary for the
20 cost (as determined by the Secretary) of
21 the instruction and allowances received by
22 the individual at the Academy.

23 “(C) COMMITMENT.—Each individual at-
24 tending the Academy under this paragraph
25 shall sign an agreement stating that the indi-

1 vidual, upon graduation, will accept an appoint-
2 ment, if tendered, as an officer in the Coast
3 Guard of the country from which the individual
4 comes for at least five years.

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

10 (b) MINORITY RECRUITING PROGRAM.—

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

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

15 “The Secretary of the department in which the Coast
16 Guard is operating shall establish a minority recruiting
17 program for prospective cadets at the Coast Guard Acad-
18 emy. The program may include—

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

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

24 “(3) to the extent authorized by the Secretary
25 of the Navy, maximizing the use of the Naval Acad-

1 emy Preparatory School to prepare students to be
2 cadets at the Coast Guard Academy;

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

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

7 “(6) use of minority officers and members of
8 the Coast Guard Reserve and Auxiliary to promote
9 the Academy.”.

10 (2) CLERICAL AMENDMENT.—The table of sec-
11 tions for that chapter is amended by adding at the
12 end the following new item:

“197. Minority recruiting program.”.

13 **SEC. 222. POLICY ON SEXUAL HARASSMENT AND SEXUAL**
14 **VIOLENCE AT THE COAST GUARD ACADEMY.**

15 (a) REQUIRED POLICY.—Under guidance prescribed
16 by the Secretary of the department in which the Coast
17 Guard is operating, the Commandant of the Coast Guard
18 shall direct the Superintendent of the Coast Guard Acad-
19 emy to prescribe a policy on sexual harassment and sexual
20 violence applicable to the cadets and other personnel of
21 the Academy.

22 (b) MATTERS TO BE SPECIFIED IN POLICY.—The
23 policy on sexual harassment and sexual violence prescribed
24 under this section shall include specification of the fol-
25 lowing:

1 (1) Programs to promote awareness of the inci-
2 dence of rape, acquaintance rape, and other sexual
3 offenses of a criminal nature that involve cadets or
4 other Academy personnel.

5 (2) Procedures that a cadet should follow in the
6 case of an occurrence of sexual harassment or sexual
7 violence, including—

8 (A) if the cadet chooses to report an occur-
9 rence of sexual harassment or sexual violence, a
10 specification of the person or persons to whom
11 the alleged offense should be reported and the
12 options for confidential reporting;

13 (B) a specification of any other person
14 whom the victim should contact; and

15 (C) procedures on the preservation of evi-
16 dence potentially necessary for proof of criminal
17 sexual assault.

18 (3) Procedures for disciplinary action in cases
19 of alleged criminal sexual assault involving a cadet
20 or other Academy personnel.

21 (4) Any other sanction authorized to be im-
22 posed in a substantiated case of sexual harassment
23 or sexual violence involving a cadet or other Acad-
24 emy personnel in rape, acquaintance rape, or any

1 other criminal sexual offense, whether forcible or
2 nonforcible.

3 (5) Required training on the policy for all ca-
4 dets and other Academy personnel, including the
5 specific training required for personnel who process
6 allegations of sexual harassment or sexual violence
7 involving Academy personnel.

8 (c) ANNUAL ASSESSMENT.—

9 (1) The Secretary, through the Commandant of
10 the Coast Guard, shall direct the Superintendent of
11 the Coast Guard Academy to conduct an assessment
12 during each Academy program year to determine the
13 effectiveness of the Academy's policies, training, and
14 procedures on sexual harassment and sexual violence
15 involving cadets and other Academy personnel.

16 (2) For the assessment for each of the 2009,
17 2010, 2011, 2012, and 2013 Academy program
18 years, the Superintendent shall conduct a survey of
19 all Academy personnel—

20 (A) to measure—

21 (i) the incidence, during that program
22 year, of sexual harassment and sexual vio-
23 lence events, on or off the Academy res-
24 ervation, that have been reported to offi-
25 cials of the Academy; and

1 (ii) the incidence, in that program
2 year, of sexual harassment and sexual vio-
3 lence events, on or off the Academy res-
4 ervation, that have not been reported to of-
5 ficials of the Academy; and

6 (B) to assess the perceptions of Academy
7 personnel on—

8 (i) the policies, training, and proce-
9 dures on sexual harassment and sexual vio-
10 lence involving Academy personnel;

11 (ii) the enforcement of such policies;

12 (iii) the incidence of sexual harass-
13 ment and violence involving Academy per-
14 sonnel in such program year; and

15 (iv) any other issues relating to sexual
16 harassment and violence involving Acad-
17 emy personnel.

18 (d) ANNUAL REPORT.—

19 (1) The Commandant of the Coast Guard shall
20 direct the Superintendent of the Coast Guard Acad-
21 emy to submit to the Commandant a report on sex-
22 ual harassment and sexual violence involving Acad-
23 emy personnel for each of the 2009, 2010, 2011,
24 2012, and 2013 Academy program years.

1 (2) The annual report under paragraph (1)
2 shall contain, for the Academy program year covered
3 by the report, the following matters:

4 (A) The number of sexual assaults, rapes,
5 and other sexual offenses involving Academy
6 personnel that have been reported to Academy
7 officials during the program year, and the num-
8 ber of the reported cases that have been sub-
9 stantiated.

10 (B) The policies, procedures, and processes
11 implemented by the Commandant of the Coast
12 Guard and the leadership of the Coast Guard
13 Academy in response to sexual harassment and
14 sexual violence involving Academy personnel
15 during the program year.

16 (C) In the report for the 2009 Academy
17 program year, a discussion of the survey con-
18 ducted under subsection (b), together with an
19 analysis of the results of the survey and a dis-
20 cussion of any initiatives undertaken on the
21 basis of such results and analysis.

22 (D) In the report for each of the subse-
23 quent Academy program years, the results of
24 the annual survey conducted in such program
25 year under subsection (b).

1 (E) A plan for the actions that are to be
2 taken in the following Academy program year
3 regarding prevention of and response to sexual
4 harassment and sexual violence involving Acad-
5 emy personnel.

6 (3) The Commandant of the Coast Guard shall
7 transmit the annual report on the Coast Guard
8 Academy required under this subsection, together
9 with the Commandant's comments on the report, to
10 the Secretary and the Board of Visitors of the Acad-
11 emy.

12 (4) The Secretary shall transmit the annual re-
13 port, together with the Secretary's comments on the
14 report, to the Committee on Transportation and In-
15 frastructure of the House of Representatives and the
16 Committee on Commerce, Science, and Transpor-
17 tation of the Senate.

18 (5) The report for the 2009 Academy program
19 year for the Academy shall be submitted to the Com-
20 mandant of the Coast Guard not later than one year
21 after the date of the enactment of this Act.

22 (6) In this subsection, the term "Academy pro-
23 gram year" with respect to a year, means the Acad-
24 emy program year that ends in that year.

1 **SEC. 223. HOME PORT OF COAST GUARD VESSELS IN GUAM.**

2 Section 96 of title 14, United States Code, is amend-
3 ed—

4 (1) by striking “a State of the United States”
5 and inserting “the United States or Guam”; and

6 (2) by inserting “or Guam” after “outside the
7 United States”.

8 **TITLE III—SHIPPING AND**
9 **NAVIGATION**

10 **SEC. 301. VESSEL SIZE LIMITS.**

11 (a) **LENGTH, TONNAGE, AND HORSEPOWER.**—Sec-
12 tion 12113(d)(2) of title 46, United States Code, is
13 amended—

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

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

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

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

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

22 “(C) the vessel is either a rebuilt vessel or
23 a replacement vessel under section 208(g) of
24 the American Fisheries Act (title II of division
25 C of Public Law 105–277; 112 Stat. 2681–

1 627) and is eligible for a fishery endorsement
2 under this section.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) VESSEL REBUILDING AND REPLACE-
5 MENT.—Section 208(g) of the American Fisheries
6 Act (title II of division C of Public Law 105–277;
7 112 Stat. 2681–627) is amended to read as follows:

8 “(g) VESSEL REBUILDING AND REPLACEMENT.—

9 “(1) IN GENERAL.—

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

1 endorsement under section 12113 of title 46,
2 United States Code.

3 “(B) SAME REQUIREMENTS.—The rebuilt
4 or replacement vessel shall be eligible in the
5 same manner and subject to the same restric-
6 tions and limitations under such subsection as
7 the vessel being rebuilt or replaced.

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

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

23 “(3) SPECIAL RULE FOR REPLACEMENT OF
24 CERTAIN VESSELS.—

1 “(A) IN GENERAL.—Notwithstanding the
2 requirements of subsections (b)(2), (c)(1), and
3 (c)(2) of section 12113 of title 46, United
4 States Code, a vessel that is eligible under sub-
5 section (a), (b), (c), (d), or (e) (other than
6 paragraph (21)) and that qualifies to be docu-
7 mented with a fishery endorsement pursuant to
8 section 203(g) or 213(g) may be replaced with
9 a replacement vessel under paragraph (1) if the
10 vessel that is replaced is validly documented
11 with a fishery endorsement pursuant to section
12 203(g) or 213(g) before the replacement vessel
13 is documented with a fishery endorsement
14 under section 12113 of title 46, United States
15 Code.

16 “(B) APPLICABILITY.—A replacement ves-
17 sel under subparagraph (A) and its owner and
18 mortgagee are subject to the same limitations
19 under section 203(g) or 213(g) that are appli-
20 cable to the vessel that has been replaced and
21 its owner and mortgagee.

22 “(4) SPECIAL RULES FOR CERTAIN CATCHER
23 VESSELS.—

24 “(A) IN GENERAL.—A replacement for a
25 covered vessel described in subparagraph (B) is

1 prohibited from harvesting fish in any fishery
2 (except for the Pacific whiting fishery) managed
3 under the authority of any regional fishery
4 management council (other than the North Pa-
5 cific Council) established under section 302(a)
6 of the Magnuson-Stevens Act.

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

9 “(i) a vessel eligible under subsection
10 (a), (b), or (c) that is replaced under para-
11 graph (1); or

12 “(ii) a vessel eligible under subsection
13 (a), (b), or (c) that is rebuilt to increase
14 its registered length, gross tonnage, or
15 shaft horsepower.

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

22 “(6) GULF OF ALASKA LIMITATION.—Notwith-
23 standing paragraph (1), the Secretary shall prohibit
24 from participation in the groundfish fisheries of the
25 Gulf of Alaska any vessel that is rebuilt or replaced

1 under this subsection and that exceeds the maximum
2 length overall specified on the license that authorizes
3 fishing for groundfish pursuant to the license limita-
4 tion program under part 679 of title 50, Code of
5 Federal Regulations, as in effect on the date of en-
6 actment of the Coast Guard Authorization Act of
7 2008.

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

16 (2) EXEMPTION OF CERTAIN VESSELS.—Sec-
17 tion 203(g) of the American Fisheries Act (title II
18 of division C of Public Law 105–277; 112 Stat.
19 2681–620) is amended—

20 (A) by inserting “and” after “(United
21 States official number 651041)”;

22 (B) by striking “, NORTHERN TRAV-
23 ELER (United States official number 635986),
24 and NORTHERN VOYAGER (United States
25 official number 637398) (or a replacement ves-

1 sel for the NORTHERN VOYAGER that com-
2 plies with paragraphs (2), (5), and (6) of sec-
3 tion 208(g) of this Act”); and

4 (C) by striking “, in the case of the
5 NORTHERN” and all that follows through
6 “PHOENIX,”.

7 (3) FISHERY COOPERATIVE EXIT PROVI-
8 SIONS.—Section 210(b) of the American Fisheries
9 Act (title II of division C of Public Law 105–277;
10 112 Stat. 2681–629) is amended—

11 (A) by moving the matter beginning with
12 “the Secretary shall” in paragraph (1) 2 ems to
13 the right; and

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

15 “(7) FISHERY COOPERATIVE EXIT PROVI-
16 SIONS.—

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

24 “(i) shall be based on the catch his-
25 tory determination for the vessel made

1 pursuant to section 679.62 of title 50,
2 Code of Federal Regulations, as in effect
3 on the date of enactment of the Coast
4 Guard Authorization Act of 2008; and

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

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

1 place a vessel to be removed pursuant to this
2 paragraph.

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

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

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

1 ment plan for the fishery developed by the
2 Councils under section 303 of the Magnu-
3 son-Stevens Act.”.

4 **SEC. 302. GOODS AND SERVICES.**

5 Section 4(b) of the Act of July 5, 1884, commonly
6 known as the Rivers and Harbors Appropriation Act of
7 1884 (33 U.S.C. 5(b)), is amended—

8 (1) by striking “or” at the end of paragraph
9 (2)(C);

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

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

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

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

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

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

23 “(a) IN GENERAL.—The”.

24 (2) in subsection (a) (as designated by para-
25 graph (1)) by striking “\$100; and the” and insert-

1 ing “up to \$10,000. Each day during which a viola-
2 tion continues shall constitute a separate violation.
3 The”;

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

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

9 **SEC. 304. MARITIME DRUG LAW ENFORCEMENT ACT**
10 **AMENDMENT-SIMPLE POSSESSION.**

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

13 “(c) SIMPLE POSSESSION.—

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

24 “(2) DETERMINATION OF AMOUNT.—In deter-
25 mining the amount of the penalty, the Secretary

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

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

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

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

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

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

20 (3) in subparagraph (B)—

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

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

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

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

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

8 (c) APPLICATION.—Section 14301 of that title is
9 amended—

10 (1) by amending subsection (a) to read as fol-
11 lows:

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

16 (2) in subsection (b)—

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

22 (B) in paragraph (3), by inserting “of
23 United States or Canadian registry or nation-
24 ality, or a vessel operated under the authority

1 of the United States or Canada, and that is”
2 after “vessel”;

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

8 (D) by striking paragraph (5);

9 (E) by redesignating paragraph (6) as
10 paragraph (5); and

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

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

17 (3) by striking subsection (c);

18 (4) by redesignating subsections (d) and (e) as
19 subsections (c) and (d), respectively; and

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

1 tonnage (or a vessel to which IMO Resolutions
2 A.494 (XII) of November 19, 1981, A.540 (XIII) of
3 November 17, 1983, or A.541 (XIII) of November
4 17, 1983 apply)”.

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

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

9 (e) TONNAGE CERTIFICATE.—

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

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

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

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

21 (2) MAINTENANCE.—Section 14503 of that title
22 is amended—

23 (A) by designating the existing text as sub-
24 section (a); and

1 (B) by adding at the end the following new
2 subsection:

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

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

“14303. Tonnage Certificate.”.

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

15 (g) APPLICATION.—Section 14501 of that title is
16 amended—

17 (1) by amending paragraph (1) to read as fol-
18 lows:

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

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

1 (h) DUAL TONNAGE MEASUREMENT.—Section
2 14513(c) of that title is amended—

3 (1) in paragraph (1)—

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

9 (B) by inserting “vessel’s tonnage” before
10 “mark” the second place such term appears;
11 and

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

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

18 **“§ 14514. Reciprocity for foreign vessels**

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

1 foreign country as complying with this chapter and the
2 regulations prescribed under this chapter.”.

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

“14514. Reciprocity for foreign vessels.”.

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

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

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

20 **SEC. 307. FISHING VESSEL SAFETY.**

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

23 (1) in subsection (a), by—

24 (A) striking paragraphs (6) and (7) and
25 inserting the following:

1 “(6) other equipment required to minimize the
2 risk of injury to the crew during vessel operations,
3 if the Secretary determines that a risk of serious in-
4 jury exists that can be eliminated or mitigated by
5 that equipment; and”;

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

8 (2) in subsection (b)—

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

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

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

22 (D) in paragraph (2)(D), by inserting
23 “marine” before “radio”;

24 (E) in paragraph (2)(E), by striking
25 “radar reflectors, nautical charts, and anchors”

1 and inserting “nautical charts, and publica-
2 tions”;

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

7 (G) by amending paragraph (2)(G) to read
8 as follows:

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

10 (3) by amending subsection (f) to read as fol-
11 lows:

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

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

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

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

23 “(g)(1) The individual in charge of a vessel described
24 in subsection (b) must pass a training program approved
25 by the Secretary that meets the requirements in para-

1 graph (2) of this subsection and hold a valid certificate
2 issued under that program.

3 “(2) The training program shall—

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

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

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

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

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

1 “(4) The Secretary shall establish a publicly acces-
2 sible electronic database listing the names of individuals
3 who have participated in and received a certificate con-
4 firming successful completion of a training program ap-
5 proved by the Secretary under this section.

6 “(h) A vessel to which this chapter applies shall be
7 constructed in a manner that provides a level of safety
8 equivalent to the minimum safety standards the Secretary
9 may established for recreational vessels under section
10 4302, if—

11 “(1) subsection (b) of this section applies to the
12 vessel;

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

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

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

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

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

1 “(ii) in the case of crewmembers, meets
2 the requirements of subsection (g)(2)(A), such
3 requirements of subsection (g)(2)(B) as are ap-
4 propriate for crewmembers, and the require-
5 ments of subsections (g)(2)(D), (g)(3), and
6 (g)(4); and

7 “(B) for purchase of safety equipment and
8 training aids for use in those fishing vessel safety
9 training programs.

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

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

15 “(4) There is authorized to be appropriated
16 \$3,000,000 for each of fiscal years 2008 through 2012
17 for grants under this subsection.

18 “(j)(1) The Secretary shall establish a Fishing Safety
19 Research Grant Program to provide funding to individuals
20 in academia, members of non-profit organizations and
21 businesses involved in fishing and maritime matters, and
22 other persons with expertise in fishing safety, to conduct
23 research on methods of improving the safety of the com-
24 mercial fishing industry, including vessel design, emer-
25 gency and survival equipment, enhancement of vessel mon-

1 itoring systems, communications devices, de-icing tech-
2 nology, and severe weather detection.

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

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

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

10 (c) ADVISORY COMMITTEE.—

11 (1) CHANGE OF NAME.—Section 4508 of title
12 46, United States Code, is amended—

13 (A) by striking the section heading and in-
14 serting the following:

15 “§ 4508. **Commercial Fishing Safety Advisory Com-**
16 **mittee”;**

17 and

18 (B) in subsection (a) by striking “Industry
19 Vessel”.

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

“4508. Commercial Fishing Safety Advisory Committee.”.

24 (d) LOADLINES FOR VESSELS OVER 79 FEET.—Sec-
25 tion 5102(b)(3) of title 46, United States Code, is amend-

1 ed by inserting after “vessel” the following “, unless the
2 vessel is built or undergoes a major conversion completed
3 after January 1, 2008”.

4 (e) CLASSING OF VESSELS.—

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

7 (A) by striking the section heading and in-
8 serting the following:

9 **“§ 4503. Fishing, fish tender, and fish processing ves-**
10 **sel certification”;**

11 (B) in subsection (a) by striking “fish
12 processing”; and

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

14 “(c) This section applies to a vessel to which section
15 4502(b) of this title applies that—

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

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

18 “(3) undergoes a major conversion completed
19 after that date.

20 “(d)(1) After January 1, 2018, a fishing vessel, fish
21 processing vessel, or fish tender vessel to which section
22 4502(b) of this title applies shall comply with an alternate
23 safety compliance program that is developed in coopera-
24 tion with the commercial fishing industry and prescribed
25 by the Secretary, if the vessel—

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

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

3 “(C) is 25 years of age or older.

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

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

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

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

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

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

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

1 **SEC. 308. MARINER RECORDS.**

2 Section 7502 of title 46, United States Code, is
3 amended—

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

5 (2) by striking “computerized records” and in-
6 serting “records, including electronic records,”; and

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

8 “(b) The Secretary may prescribe regulations requir-
9 ing a vessel owner or managing operator of a commercial
10 vessel, or the employer of a seaman on that vessel, to
11 maintain records of each individual engaged on the vessel
12 on matters of engagement, discharge, and service for not
13 less than 5 years after the date of the completion of the
14 service of that individual on the vessel. The regulations
15 may require that a vessel owner, managing operator, or
16 employer shall make these records available to the indi-
17 vidual and the Coast Guard on request.

18 “(c) A person violating this section, or a regulation
19 prescribed under this section, is liable to the United States
20 Government for a civil penalty of not more than \$5,000.”.

21 **SEC. 309. DELETION OF EXEMPTION OF LICENSE REQUIRE-**
22 **MENT FOR OPERATORS OF CERTAIN TOWING**
23 **VESSELS.**

24 Section 8905 of title 46, United States Code, is
25 amended—

26 (1) by striking subsection (b); and

1 (2) by redesignating subsection (c) as sub-
2 section (b).

3 **SEC. 310. ADJUSTMENT OF LIABILITY LIMITS FOR NAT-**
4 **URAL GAS DEEPWATER PORTS.**

5 Section 1004(d)(2) of the Oil Pollution Act of 1990
6 (33 U.S.C. 2704(d)(2)) is amended by adding at the end
7 the following:

8 “(D) The Secretary may establish, by reg-
9 ulation, a limit of liability of not less than
10 \$12,000,000 for a deepwater port used only in
11 connection with transportation of natural gas.”.

12 **SEC. 311. PERIOD OF LIMITATIONS FOR CLAIMS AGAINST**
13 **OIL SPILL LIABILITY TRUST FUND.**

14 Section 1012(h)(1) of the Oil Pollution Act of 1990
15 (33 U.S.C. 2712(h)(1)) is amended by striking “6” and
16 inserting “3”.

17 **SEC. 312. LOG BOOKS.**

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

21 **“§ 11304. Additional logbook and entry requirements**

22 “(a) A vessel of the United States that is subject to
23 inspection under section 3301 of this title, except a vessel
24 on a voyage from a port in the United States to a port

1 in Canada, shall have an official logbook, which shall be
2 kept available for review by the Secretary on request.

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

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

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

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

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

“11304. Additional logbook and entry requirements.”.

14 **SEC. 313. UNSAFE OPERATION.**

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

18 **“§ 2116. Termination for unsafe operation**

19 “An individual authorized to enforce this title—

20 “(1) may remove a certificate required by this
21 title from a vessel that is operating in a condition
22 that does not comply with the provisions of the cer-
23 tificate;

24 “(2) may order the individual in charge of a
25 vessel that is operating that does not have on board

1 the certificate required by this title to return the
2 vessel to a mooring and to remain there until the
3 vessel is in compliance with this title; and

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

14 (b) CLERICAL AMENDMENT.—The table of sections
15 at the beginning of that title is amended by adding at the
16 end the following:

“2116. Termination for unsafe operation.”.

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

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

21 **“§ 3104. Survival craft**

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

1 “(b) The Secretary may authorize a survival craft
2 that does not provide protection described in subsection
3 (a) to remain in service until not later than January 1,
4 2013, if—

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

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

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

“3104. Survival craft.”.

11 **SEC. 315. SAFETY MANAGEMENT.**

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

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

18 (2) by redesignating subsections (b) and (c) as
19 subsections (c) and (d), respectively;

20 (3) by inserting after subsection (a) the fol-
21 lowing:

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

24 “(1) a passenger vessel or small passenger ves-
25 sel; and

1 “(2) is transporting more passengers than a
2 number prescribed by the Secretary based on the
3 number of individuals on the vessel that could be
4 killed or injured in a marine casualty.”;

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

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

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

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

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

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

22 **SEC. 316. PROTECTION AGAINST DISCRIMINATION.**

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

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

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

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

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

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

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

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

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

1 (4) by amending subsection (b) to read as fol-
2 lows:

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

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

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

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

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

2 Section 3306 of title 46, United States Code, is
3 amended by adding at the end the following new sub-
4 section:

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

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

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

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

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

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

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

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

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

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

19 **SEC. 320. OATHS.**

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

1 **SEC. 321. DURATION OF CREDENTIALS.**

2 (a) MERCHANT MARINER'S DOCUMENTS.—Section
3 7302(f) of title 46, United States Code, is amended to
4 read as follows:

5 “(f) PERIODS OF VALIDITY AND RENEWAL OF MER-
6 CHANT MARINERS' DOCUMENTS.—

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

11 “(2) ADVANCE RENEWALS.—A renewed mer-
12 chant mariner's document may be issued under this
13 chapter up to 8 months in advance but is not effec-
14 tive until the date that the previously issued mer-
15 chant mariner's document expires.”.

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

18 **“§ 7106. Duration of licenses**

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

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

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

7 **“§ 7107. Duration of certificates of registry**

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

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

19 **SEC. 322. FINGERPRINTING.**

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

23 **“§ 7507. Fingerprinting**

24 “‘The Secretary of the Department in which the Coast
25 Guard is operating may not require an individual to be

1 fingerprinted for the issuance or renewal of a license, a
2 certificate of registry, or a merchant mariner’s document
3 under chapter 71 or 73 if the individual was fingerprinted
4 when the individual applied for a transportation security
5 card under section 70105.”.

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

8 **SEC. 323. AUTHORIZATION TO EXTEND THE DURATION OF**
9 **LICENSES, CERTIFICATES OF REGISTRY, AND**
10 **MERCHANT MARINERS’ DOCUMENTS.**

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

15 **“§ 7508. Authority to extend the duration of licenses,**
16 **certificates of registry, and merchant**
17 **mariner documents**

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

1 “(b) MERCHANT MARINER DOCUMENTS.—Notwith-
2 standing section 7302(g), the Secretary may extend for
3 one year an expiring merchant mariner’s document issued
4 for an individual under chapter 71 if the Secretary deter-
5 mines that extension is required to enable the Coast Guard
6 to eliminate a backlog in processing applications for those
7 documents.

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

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

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

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

17 **SEC. 324. MERCHANT MARINER DOCUMENTATION.**

18 (a) INTERIM CLEARANCE PROCESS.—Not later than
19 180 days after the date of enactment of this Act, the Sec-
20 retary of the department in which the Coast Guard is op-
21 erating shall develop an interim clearance process for
22 issuance of a merchant mariner document to enable a
23 newly hired seaman to begin working on an offshore sup-
24 ply vessel or towing vessel if the Secretary makes an initial

1 determination that the seaman does not pose a safety and
2 security risk.

3 (b) CONTENTS OF PROCESS.—The process under
4 subsection (a) shall include a check against the consoli-
5 dated and integrated terrorist watch list maintained by the
6 Federal Government, review of the seaman’s criminal
7 record, and review of the results of testing the seaman
8 for use of a dangerous drug (as defined in section 2101
9 of title 46, United States Code) in violation of law or Fed-
10 eral regulation.

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

12 Not later than 180 days after the date of enactment
13 of this Act, the Commandant of the Coast Guard shall
14 submit to the Committee on Transportation and Infra-
15 structure of the House of Representatives and the Com-
16 mittee on Commerce, Science, and Transportation of the
17 Senate a report regarding a plan—

18 (1) to expand the streamlined evaluation proc-
19 ess program that was affiliated with the Houston
20 Regional Examination Center of the Coast Guard to
21 all processing centers of the Coast Guard nation-
22 wide;

23 (2) to include proposals to simplify the applica-
24 tion process for a license as an officer, staff officer,
25 or operator and for a merchant mariner’s document

1 to help eliminate errors by merchant mariners when
2 completing the application form (CG-719B), includ-
3 ing instructions attached to the application form and
4 a modified application form for renewals with ques-
5 tions pertaining only to the period of time since the
6 previous application;

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

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

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

16 Not later than 180 days after the date of enactment
17 of this Act, the Secretary of Transportation, acting
18 through the Administrator of the Maritime Administra-
19 tion, shall submit to the Committee on Transportation and
20 Infrastructure of the House of Representatives and the
21 Committee on Commerce, Science, and Transportation of
22 the Senate a report concerning methods to address the
23 current and future shortage in the number of merchant
24 mariners, particularly entry-level mariners, including an
25 evaluation of whether an educational loan program pro-

1 viding loans for the cost of on-the-job training would pro-
2 vide an incentive for workers and help alleviate the short-
3 age.

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

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

11 (1) a plan to ensure that the process for an ap-
12 plication, by an individual who has, or has applied
13 for, a transportation security card under section
14 70105 of title 46, United States Code, for a mer-
15 chant mariner document can be completed entirely
16 by mail; and

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

1 for separate credentials and background screening
2 and streamline the application process for mariners.

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

4 Not later than 180 days after enactment of this Act,
5 the Secretary of Homeland Security shall provide 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 loss of United States shipyard jobs and industrial
10 base expertise as a result of rebuild, conversion, and dou-
11 ble-hull work on United States-flag vessels eligible to en-
12 gage in the coastwise trade being performed in foreign
13 shipyards, enforcement of the Coast Guard’s foreign re-
14 build determination regulations, and recommendations for
15 improving the transparency in the Coast Guard’s foreign
16 rebuild determination process.

17 **SEC. 329. PILOT REQUIRED.**

18 Section 8502(g) of title 46, United States Code, is
19 amended—

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

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

23 “(3) In any area of Buzzards Bay, Massachu-
24 setts, where a single-hull tanker or tank vessel car-
25 rying 5,000 or more barrels of oil or other haz-

1 ardous material is required to be under the direction
2 and control of a pilot, the pilot may not be a mem-
3 ber of the crew of that vessel, and shall be a pilot
4 licensed—

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

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

13 “(i) at least 1 round trip through
14 Buzzards Bay in the preceding 12-month
15 period; and

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

22 **SEC. 330. OFFSHORE SUPPLY VESSELS.**

23 (a) DEFINITION.—Section 2101(19) of title 46,
24 United States Code, is amended by striking “of more than
25 15 gross tons but less than 500 gross tons as measured

1 under section 14502 of this title, or an alternate tonnage
2 measured under section 14302 of this title as prescribed
3 by the Secretary under section 14104 of this title”.

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

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

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

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

21 “(2) Paragraph (1) does not apply to an offshore sup-
22 ply vessel of more than 6,000 gross tons as measured
23 under section 14302 of this title if the individuals engaged
24 on the vessel are in compliance with hours of service re-

1 requirements (including recording and record-keeping of
2 that service) prescribed by the Secretary.”; and

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

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

8 “(b)(1) An offshore supply vessel shall have at least
9 one mate. Additional mates on an offshore supply vessel
10 of more than 6,000 gross tons as measured under section
11 14302 of this title shall be prescribe in accordance with
12 hours of service requirements (including recording and
13 record-keeping of that service) prescribed by the Sec-
14 retary.

15 “(2) An offshore supply vessel of more than 200
16 gross tons as measured under section 14502 of this title,
17 or an alternate tonnage measured under section 14302 of
18 this title as prescribed by the Secretary under section
19 14104 of this title, may not be operated without a licensed
20 engineer.”.

21 **SEC. 331. RECREATIONAL VESSEL OPERATOR EDUCATION**
22 **AND TRAINING.**

23 (a) IN GENERAL.—Not later than 180 days after the
24 date of enactment of this Act, the Secretary of the depart-
25 ment in which the Coast Guard is operating shall study

1 and report to the Committee on Transportation and Infra-
2 structure of the House of Representatives and the Com-
3 mittees on Commerce, Science, and Transportation of the
4 Senate regarding recreational vessel operator training.

5 The study and report shall included a review of—

6 (1) Coast Guard Auxiliary and Power Squadron
7 training programs;

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

12 (3) other hands-on training programs available
13 to recreational vessel operators.

14 (b) INCLUDED SUBJECTS.—The study shall specifi-
15 cally examine—

16 (1) course materials;

17 (2) course content;

18 (3) training methodology;

19 (4) assessment methodology; and

20 (5) relevancy of course content to risks for rec-
21 reational boaters.

22 (c) CONTENTS OF REPORT.—The report under this
23 section shall include—

24 (1) a section regarding steps the Coast Guard
25 and NASBLA have taken to encourage States to

1 adopt mandatory recreational vessel operator train-
2 ing;

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

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

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

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

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

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

22 (8) a description of the current phase-in periods
23 for mandatory boater education in State mandatory
24 education programs and recommendation for the
25 phase-in period for a mandatory boater education

1 program including an evaluation as to whether the
2 phase-in period affects course availability and cost;

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

6 (10) recommendations for a by-pass option for
7 experienced boaters;

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

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

15 **SEC. 332. SHIP EMISSION REDUCTION TECHNOLOGY DEM-**
16 **ONSTRATION PROJECT.**

17 (a) STUDY.—The Commandant of the Coast Guard
18 shall conduct a study—

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

23 (2) that identifies the Federal, State, and local
24 laws, regulations, and other requirements that affect
25 the ability of any entity to effectively demonstrate

1 onboard technology for the reduction of contami-
2 nated emissions from ships.

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

10 **SEC. 333. DELEGATION OF AUTHORITY TO CLASSIFICATION**

11 **SOCIETIES REGARDING OFFSHORE FACILI-**
12 **TIES.**

13 Section 3316 of title 46, United States Code, is
14 amended by adding at the end the following new sub-
15 section:

16 “(d)(1) The Secretary may delegate to the American
17 Bureau of Shipping or another classification society recog-
18 nized by the Secretary as meeting acceptable standards
19 for such a society, for a United States offshore facility,
20 the authority to—

21 “(A) review and approve plans required for
22 issuing a certificate of inspection or certificate of
23 compliance; and

24 “(B) conduct inspections and examinations.

1 “(2) The Secretary may make a delegation under
2 paragraph (1) to a foreign classification society only if the
3 foreign classification society has offices and maintains
4 records in the United States and—

5 “(A) if the government of the foreign country
6 in which the society is headquartered delegates that
7 authority to the American Bureau of Shipping; or

8 “(B) to the extent the government of the for-
9 eign country accepts plan review, inspections, or ex-
10 aminations conducted by the American Bureau of
11 Shipping and provides equivalent access to inspect,
12 certify, and provide related services to offshore facili-
13 ties located in that country or operating under the
14 authority of that country.

15 “(3) When an inspection or examination has been del-
16 egated under this subsection, the Secretary’s delegate—

17 “(A) shall maintain in the United States com-
18 plete files of all information derived from or nec-
19 essarily connected with the inspection or examina-
20 tion for at least 2 years after the United States off-
21 shore facility ceases to be certified; and

22 “(B) shall permit access to those files at all
23 reasonable times to any officer, employee, or mem-
24 ber of the Coast Guard designated—

1 “(i) as a marine inspector and serving in
2 a position as a marine inspector; or

3 “(ii) in writing by the Secretary to have
4 access to those files.

5 “(4) For purposes of this section—

6 “(A) the term ‘offshore facility’ means any in-
7 stallation, structure, or other device (including any
8 vessel not documented under chapter 121 of this
9 title or the laws of another country) that is fixed or
10 floating, dynamically holds position or is temporarily
11 or permanently attached to the seabed or subsoil
12 under the sea, and is used for the purpose of explor-
13 ing for, developing, producing, or storing the re-
14 sources from that seabed or subsoil; and

15 “(B) the term ‘United States offshore facility’
16 means any offshore facility, fixed or floating, that
17 dynamically holds position or is temporarily or per-
18 manently attached to the seabed or subsoil under the
19 territorial sea of the United States or the outer Con-
20 tinental Shelf (as that term is defined in section 2
21 of the Outer Continental Shelf Lands Act (43
22 U.S.C. 1331)).”.

1 **SEC. 334. REQUIREMENT FOR PILOTS TO CARRY AND UTI-**
2 **LIZE PORTABLE ELECTRONIC NAVIGATIONAL**
3 **DEVICE.**

4 The Ports and Waterways Safety Act (33 U.S.C.
5 1221 et seq.) is amended by inserting after section 4A
6 the following:

7 **“SEC. 4B. PORTABLE ELECTRONIC DEVICE FOR NAVIGA-**
8 **TION PURPOSES.**

9 “(a) IN GENERAL.—The Commandant of the Coast
10 Guard may issue regulations that—

11 “(1) require that any pilot licensed under sub-
12 title II of title 46, United States Code, while serving
13 under the authority of that license as pilot on a cov-
14 ered vessel operating in waters designated in the
15 regulation shall carry and utilize a portable elec-
16 tronic device that is—

17 “(A) equipped for navigational purposes;

18 and

19 “(B) capable of being connected to an
20 Automatic Identification System; and

21 “(2) require such pilots to obtain training in
22 the use of such electronic devices, and prescribe re-
23 quirements for such training after consultation with
24 State or local pilotage authorities on specific equip-
25 ment and practices in the waters designated in the
26 regulation.

1 “(b) DETERMINATION OF NEED.—The Commandant
2 shall consult with State or local pilotage authorities for
3 the waters covered by the regulations to determine if the
4 carriage and use of such portable electronic devices would
5 improve safe navigation under local conditions and wheth-
6 er there is a need for mandatory carriage requirements.

7 “(c) COVERED VESSEL DEFINED.—In this section
8 the term ‘covered vessel’ means a self-propelled commer-
9 cial vessel of 300 gross tons or more that does not have
10 an electronic chart prescribed under section 4A.”.

11 **TITLE IV—MISCELLANEOUS** 12 **PROVISIONS**

13 **SEC. 401. CERTIFICATE OF DOCUMENTATION FOR GALLANT** 14 **LADY.**

15 Section 1120(c) of the Coast Guard Authorization
16 Act of 1996 (110 Stat. 3977) is amended—

17 (1) in paragraph (1)—

18 (A) by striking “of Transportation” and
19 inserting “of the department in which the Coast
20 Guard is operating”; and

21 (B) by striking subparagraph (A) and in-
22 serting the following:

23 “(A) the vessel GALLANT LADY
24 (Feadship hull number 672, approximately 168
25 feet in length).”;

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

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

6 **SEC. 402. WAIVER.**

7 Notwithstanding section 12112 and chapter 551 of
8 title 46, United States Code, the Secretary of the depart-
9 ment in which the Coast Guard is operating may issue
10 a certificate of documentation with a coastwise endorse-
11 ment for the OCEAN VERITAS (IMO Number
12 7366805).

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

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

16 (1) in subsection (b)(1)—

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

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

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

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

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

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

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

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

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

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

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

23 “(P) identify market opportunities for, and
24 impediments to, the use of United States-flag

1 vessels in trade with Canada on the Great
2 Lakes.”; and

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

5 “(4) AUTHORIZATION OF APPROPRIATIONS.—
6 There are authorized to be appropriated to carry out
7 paragraph (1)—

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

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

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

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

12 **SEC. 404. CONVEYANCE.**

13 (a) STATION BRANT POINT BOAT HOUSE.—

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

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

24 (A) without the payment of consideration;

25 and

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

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

8 (b) LEASE.—

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

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

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

22 (A) may terminate the lease without pay-
23 ment of compensation; and

24 (B) shall provide the town of Nantucket
25 not less than 12 months notice of the require-

1 ment to vacate the site and move the buildings
2 conveyed under subsection (a) to another loca-
3 tion.

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

5 (a) FOREIGN AND INTERCOASTAL VOYAGES.—

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

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

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

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

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

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

24 “(B) the receipt, by a seaman who is a claimant
25 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(c) (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 (c) 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 (c) 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 capaci-
11 ty (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 **SEC. 430. NEWTOWN CREEK, NEW YORK CITY, NEW YORK.**

15 (a) STUDY.—The Administrator of the Environ-
16 mental Protection Agency shall conduct a study on the
17 public health, safety, and environmental concerns related
18 to the underground petroleum spill on the Brooklyn shore-
19 line of Newtown Creek, New York City, New York, in
20 Greenpoint, Brooklyn, New York.

21 (b) FULL-SITE CHARACTERIZATION AND COLLEC-
22 TION OF NEW FIELD EVIDENCE.—In carrying out the
23 study under this section, the Administrator shall conduct
24 a full-site characterization of the underground petroleum
25 spill, including the investigation, collection, and analysis

1 of new and updated data and field evidence on the extent
2 of the petroleum spill, including any portion of the spill
3 that has been diluted into surrounding waters, and any
4 surrounding soil contamination or soil vapor contamina-
5 tion.

6 (c) REPORT.—Not later than one year after the date
7 of enactment of this Act, the Administrator shall submit
8 a report containing the results of the study to the Com-
9 mittee on Environment and Public Works and the Com-
10 mittee on Commerce, Science, and Transportation of the
11 Senate and the Committee on Transportation and Infra-
12 structure of the House of Representatives.

13 (d) AUTHORIZATION OF APPROPRIATIONS.—There is
14 authorized to be appropriated to carry out this section
15 \$5,000,000.

16 **SEC. 431. LAND CONVEYANCE, COAST GUARD PROPERTY IN**
17 **MARQUETTE COUNTY, MICHIGAN, TO THE**
18 **CITY OF MARQUETTE, MICHIGAN.**

19 (a) CONVEYANCE AUTHORIZED.—The Commandant
20 of the Coast Guard may convey, without consideration, to
21 the City of Marquette, Michigan (in this section referred
22 to as the “City”), all right, title, and interest of the United
23 States in and to a parcel of real property, together with
24 any improvements thereon, located in Marquette County,
25 Michigan, that is under the administrative control of the

1 Coast Guard, consists of approximately 5.5 acres, and is
2 commonly identified as Coast Guard Station Marquette
3 and Lighthouse Point.

4 (b) RETENTION OF CERTAIN EASEMENTS.—In con-
5 veying the property under subsection (a), the Com-
6 mandant of the Coast Guard may retain such easements
7 over the property as the Commandant considers appro-
8 priate for access to aids to navigation.

9 (c) LIMITATIONS.—The property to be conveyed by
10 subsection (a) may not be conveyed under that subsection
11 until—

12 (1) the Coast Guard has relocated Coast Guard
13 Station Marquette to a newly constructed station;

14 (2) any environmental remediation required
15 under Federal law with respect to the property has
16 been completed;

17 (3) the Commandant of the Coast Guard deter-
18 mines that retention of the property by the United
19 States is not required to carry out Coast Guard mis-
20 sions or functions.

21 (d) CONDITIONS OF TRANSFER.—All conditions
22 placed within the deed of title of the property to be con-
23 veyed under subsection (a) shall be construed as covenants
24 running with the land.

1 (e) INAPPLICABILITY OF SCREENING OR OTHER RE-
2 QUIREMENTS.—The conveyance of property authorized by
3 subsection (a) shall be made without regard to the fol-
4 lowing:

5 (1) Section 2696 of title 10, United States
6 Code.

7 (2) Chapter 5 of title 40, United States Code.

8 (3) Any other provision of law relating to the
9 screening, evaluation, or administration of excess or
10 surplus Federal property prior to conveyance by the
11 Administrator of General Services.

12 (f) EXPIRATION OF AUTHORITY.—The authority in
13 subsection (a) shall expire on the date that is five years
14 after the date of the enactment of this Act.

15 (g) DESCRIPTION OF PROPERTY.—The exact acreage
16 and legal description of the property to be conveyed under
17 subsection (a) shall be determined by a survey satisfactory
18 to the Commandant of the Coast Guard. The cost of the
19 survey shall be borne by the United States.

20 (h) ADDITIONAL TERMS AND CONDITIONS.—The
21 Commandant of the Coast Guard may require such addi-
22 tional terms and conditions in connection with the convey-
23 ance authorized by subsection (a) as the Commandant
24 considers appropriate to protect the interests of the
25 United States.

1 **TITLE V—BALLAST WATER**
2 **TREATMENT**

3 **SEC. 501. SHORT TITLE.**

4 This title may be cited as the “Ballast Water Treat-
5 ment Act of 2008”.

6 **SEC. 502. DECLARATION OF GOALS AND PURPOSES.**

7 Section 1002 of the Nonindigenous Aquatic Nuisance
8 Prevention and Control Act of 1990 (16 U.S.C. 4701) is
9 amended—

10 (1) by redesignating subsection (b) as sub-
11 section (c);

12 (2) by inserting after subsection (a) the fol-
13 lowing:

14 “(b) **DECLARATION OF GOALS AND PURPOSES.**—The
15 objective of this Act is to eliminate the threat and impacts
16 of nonindigenous aquatic nuisance species in the waters
17 of the United States. In order to achieve this objective,
18 it is declared that, consistent with the provisions of this
19 Act—

20 “(1) it is the national goal that ballast water
21 discharged into the waters of the United States will
22 contain no living (viable) organisms by the year
23 2015;

1 “(2) it is the national policy that the introduc-
2 tion of nonindigenous aquatic nuisance species in the
3 waters of the United States be prohibited; and

4 “(3) it is the national policy that Federal,
5 State, and local governments and the private sector
6 identify the most effective ways to coordinate pre-
7 vention efforts, and harmonize environmentally
8 sound methods to prevent, detect, monitor, and con-
9 trol nonindigenous aquatic nuisance species, in an
10 expeditious manner.”.

11 (3) in subsection (c)(1) (as redesignated by
12 paragraph (1) of this section)—

13 (A) by striking “prevent” and inserting
14 “eliminate”; and

15 (B) by inserting “treatment” after “ballast
16 water”;

17 (4) in subsection (c)(2) (as so redesignated)—

18 (A) by inserting “, detection, monitoring,”
19 after “prevention”; and

20 (B) by striking “the zebra mussel and
21 other”;

22 (5) in subsection (c)(3) (as so redesignated)—

23 (A) by inserting “detect,” after “prevent,”;
24 and

1 (B) by striking “from pathways other than
2 ballast water exchange”;

3 (6) in subsection (c)(4) (as so redesignated) by
4 striking “, including the zebra mussel”; and

5 (7) in subsection (c)(5) (as so redesignated)—

6 (A) by inserting “prevention,” after “in
7 the”;

8 (B) by inserting a comma after “manage-
9 ment”; and

10 (C) by striking “zebra mussels” and in-
11 serting “aquatic nuisance species”.

12 **SEC. 503. BALLAST WATER MANAGEMENT.**

13 (a) IN GENERAL.—Section 1101 of the Nonindige-
14 nous Aquatic Nuisance Prevention and Control Act of
15 1990 (16 U.S.C. 4711) is amended to read as follows:

16 **“SEC. 1101. BALLAST WATER MANAGEMENT.**

17 **“(a) VESSELS TO WHICH THIS SECTION APPLIES.—**

18 **“(1) IN GENERAL.—**Except as provided in para-
19 graphs (2), (3), (4), and (5), this section applies to
20 a vessel that engages in the discharge of ballast
21 water in waters subject to the jurisdiction of the
22 United States that—

23 **“(A)** is designed, constructed, or adapted
24 to carry ballast water; and

25 **“(B)(i)** is a vessel of the United States; or

1 “(ii) is a foreign vessel that—

2 “(I) is en route to a United States
3 port or place; or

4 “(II) has departed from a United
5 States port or place and is within waters
6 subject to the jurisdiction of the United
7 States.

8 “(2) PERMANENT BALLAST WATER VESSELS.—

9 This section does not apply to a vessel that carries
10 all of its permanent ballast water in sealed tanks
11 that are not subject to discharge or a vessel that
12 continuously takes on and discharges ballast water
13 in a flow-through system.

14 “(3) ARMED FORCES VESSELS.—

15 “(A) EXEMPTION.—Except as provided in
16 subparagraph (B), this section does not apply
17 to a vessel of the Armed Forces.

18 “(B) BALLAST WATER MANAGEMENT PRO-
19 GRAM.—The Secretary and the Secretary of De-
20 fense, after consultation with each other and
21 with the Under Secretary and the heads of
22 other appropriate Federal agencies as deter-
23 mined by the Secretary, shall implement a bal-
24 last water management program, including the
25 issuance of standards for ballast water ex-

1 change and treatment and for sediment man-
2 agement, for vessels of the Armed Forces under
3 their respective jurisdictions designed, con-
4 structed, or adapted to carry ballast water that
5 are—

6 “(i) consistent with the requirements
7 of this section, including the deadlines es-
8 tablished by this section; and

9 “(ii) at least as stringent as the re-
10 quirements issued for such vessels under
11 section 312 of the Federal Water Pollution
12 Control Act (33 U.S.C. 1322).

13 “(4) SPECIAL RULE FOR SMALL RECREATIONAL
14 VESSELS.—In applying this section to recreational
15 vessels less than 50 meters in length that have a
16 maximum ballast water capacity of 8 cubic meters,
17 the Secretary may issue alternative measures for
18 managing ballast water in a manner that is con-
19 sistent with the requirements of this section.

20 “(5) MARAD VESSELS.—Subsection (f) does not
21 apply to any vessel in the National Defense Reserve
22 Fleet that is scheduled to be disposed of through
23 scrapping or sinking.

24 “(b) UPTAKE AND DISCHARGE OF BALLAST WATER
25 OR SEDIMENT.—

1 “(1) PROHIBITION.—The operator of a vessel to
2 which this section applies may not conduct the up-
3 take or discharge of ballast water or sediment in wa-
4 ters subject to the jurisdiction of the United States
5 except as provided in this section.

6 “(2) EXCEPTIONS.—Paragraph (1) does not
7 apply to the uptake or discharge of ballast water or
8 sediment in the following circumstances:

9 “(A) The uptake or discharge is solely for
10 the purpose of—

11 “(i) ensuring the safety of the vessel
12 in an emergency situation; or

13 “(ii) saving a life at sea.

14 “(B) The uptake or discharge is accidental
15 and the result of damage to the vessel or its
16 equipment and—

17 “(i) all reasonable precautions to pre-
18 vent or minimize ballast water and sedi-
19 ment discharge have been taken before and
20 after the damage occurs, the discovery of
21 the damage, and the discharge; and

22 “(ii) the owner or officer in charge of
23 the vessel did not willfully or recklessly
24 cause the damage.

1 “(C) The uptake or discharge is solely for
2 the purpose of avoiding or minimizing the dis-
3 charge from the vessel of pollution that would
4 otherwise violate applicable Federal or State
5 law.

6 “(D) The uptake or discharge of ballast
7 water and sediment occurs at the same location
8 where the whole of that ballast water and that
9 sediment originated and there is no mixing with
10 ballast water and sediment from another area
11 that has not been managed in accordance with
12 the requirements of this section.

13 “(c) VESSEL BALLAST WATER MANAGEMENT
14 PLAN.—

15 “(1) IN GENERAL.—The operator of a vessel to
16 which this section applies shall conduct all ballast
17 water management operations of that vessel in ac-
18 cordance with a ballast water management plan de-
19 signed to minimize the discharge of aquatic nuisance
20 species that—

21 “(A) meets the requirements prescribed by
22 the Secretary by regulation; and

23 “(B) is approved by the Secretary.

24 “(2) APPROVAL CRITERIA.—

1 “(A) IN GENERAL.—The Secretary may
2 not approve a ballast water management plan
3 unless the Secretary determines that the plan—

4 “(i) describes in detail the actions to
5 be taken to implement the ballast water
6 management requirements established
7 under this section;

8 “(ii) describes in detail the procedures
9 to be used for disposal of sediment at sea
10 and on shore in accordance with the re-
11 quirements of this section;

12 “(iii) describes in detail safety proce-
13 dures for the vessel and crew associated
14 with ballast water management;

15 “(iv) designates the officer on board
16 the vessel in charge of ensuring that the
17 plan is properly implemented;

18 “(v) contains the reporting require-
19 ments for vessels established under this
20 section and a copy of each form necessary
21 to meet those requirements; and

22 “(vi) meets all other requirements
23 prescribed by the Secretary.

24 “(B) FOREIGN VESSELS.—The Secretary
25 may approve a ballast water management plan

1 for a foreign vessel on the basis of a certificate
2 of compliance issued by the vessel's country of
3 registration if the government of that country
4 requires the ballast water management plan for
5 that vessel to include information comparable to
6 the information required under regulations
7 issued by the Secretary.

8 “(3) COPY OF PLAN ON BOARD VESSEL.—The
9 owner or operator of a vessel to which this section
10 applies shall—

11 “(A) maintain a copy of the vessel's ballast
12 water management plan on board at all times;
13 and

14 “(B) keep the plan readily available for ex-
15 amination by the Secretary and the head of the
16 appropriate agency of the State in which the
17 vessel is located at all reasonable times.

18 “(d) VESSEL BALLAST WATER RECORD BOOK.—

19 “(1) IN GENERAL.—The owner or operator of a
20 vessel to which this section applies shall maintain, in
21 English on board the vessel, a ballast water record
22 book in which each operation of the vessel involving
23 ballast water or sediment discharge is recorded in
24 accordance with regulations issued by the Secretary.

1 “(2) AVAILABILITY.—The ballast water record
2 book—

3 “(A) shall be kept readily available for ex-
4 amination by the Secretary and the head of the
5 appropriate agency of the State in which the
6 vessel is located at all reasonable times; and

7 “(B) notwithstanding paragraph (1), may
8 be kept on the towing vessel in the case of an
9 unmanned vessel under tow.

10 “(3) RETENTION PERIOD.—The ballast water
11 record book shall be retained—

12 “(A) on board the vessel for a period of 3
13 years after the date on which the last entry in
14 the book is made; and

15 “(B) under the control of the vessel’s
16 owner for an additional period of 3 years.

17 “(4) REGULATIONS.—In the regulations issued
18 under this section, the Secretary shall require, at a
19 minimum, that—

20 “(A) each entry in the ballast water record
21 book be signed and dated by the officer in
22 charge of the ballast water operation recorded;

23 “(B) each completed page in the ballast
24 water record book be signed and dated by the
25 master of the vessel; and

1 “(C) at least monthly, the owner or oper-
2 ator of the vessel transmit to the Secretary all
3 the entries entered in the ballast water record
4 book during the preceding month, and transmit
5 such additional information regarding the bal-
6 last operations of the vessel as the Secretary
7 may require.

8 “(5) ALTERNATIVE MEANS OF RECORD-
9 KEEPING.—The Secretary may provide, by regula-
10 tion, for alternative methods of recordkeeping, in-
11 cluding electronic recordkeeping, to comply with the
12 requirements of this subsection. Any electronic rec-
13 ordkeeping method authorized by the Secretary shall
14 support the inspection and enforcement provisions of
15 this Act and shall comply with applicable standards
16 of the National Institute of Standards and Tech-
17 nology and the Office of Management and Budget
18 governing reliability, integrity, identity authentica-
19 tion, and nonrepudiation of stored electronic data.

20 “(e) BALLAST WATER EXCHANGE REQUIRE-
21 MENTS.—

22 “(1) IN GENERAL.—

23 “(A) REQUIREMENT.—Until a vessel is re-
24 quired to conduct ballast water treatment in ac-
25 cordance with subsection (f), the operator of a

1 vessel to which this section applies may not dis-
2 charge ballast water in waters subject to the ju-
3 risdiction of the United States, except after—

4 “(i) conducting ballast water exchange
5 as required by this subsection, in accord-
6 ance with regulations issued by the Sec-
7 retary;

8 “(ii) using ballast water treatment
9 technology that meets the performance
10 standards of subsection (f); or

11 “(iii) using environmentally sound al-
12 ternative ballast water treatment tech-
13 nology if the Secretary determines that
14 such treatment technology is at least as ef-
15 fective as the ballast water exchange re-
16 quired by clause (i) in preventing and con-
17 trolling the introduction of aquatic nui-
18 sance species.

19 “(B) BALLAST WATER REGULATIONS.—
20 Ballast water exchange regulations developed
21 under subparagraph (A)(i) shall contain—

22 “(i) a provision for ballast water ex-
23 change that requires—

24 “(I) at least 1 empty-and-refill
25 cycle, outside the exclusive economic

1 zone or in an alternative exchange
2 area designated by the Secretary, of
3 each ballast tank that contains ballast
4 water to be discharged into waters of
5 the United States; or

6 “(II) for a case in which the
7 master of a vessel determines that
8 compliance with the requirement
9 under subclause (I) is impracticable, a
10 sufficient number of flow-through ex-
11 changes of ballast water, outside the
12 exclusive economic zone or in an alter-
13 native exchange area designated by
14 the Secretary, to achieve replacement
15 of at least 95 percent of ballast water
16 in ballast tanks of the vessel, as deter-
17 mined by a certification dye study
18 conducted or model developed by the
19 Secretary and recorded in the ballast
20 water management plan of the vessel
21 pursuant to subsection (c)(2)(A)(i);
22 and

23 “(ii) if a ballast water exchange is not
24 undertaken pursuant to subsection (h), a
25 contingency procedure that requires the

1 master of a vessel to use the best prac-
2 ticable technology or practice to treat bal-
3 last discharge.

4 “(C) TECHNOLOGY EFFICACY.—For pur-
5 poses of this paragraph, a ballast water treat-
6 ment technology shall be considered to be at
7 least as effective as the ballast water exchange
8 required by clause (i) in preventing and control-
9 ling the introduction of aquatic nuisance species
10 if preliminary experiments prior to installation
11 of the technology aboard the vessel demonstrate
12 that the technology meets the ballast water dis-
13 charge standard provided under Regulation D-
14 2 of the International Convention for the Con-
15 trol and Management of Ships’ Ballast Water
16 and Sediments as signed on February 13, 2004.

17 “(2) GUIDANCE; 5-YEAR USAGE.—

18 “(A) GUIDANCE.—Not later than one year
19 after the date of enactment of the Ballast
20 Water Treatment Act of 2008, the Secretary
21 shall develop and issue guidance on technology
22 that may be used under paragraph (1)(A)(iii).

23 “(B) 5-YEAR USAGE.—The Secretary shall
24 allow a vessel using environmentally-sound al-
25 ternative ballast treatment technology under

1 paragraph (1)(A)(iii) to continue to use that
2 technology for 5 years after the date on which
3 the environmentally-sound alternative ballast
4 water treatment technology was first placed in
5 service on the vessel or the date on which treat-
6 ment requirements under subsection (f) become
7 applicable, whichever is later.

8 “(3) EXCHANGE AREAS.—

9 “(A) VESSELS OUTSIDE THE UNITED
10 STATES EEZ.—The operator of a vessel en route
11 to a United States port or place from a port or
12 place outside the waters subject to the jurisdic-
13 tion of the United States shall conduct ballast
14 water exchange—

15 “(i) before arriving at a United States
16 port or place;

17 “(ii) at least 200 nautical miles from
18 the nearest point of land; and

19 “(iii) in water at least 200 meters in
20 depth.

21 “(B) COASTAL VOYAGES.—The operator of
22 a vessel originating from a port or place within
23 the United States exclusive economic zone, or
24 from a port within 200 nautical miles of the
25 United States in Canada, Mexico, or other ports

1 designated by the Secretary for purposes of this
2 section, shall conduct ballast water exchange—

3 “(i) at least 50 nautical miles from
4 the nearest point of land; and

5 “(ii) in water at least 200 meters in
6 depth.

7 “(4) SAFETY OR STABILITY EXCEPTION.—

8 “(A) SECRETARIAL DETERMINATION.—

9 Paragraph (3) does not apply to the discharge
10 of ballast water if the Secretary determines that
11 compliance with that paragraph would threaten
12 the safety or stability of the vessel, its crew, or
13 is passengers.

14 “(B) MASTER OF THE VESSEL DETER-
15 MINATION.—Paragraph (3) does not apply to
16 the discharge of ballast water if the master of
17 a vessel determines that compliance with that
18 paragraph would threaten the safety or stability
19 of the vessel, its crew, or its passengers because
20 of adverse weather, equipment failure, or any
21 other relevant condition.

22 “(C) NOTIFICATION REQUIRED.—When-
23 ever the master of a vessel is unable to comply
24 with the requirements of paragraph (3) because

1 of a determination made under subparagraph
2 (B), the master of the vessel shall—

3 “(i) notify the Secretary as soon as
4 practicable thereafter but no later than 24
5 hours after making that determination and
6 shall ensure that the determination, the
7 reasons for the determination, and the no-
8 tice are recorded in the vessel’s ballast
9 water record book; and

10 “(ii) undertake ballast water ex-
11 change—

12 “(I) in an alternative area that
13 may be designated by the Secretary,
14 after consultation with the Under Sec-
15 retary, and other appropriate Federal
16 agencies as determined by the Sec-
17 retary, and representatives of States
18 the waters of which may be affected
19 by the discharge of ballast water; or

20 “(II) in accordance with para-
21 graph (6) if safety or stability con-
22 cerns prevent undertaking ballast
23 water exchange in the alternative
24 area.

1 “(D) REVIEW OF CIRCUMSTANCES.—If the
2 master of a vessel conducts a ballast water dis-
3 charge under the provisions of this paragraph,
4 the Secretary shall review the circumstances to
5 determine whether the discharge met the re-
6 quirements of this paragraph. The review under
7 this clause shall be in addition to any other en-
8 forcement authority of the Secretary.

9 “(5) DISCHARGE UNDER WAIVER.—

10 “(A) SUBSTANTIAL BUSINESS HARDSHIP
11 WAIVER.—If, because of the short length of a
12 voyage, the operator of a vessel is unable to dis-
13 charge ballast water in accordance with the re-
14 quirements of paragraph (3)(B) without sub-
15 stantial business hardship, as determined under
16 regulations issued by the Secretary, the oper-
17 ator may request a waiver from the Secretary
18 and discharge the ballast water in accordance
19 with paragraph (6). A request for a waiver
20 under this subparagraph shall be submitted to
21 the Secretary at such time and in such form
22 and manner as the Secretary may require.

23 “(B) SUBSTANTIAL BUSINESS HARD-
24 SHIP.—For purposes of subparagraph (A), the
25 factors taken into account in determining sub-

1 stantial business hardship shall include wheth-
2 er—

3 “(i) compliance with the requirements
4 of paragraph (3)(B) would require a suffi-
5 ciently great change in routing or sched-
6 uling of service as to compromise the eco-
7 nomic or commercial viability of the trade
8 or business in which the vessel is operated;
9 or

10 “(ii) it is reasonable to expect that the
11 trade or business or service provided will
12 be continued only if a waiver is granted
13 under subparagraph (A).

14 “(6) PERMISSIBLE DISCHARGE.—

15 “(A) IN GENERAL.—The discharge of bal-
16 last water shall be considered to be carried out
17 in accordance with this paragraph if it is—

18 “(i) in an area designated for that
19 purpose by the Secretary, after consulta-
20 tion with the Under Secretary, the heads
21 of other appropriate Federal agencies as
22 determined by the Secretary, and rep-
23 resentatives of any State that may be af-
24 fected by discharge of ballast water in that
25 area; or

1 “(ii) into a reception facility described
2 in subsection (f)(2).

3 “(B) LIMITATION ON VOLUME.—The vol-
4 ume of any ballast water discharged under this
5 paragraph may not exceed the volume necessary
6 to ensure the safe operation of the vessel.

7 “(7) CERTAIN GEOGRAPHICALLY LIMITED
8 ROUTES.—Notwithstanding paragraph (1), the oper-
9 ator of a vessel is not required to comply with the
10 requirements of this subsection and subsection
11 (h)(1)—

12 “(A) if the vessel operates exclusively—

13 “(i) within the Great Lakes eco-
14 system; or

15 “(ii) between or among the main
16 group of the Hawaiian Islands; or

17 “(B) if the vessel operates exclusively with-
18 in any area with respect to which the Secretary
19 has determined, after consultation with the
20 Under Secretary, the Administrator, and rep-
21 resentatives of States the waters of which would
22 be affected by the discharge of ballast water
23 from the vessel, that the risk of introducing
24 aquatic nuisance species through ballast water

1 discharge in the areas in which the vessel oper-
2 ates is insignificant.

3 “(8) NATIONAL MARINE SANCTUARIES AND
4 OTHER PROHIBITED AREAS.—

5 “(A) IN GENERAL.—A vessel may not con-
6 duct ballast water exchange or discharge ballast
7 water under this subsection—

8 “(i) within a national marine sanc-
9 tuary designated under the National Ma-
10 rine Sanctuaries Act (16 U.S.C. 1431 et
11 seq.);

12 “(ii) a marine national monument
13 designated under the Act of June 8, 1906
14 (chapter 3060; 16 U.S.C. 433 et seq.),
15 popularly known as the Antiquities Act of
16 1906;

17 “(iii) a national park;

18 “(iv) in waters that are approved by
19 the Administrator as a nondischarge zone
20 under section 312(n)(7) of the Federal
21 Water Pollution Control Act (33 U.S.C.
22 1322(n)(7)); or

23 “(v) in any other waters designated by
24 the Secretary, in consultation with the
25 Under Secretary and the Administrator.

1 “(B) ADDITIONAL AREAS.—The Secretary
2 shall, after consultation with the Under Sec-
3 retary, the Administrator, and other appro-
4 priate Federal and State agencies, as deter-
5 mined by the Secretary, and opportunity for
6 public comment, establish criteria for desig-
7 nating additional areas in which, due to their
8 sensitive ecological nature, restrictions on the
9 discharge of vessel ballast water or sediment
10 containing aquatic nuisance species are war-
11 ranted.

12 “(C) STATE WATERS.—The Governor of
13 any State may submit a written petition to the
14 Secretary to designate an area of State waters
15 that meets the criteria established under sub-
16 paragraph (B) of this paragraph. The petition
17 shall include a detailed analysis as to how the
18 area proposed to be designated meets those cri-
19 teria. An area may not be designated under this
20 paragraph until the Secretary determines, based
21 on evidence provided by the Governor, that ade-
22 quate alternative areas or reception facilities for
23 discharging ballast water or sediment are avail-
24 able. Within 180 days after receiving such a pe-
25 tition, the Secretary shall—

1 “(i) make a determination as to
2 whether the proposal meets the require-
3 ments of this paragraph for designation;
4 and

5 “(ii) either—

6 “(I) publish a written notice of
7 the petition and the proposed restric-
8 tions in the Federal Register; or

9 “(II) notify the Governor in writ-
10 ing that the area proposed for des-
11 ignation does not qualify for designa-
12 tion under this paragraph and include
13 in the notice a detailed explanation of
14 why the area does not qualify for des-
15 ignation under this paragraph.

16 “(D) PROCEDURE; DEADLINE.—Before
17 designating any area in response to a petition
18 under subparagraph (C), the Secretary, after
19 providing an opportunity for public comment,
20 shall publish notice in the Federal Register of
21 the proposed designation. The Secretary and
22 the Under Secretary shall make such informa-
23 tion available through other appropriate mecha-
24 nisms, including a notice to mariners and inclu-
25 sion on nautical charts.

1 “(E) EFFECT ON STATE LAW.—Nothing in
2 this paragraph supersedes any State law in ef-
3 fect as of January 1, 2007, that restricts the
4 discharge of ballast water or sediment in State
5 waters and requires such discharges to be made
6 into reception facilities.

7 “(9) VESSELS WITHOUT PUMPABLE BALLAST
8 WATER OR WITH NO BALLAST ON BOARD.—Not later
9 than 180 days after the date of enactment of the
10 Ballast Water Treatment Act of 2008, the Secretary
11 shall promulgate regulations to minimize the dis-
12 charge of invasive species from vessels entering a
13 United States port or place from outside the United
14 States exclusive economic zone that do not exchange
15 their ballast water pursuant to paragraph (1)(A)(iii)
16 of this subsection and claim no ballast on board, or
17 that claim to be carrying only unpumpable quan-
18 tities of ballast, including, at a minimum, a require-
19 ment that—

20 “(A) such a ship shall conduct saltwater
21 flushing of ballast water tanks—

22 “(i) outside the exclusive economic
23 zone; or

24 “(ii) at a designated alternative ex-
25 change site; and

1 “(B) before being allowed entry into the
2 Great Lakes beyond the St. Lawrence Seaway,
3 the master of such a vessel shall certify that the
4 vessel has complied with each applicable re-
5 quirement under this subsection.

6 The vessels to which this paragraph applies shall
7 conduct ballast water treatment in accordance with
8 subsection (f) when it applies.

9 “(f) BALLAST WATER TREATMENT REQUIRE-
10 MENTS.—

11 “(1) PERFORMANCE STANDARDS.—A vessel to
12 which this section applies shall conduct ballast water
13 treatment in accordance with the requirements of
14 this subsection before discharging ballast water in
15 waters subject to the jurisdiction of the United
16 States so that the ballast water discharged will con-
17 tain—

18 “(A) less than 1 living organism per 10
19 cubic meters that is 50 or more micrometers in
20 minimum dimension;

21 “(B) less than 1 living organism per 10
22 milliliters that is less than 50 micrometers in
23 minimum dimension and more than 10 microm-
24 eters in minimum dimension;

1 “(C) concentrations of indicator microbes
2 that are less than—

3 “(i) 1 colony-forming unit of
4 toxicogenic *Vibrio cholera* (serotypes O1
5 and O139) per 100 milliliters or less than
6 1 colony-forming unit of that microbe per
7 gram of wet weight of zoological samples;

8 “(ii) 126 colony-forming units of *esch-*
9 *erichia coli* per 100 milliliters; and

10 “(iii) 33 colony-forming units of intes-
11 tinal enterococci per 100 milliliters; and

12 “(D) concentrations of such additional in-
13 dicator microbes and of viruses as may be spec-
14 ified in regulations issued by the Secretary and
15 the Administrator, after consultation with other
16 appropriate Federal agencies as determined by
17 the Secretary and the Administrator, that are
18 less than the amount specified in those regula-
19 tions.

20 “(2) RECEPTION FACILITY EXCEPTION.—

21 “(A) IN GENERAL.—Paragraph (1) does
22 not apply to a vessel that discharges ballast
23 water into—

1 “(i) a land-based facility for the re-
2 ception of ballast water that meets stand-
3 ards issued by the Administrator; or

4 “(ii) a water-based facility for the re-
5 ception of ballast water that meets stand-
6 ards issued by the Secretary.

7 “(B) ISSUANCE OF STANDARDS.—Not
8 later than one year after the date of enactment
9 of the Ballast Water Treatment Act of 2008,
10 the Secretary, in consultation with the heads of
11 other appropriate Federal agencies as deter-
12 mined by the Secretary, shall issue standards
13 for—

14 “(i) the reception of ballast water in
15 land-based and water-based reception fa-
16 cilities; and

17 “(ii) the disposal or treatment of such
18 ballast water in a way that does not impair
19 or damage the environment, human health,
20 property, or resources.

21 “(3) TREATMENT SYSTEM IMPLEMENTATION.—

22 “(A) IMO STANDARD IMPLEMENTATION.—
23 A vessel to which this section applies shall have
24 a ballast water treatment system that meets the
25 standards provided under Regulation D-2 of

1 the International Convention for the Control
2 and Management of Ships' Ballast Water and
3 Sediments as signed on February 13, 2004, be-
4 ginning on the date of the first drydocking of
5 the vessel after December 31, 2008.

6 “(B) UNITED STATES STANDARD IMPLE-
7 MENTATION.—Paragraph (1) applies to a vessel
8 to which this section applies beginning on the
9 date of the first drydocking of the vessel after
10 December 31, 2011, but not later than Decem-
11 ber 31, 2013.

12 “(C) PERIOD FOR USE OF EQUIPMENT.—
13 The Secretary shall allow a vessel using a treat-
14 ment system installed under this subsection to
15 continue to use that system for 10 years after
16 the date on which that system was first placed
17 in service on the vessel.

18 “(4) TREATMENT SYSTEM APPROVAL RE-
19 QUIRED.—The operator of a vessel to which this sec-
20 tion applies may not use a ballast water treatment
21 system to comply with the requirements of this sub-
22 section unless the system is approved by the Sec-
23 retary. The Secretary, in consultation with the Ad-
24 ministrator, shall issue regulations establishing a
25 process for such approval, after consultation with

1 the heads of other appropriate Federal agencies as
2 determined by the Secretary.

3 “(5) RELIANCE ON CERTAIN REPORTS, DOCU-
4 MENTS, AND RECORDS.—In approving a ballast
5 water treatment system under this subsection, the
6 Secretary may rely on reports, documents, and
7 records of persons that meet such requirements as
8 the Secretary may prescribe.

9 “(6) FEASIBILITY REVIEW.—

10 “(A) IN GENERAL.—Not less than 2 years
11 before January 1, 2012, the Secretary, in con-
12 sultation with the Administrator, shall complete
13 a review to determine whether appropriate tech-
14 nologies are available to achieve the perform-
15 ance standards set forth in paragraph (1). In
16 reviewing the technologies the Secretary, the
17 Administrator, and the heads of other appro-
18 priate Federal agencies as determined by the
19 Secretary, shall consider—

20 “(i) the effectiveness of a technology
21 in achieving the standards;

22 “(ii) feasibility in terms of compat-
23 ibility with ship design and operations;

24 “(iii) safety considerations;

1 “(iv) whether a technology has an ad-
2 verse impact on the environment; and

3 “(v) cost effectiveness.

4 “(B) DELAY IN SCHEDULED APPLICA-
5 TION.—If the Secretary, in consultation with
6 the Administrator, determines, on the basis of
7 the review conducted under subparagraph (A),
8 and after an opportunity for a public hearing,
9 that technology that complies with the stand-
10 ards set forth in paragraph (1) in accordance
11 with the schedule set forth in paragraph (3) is
12 not available for any class of vessels, the Sec-
13 retary shall require use of technology that
14 achieves the performance levels of the best per-
15 forming technology available. If the Secretary
16 finds that no technology is available that will
17 achieve the standards set forth in paragraph
18 (1), then the Secretary shall—

19 “(i) extend the date on which that
20 paragraph applies to vessels for a period of
21 not more than 24 months; and

22 “(ii) recommend action to ensure that
23 compliance with the extended date schedule
24 for that subparagraph is achieved.

1 “(C) MORE PROTECTIVE STANDARDS; EAR-
2 LIER IMPLEMENTATION.—

3 “(i) PERFORMANCE STANDARDS.—If
4 the Secretary and the Administrator deter-
5 mine that ballast water treatment tech-
6 nology exists that exceeds the performance
7 standards required under paragraph (1),
8 the Secretary and the Administrator shall,
9 for any class of vessels, revise the perform-
10 ance standards to incorporate the higher
11 performance standards.

12 “(ii) IMPLEMENTATION.—If the Sec-
13 retary and the Administrator determine
14 that technology that achieves the applica-
15 ble performance standards required under
16 paragraph (1) can be implemented earlier
17 than required by this subsection, the Sec-
18 retary and the Administrator shall, for any
19 class of vessels, accelerate the implementa-
20 tion schedule under paragraph (3). If the
21 Secretary and the Administrator accelerate
22 the implementation schedule pursuant to
23 this clause, the Secretary and the Adminis-
24 trator shall provide at least 24 months no-

1 tice before such accelerated implementation
2 goes into effect.

3 “(iii) DETERMINATIONS NOT MUTU-
4 ALLY EXCLUSIVE.—The Secretary and the
5 Administrator shall take action under both
6 clause (i) and clause (ii) if the Secretary
7 and the Administrator make determina-
8 tions under both clauses.

9 “(7) DELAY OF APPLICATION FOR VESSEL PAR-
10 TICIPATING IN PROMISING TECHNOLOGY EVALUA-
11 TIONS.—

12 “(A) IN GENERAL.—If a vessel participates
13 in a program, including the Shipboard Tech-
14 nology Evaluation Program established under
15 section 1104, using a technology approved by
16 the Secretary to test and evaluate promising
17 ballast water treatment technologies that are
18 likely to result in treatment technologies achiev-
19 ing a standard that is the same as or more
20 stringent than the standard that applies under
21 paragraph (1) before the first date on which
22 paragraph (1) applies to that vessel, the Sec-
23 retary shall allow the vessel to use that tech-
24 nology for a 10-year period and such vessel
25 shall be deemed to be in compliance with the re-

1 requirements of paragraph (1) during that 10-
2 year period.

3 “(B) VESSEL DIVERSITY.—The Sec-
4 retary—

5 “(i) shall seek to ensure that a wide
6 variety of vessel types and voyages are in-
7 cluded in the program; but

8 “(ii) may not grant a delay under this
9 paragraph to more than 5 percent of the
10 vessels to which this section applies.

11 “(C) TERMINATION OF GRACE PERIOD.—
12 The Secretary may terminate the 10-year grace
13 period of a vessel under subparagraph (A) if—

14 “(i) the participation of the vessel in
15 the program is terminated without the con-
16 sent of the Secretary;

17 “(ii) the vessel does not comply with
18 manufacturer’s standards for operating the
19 ballast water treatment technology used on
20 such vessel; or

21 “(iii) the Secretary determines that
22 the approved technology is insufficiently ef-
23 fective or is causing harm to the environ-
24 ment.

25 “(8) REVIEW OF STANDARDS.—

1 “(A) IN GENERAL.—In December 2012
2 and every third year thereafter, the Adminis-
3 trator and the Secretary shall complete review
4 of ballast water treatment standards in effect
5 under this subsection to determine, after con-
6 sultation with the heads of other appropriate
7 Federal agencies determined by the Adminis-
8 trator and the Secretary, if the standards under
9 this subsection should be revised to reduce the
10 amount of organisms or microbes allowed to be
11 discharged, taking into account improvements
12 in the scientific understanding of biological
13 processes leading to the spread of aquatic nui-
14 sance species and improvements in ballast water
15 treatment technology. The Administrator and
16 the Secretary shall revise, by regulation, the re-
17 quirements of this subsection as necessary.

18 “(B) APPLICATION OF ADJUSTED STAND-
19 ARDS.—In the regulations, the Secretary and
20 the Administrator shall provide for the prospec-
21 tive application of the adjusted standards issued
22 under this paragraph to vessels constructed
23 after the date on which the adjusted standards
24 apply and for an orderly phase-in of the ad-
25 justed standards to existing vessels.

1 “(9) HIGH-RISK VOYAGES.—

2 “(A) VESSEL LIST.—Not later than one
3 year after the date of enactment of the Ballast
4 Water Treatment Act of 2008, the Secretary
5 shall publish and regularly update a list of ves-
6 sels, not equipped with ballast water equipment
7 under this section, identified by the States that,
8 due to factors such as the origin of their voy-
9 ages, the frequency of their voyages, the volume
10 of ballast water they carry, the biological make-
11 up of the ballast water, and the fact that they
12 frequently discharge ballast water under an ex-
13 ception to subsection (e), pose a high risk of in-
14 troducing aquatic nuisance species into the wa-
15 ters of those States.

16 “(B) INCENTIVE PROGRAMS.—The Sec-
17 retary shall give priority to vessels on the list
18 for participation in a program described in
19 paragraph (7). Any Federal agency, and any
20 State agency with respect to vessels identified
21 by such State to the Secretary for inclusion on
22 a list under subparagraph (A), may develop and
23 implement technology development programs or
24 other incentives (whether positive or negative)
25 in order to encourage the adoption of ballast

1 water treatment technology by those vessels
2 consistent with the requirements of this section
3 on an expedited basis.

4 “(10) NONAPPLICABILITY OF VESSELS OPER-
5 ATING EXCLUSIVELY IN DETERMINED AREA.—

6 “(A) IN GENERAL.—Except as provided in
7 subparagraph (D), paragraph (1) does not
8 apply to a vessel that operates exclusively with-
9 in a geographically limited area if the Secretary
10 and the Administrator have determined through
11 a rulemaking proceeding, after consultation
12 with the heads of other appropriate Federal
13 agencies as determined by the Secretary and
14 the Administrator, and representatives of States
15 the waters of which could be affected by the
16 discharge of ballast water from the vessel, that
17 the risk of introducing aquatic nuisance species
18 through ballast water discharge from the vessel
19 is insignificant.

20 “(B) CERTAIN VESSELS.—A vessel con-
21 structed before January 1, 2001, that operates
22 exclusively within the Great Lakes ecosystem
23 shall be presumed not to pose a significant risk
24 of introducing aquatic nuisance species unless
25 the Secretary and the Administrator find other-

1 wise in a rulemaking proceeding under subpara-
2 graph (A).

3 “(C) BEST PRACTICES.—The Secretary
4 and the Administrator shall develop, and re-
5 quire a vessel exempted from complying with
6 the requirements of paragraph (1) under this
7 paragraph to follow, best practices to minimize
8 the spreading of aquatic nuisance species in its
9 operation area. The best practices shall be de-
10 veloped in consultation with the Governors of
11 States that may be affected.

12 “(D) STOPPING THE SPREAD OF INFEC-
13 TIOUS DISEASE.—The Secretary, at the request
14 of the Secretary of Agriculture, shall require a
15 vessel to which paragraph (1) does not apply in
16 accordance with subparagraph (A) or (B) to
17 have a ballast water treatment system approved
18 by the Secretary under this subsection to stop
19 the spread of infectious diseases to plants and
20 animals as otherwise authorized by law.

21 “(11) TESTING PROTOCOLS AND LABORA-
22 TORIES.—

23 “(A) IN GENERAL.—The Secretary and the
24 Administrator, shall, no later than 90 days
25 after the date of enactment of the Ballast

1 Water Treatment Act of 2008 and without re-
2 gard to chapter 5 of title 5, United States
3 Code, issue interim protocols for verifying the
4 performance of ballast water treatment tech-
5 nologies required by this Act, criteria for certi-
6 fying laboratories to evaluate such technologies,
7 and procedures for approving treatment equip-
8 ment and systems for shipboard use.

9 “(B) PROTOCOLS AND PROCEDURES FOR
10 TREATMENT TECHNOLOGIES.—In developing
11 protocols and procedures for verifying and ap-
12 proving treatment technologies, the Secretary
13 and the Administrator, shall consider using ex-
14 isting protocols and procedures including meth-
15 ods used as part of the Ballast Water Manage-
16 ment Demonstration Program by the Environ-
17 mental Protection Agency as a part of its Envi-
18 ronmental Testing & Verification Program, or
19 by the Secretary as part of the Coast Guard’s
20 Shipboard Technology Evaluation Program.

21 “(C) LABORATORIES.—The Secretary and
22 the Administrator shall utilize Federal or non-
23 Federal laboratories that meet standards estab-
24 lished by the Secretary for the purpose of evalu-
25 ating and certifying ballast water treatment

1 technologies and equipment under this sub-
2 section.

3 “(D) REQUIREMENTS; UPDATES.—The
4 Secretary and the Administrator shall periodi-
5 cally review and, if necessary, revise the cri-
6 teria, protocols, and procedures developed under
7 this paragraph.

8 “(12) PROGRAM TO SUPPORT THE PROMULGA-
9 TION AND IMPLEMENTATION OF STANDARDS.—

10 “(A) IN GENERAL.—The Secretary and the
11 Administrator, in coordination with the Under
12 Secretary, the Task Force and other appro-
13 priate Federal agencies, shall carry out a co-
14 ordinated program to support the promulgation
15 and implementation of standards under this
16 subsection to prevent the introduction and
17 spread of aquatic invasive species by vessels.
18 The program established under this section
19 shall, at a minimum—

20 “(i) characterize physical, chemical,
21 and biological harbor conditions relevant to
22 ballast discharge into United States waters
23 to inform the design and implementation
24 of ship vector control technologies and
25 practices;

1 “(ii) develop testing protocols for de-
2 termining the effectiveness of vessel vector
3 monitoring and control technologies and
4 practices;

5 “(iii) demonstrate methods for miti-
6 gating the spread of invasive species by
7 coastal voyages, including exploring the ef-
8 fectiveness of alternative exchange zones in
9 the near coastal areas and other methods
10 proposed to reduce transfers of organisms;

11 “(iv) verify the practical effectiveness
12 of any process for approving a type of al-
13 ternative ballast water management as
14 meeting standards established under this
15 subsection, to ensure that the process pro-
16 duces repeatable and accurate assessments
17 of treatment effectiveness; and

18 “(v) evaluate the effectiveness and re-
19 sidual risk and environmental impacts as-
20 sociated with any standard set with respect
21 to the vessel pathways.

22 “(B) AUTHORIZATION OF APPROPRIA-
23 TIONS.—In addition to other amounts author-
24 ized by this title, to carry out this paragraph
25 there are authorized to be appropriated

1 \$1,500,000 to the Secretary and \$1,500,000 to
2 the Under Secretary for each of fiscal years
3 2008 through 2012.

4 “(g) WARNINGS CONCERNING BALLAST WATER UP-
5 TAKE.—

6 “(1) IN GENERAL.—The Secretary shall notify
7 vessel owners and operators of any area in waters
8 subject to the jurisdiction of the United States in
9 which vessels may not uptake ballast water due to
10 known conditions.

11 “(2) CONTENTS.—The notice shall include—

12 “(A) the coordinates of the area; and

13 “(B) if possible, the location of alternative
14 areas for the uptake of ballast water.

15 “(h) SEDIMENT MANAGEMENT.—

16 “(1) IN GENERAL.—The operator of a vessel to
17 which this section applies may not remove or dispose
18 of sediment from spaces designed to carry ballast
19 water, except—

20 “(A) in accordance with this subsection
21 and the ballast water management plan ap-
22 proved under subsection (c); and

23 “(B)(i) more than 200 nautical miles from
24 the nearest point of land; or

1 “(ii) into a reception facility that meets the
2 requirements of paragraph (3).

3 “(2) DESIGN REQUIREMENTS.—

4 “(A) NEW VESSELS.—After December 31,
5 2008, a vessel to which this section applies may
6 not be operated on waters subject to the juris-
7 diction of the United States, unless that vessel
8 is designed and constructed in accordance with
9 regulations issued under subparagraph (C) and
10 in a manner that—

11 “(i) minimizes the uptake and entrap-
12 ment of sediment;

13 “(ii) facilitates removal of sediment;
14 and

15 “(iii) provides for safe access for sedi-
16 ment removal and sampling.

17 “(B) EXISTING VESSELS.—A vessel to
18 which this section applies that was constructed
19 before January 1, 2009, shall be modified, to
20 the extent practicable, at the first drydocking of
21 the vessel after December 31 2008, but not
22 later than December 31, 2013, to achieve the
23 objectives described in subparagraph (A).

24 “(C) REGULATIONS.—The Secretary shall
25 issue regulations establishing design and con-

1 construction standards to achieve the objectives of
2 subparagraph (A) and providing guidance for
3 modifications and practices under subparagraph
4 (B). The Secretary shall incorporate the stand-
5 ards and guidance in the regulations governing
6 the ballast water management plan approved
7 under subsection (c).

8 “(3) SEDIMENT RECEPTION FACILITIES.—

9 “(A) STANDARDS.—The Secretary, in con-
10 sultation with the heads of other appropriate
11 Federal agencies as determined by the Sec-
12 retary, shall issue regulations governing facili-
13 ties for the reception of vessel sediment from
14 spaces designed to carry ballast water that pro-
15 vide for the disposal of such sediment in a way
16 that does not impair or damage the environ-
17 ment, human health, or property or resources of
18 the disposal area.

19 “(B) DESIGNATION.—The Secretary, in
20 consultation with the heads of other appropriate
21 Federal agencies as determined by the Sec-
22 retary shall designate facilities for the reception
23 of vessel sediment that meet the requirements
24 of the regulations issued under subparagraph

1 (A) at ports and terminals where ballast tanks
2 are cleaned or repaired.

3 “(i) EXAMINATIONS AND CERTIFICATIONS.—

4 “(1) INITIAL EXAMINATION.—

5 “(A) IN GENERAL.—The Secretary shall
6 examine vessels to which this section applies to
7 determine whether—

8 “(i) there is a ballast water manage-
9 ment plan for the vessel that is approved
10 by the Secretary and a ballast water record
11 book on the vessel that meets the require-
12 ments of subsection (d);

13 “(ii) the equipment used for ballast
14 water and sediment management in ac-
15 cordance with the requirements of this sec-
16 tion and the regulations issued under this
17 section is installed and functioning prop-
18 erly.

19 “(B) NEW VESSELS.—For vessels con-
20 structed on or after January 1, 2009, the Sec-
21 retary shall conduct the examination required
22 by subparagraph (A) before the vessel is placed
23 in service.

1 “(C) EXISTING VESSELS.—For vessels con-
2 structed before January 1, 2009, the Secretary
3 shall—

4 “(i) conduct the examination required
5 by subparagraph (A) before the date on
6 which subsection (f)(1) applies to the ves-
7 sel according to the schedule in subsection
8 (f)(3); and

9 “(ii) inspect the vessel’s ballast water
10 record book required by subsection (d).

11 “(D) FOREIGN VESSEL.—In the case of a
12 foreign vessel, the Secretary shall perform the
13 examination required by this paragraph the
14 first time the vessel enters a United States
15 port.

16 “(2) SUBSEQUENT EXAMINATIONS.—In addi-
17 tion to the examination required by paragraph (1),
18 the Secretary shall annually examine vessels to
19 which this section applies, to ensure compliance with
20 the requirements of this section and the regulations
21 issued under this section.

22 “(3) INSPECTION AUTHORITY.—

23 “(A) IN GENERAL.—The Secretary may
24 carry out inspections of any vessel to which this
25 section applies at any time, including the taking

1 of ballast water samples, to ensure compliance
2 with this section. The Secretary shall use all
3 appropriate and practical measures of detection
4 and environmental monitoring such vessels and
5 shall establish adequate procedures for report-
6 ing violations of this section and accumulating
7 evidence regarding such violations.

8 “(B) INVESTIGATIONS.—

9 “(i) IN GENERAL.—Upon receipt of
10 evidence that a violation of this section or
11 a regulation issued under this section has
12 occurred, the Secretary shall cause the
13 matter to be investigated.

14 “(ii) ISSUANCE OF SUBPOENAS.—In
15 an investigation under this subparagraph,
16 the Secretary may issue subpoenas to re-
17 quire the attendance of any witness and
18 the production of documents and other evi-
19 dence.

20 “(iii) COMPELLING COMPLIANCE WITH
21 SUBPOENAS.—In case of refusal to obey a
22 subpoena issued under this subparagraph,
23 the Secretary may request the Attorney
24 General to invoke the aid of the appro-

1 appropriate district court of the United States to
2 compel compliance.

3 “(4) STATE PROGRAMS.—

4 “(A) SUBMISSION TO SECRETARY.—At any
5 time after the date of issuance of ballast water
6 treatment regulations issued under this section,
7 the Governor of each State desiring to admin-
8 ister its own inspection and enforcement au-
9 thority for ballast water discharges within its
10 jurisdiction may submit to the Secretary a com-
11 plete description of the program the Governor
12 proposes to establish and administer under
13 State law. In addition, the Governor shall sub-
14 mit a statement from the attorney general that
15 the laws of such State provide adequate author-
16 ity to carry out the described program.

17 “(B) APPROVAL.—The Secretary shall ap-
18 prove a program submitted under subparagraph
19 (A), unless the Secretary determines that ade-
20 quate resources do not exist or, in the case of
21 ballast water testing, that adequate scientific
22 expertise does not exist—

23 “(i) to inspect, monitor, and board
24 any vessel to which this section applies at
25 any time, including the taking and testing

1 of ballast water samples, to ensure the ves-
2 sel's compliance with this section;

3 “(ii) to ensure that any ballast water
4 discharged within the waters subject to the
5 jurisdiction of the State meet the ballast
6 water requirements of this section and the
7 regulations issued under this section, in-
8 cluding any revisions to such requirements
9 and regulations;

10 “(iii) to establish adequate procedures
11 for reporting violations of this section;

12 “(iv) to investigate and abate viola-
13 tions of this section, including civil and
14 criminal penalties and other ways and
15 means of enforcement; and

16 “(v) to ensure that the Secretary re-
17 ceives notice of each violation of the ballast
18 water treatment requirements issued under
19 this section in an expeditious manner.

20 “(C) COMPLIANCE.—Any State program
21 approved under this paragraph shall at all
22 times be conducted in accordance with this sec-
23 tion and regulations issued under this section.

24 “(D) WITHDRAWAL OF APPROVAL.—
25 Whenever the Secretary determines, after public

1 hearing, that a State is not administering a
2 program approved under this paragraph in ac-
3 cordance with this section and regulations
4 issued under this section, the Secretary shall
5 notify the State and, if appropriate corrective
6 action is not taken within a reasonable period
7 of time not to exceed 90 days, the Secretary
8 shall withdraw approval of the program. The
9 Secretary shall not withdraw approval of any
10 program unless the Secretary shall first have
11 notified the State, and made public, in writing,
12 the reasons for such withdrawal.

13 “(E) LIMITATION ON STATUTORY CON-
14 STRUCTION.—Nothing in this paragraph shall
15 limit the authority of the Secretary carry out
16 inspections and investigations of any vessels
17 under paragraph (3).

18 “(5) REQUIRED CERTIFICATE.—If, on the basis
19 of an initial examination under paragraph (1), the
20 Secretary finds that a vessel complies with the re-
21 quirements of this section and the regulations issued
22 under this section, the Secretary shall issue a certifi-
23 cate under this paragraph as evidence of such com-
24 pliance. The certificate shall be valid for a period of
25 not more than 5 years, as specified by the Secretary.

1 The certificate or a true copy shall be maintained on
2 board the vessel.

3 “(6) NOTIFICATION OF VIOLATIONS.—If the
4 Secretary finds, on the basis of an examination
5 under paragraph (1) or (2), investigation under
6 paragraph (3), or any other information, that a ves-
7 sel is being operated in violation of any requirement
8 of this section or regulation issued under this sec-
9 tion, the Secretary shall—

10 “(A) notify, in writing—

11 “(i) the master of the vessel; and

12 “(ii) the captain of the port at the
13 vessel’s next port of call;

14 “(B) remove from the vessel the certificate
15 issued under paragraph (5);

16 “(C) take such other action as may be ap-
17 propriate.

18 “(7) COMPLIANCE MONITORING.—

19 “(A) IN GENERAL.—The Secretary shall
20 establish, by regulation, sampling and other
21 procedures to monitor compliance with the re-
22 quirements of this section and the regulations
23 issued under this section.

24 “(B) USE OF MARKERS.—The Secretary
25 may verify compliance with the discharge re-

1 requirements of subsection (f) and the regulations
2 issued under this section with respect to such
3 requirements through identification of markers
4 associated with a treatment technology's effec-
5 tiveness, such as the presence of indicators as-
6 sociated with a certified treatment technology.

7 “(8) EDUCATION AND TECHNICAL ASSISTANCE
8 PROGRAMS.—The Secretary may carry out education
9 and technical assistance programs and other meas-
10 ures to promote compliance with the requirements of
11 this section and the regulations issued under this
12 section.

13 “(9) REPORT.—Beginning 1 year after final
14 regulations have been adopted pursuant to this sec-
15 tion after the enactment of the Ballast Water Treat-
16 ment Act of 2008, and annually thereafter, the Sec-
17 retary shall prepare a report summarizing the re-
18 sults of ballast water inspection and enforcement ac-
19 tivities. The report shall, at a minimum, include in-
20 formation on the number of vessels inspected and
21 the type of inspections, the status of implementation
22 of treatment technologies, the number of exemptions
23 claimed from ballast water exchange requirements,
24 the number of violations, a summary of enforcement
25 and regulatory actions, and overall compliance sta-

1 tistics. The report shall be made available on the
2 National Ballast Information Clearinghouse estab-
3 lished under section 1102(f).

4 “(j) DETENTION OF VESSELS.—The Secretary, by
5 notice to the owner, charterer, managing operator, agent,
6 master, or other individual in charge of a vessel, may de-
7 tain that vessel if the Secretary has reasonable cause to
8 believe that—

9 “(1) the vessel is a vessel to which this section
10 applies; and

11 “(2) the vessel does not comply with any re-
12 quirement of this section or regulation issued under
13 this section or is being operated in violation of such
14 a requirement or regulation.

15 “(k) SANCTIONS.—

16 “(1) CIVIL PENALTIES.—Any person who vio-
17 lates this section (including a regulation issued
18 under this section) shall be liable for a civil penalty
19 in an amount not to exceed \$32,500. Each day of
20 a continuing violation constitutes a separate viola-
21 tion. A vessel operated in violation of this section
22 (including a regulation issued under this section) is
23 liable in rem for any civil penalty assessed under
24 this subsection for that violation.

1 “(2) CRIMINAL PENALTIES.—Whoever know-
2 ingly violates this section (including a regulation
3 issued under this section) shall be fined under title
4 18, United States, or imprisoned not more than 12
5 years, or both.

6 “(3) REVOCATION OF CLEARANCE.—Except as
7 provided in subsection (j)(2), upon request of the
8 Secretary, the Secretary of the Treasury shall with-
9 hold or revoke the clearance of a vessel required by
10 section 60105 of title 46, United States Code, if the
11 owner or operator of that vessel is in violation of
12 this section or a regulation issued under this section.

13 “(1) ENFORCEMENT.—

14 “(1) ADMINISTRATIVE ACTIONS.—If the Sec-
15 retary finds, after notice and an opportunity for a
16 hearing, that a person has violated this section or a
17 regulation issued under this section, the Secretary
18 may assess a civil penalty for that violation. In de-
19 termining the amount of the civil penalty, the Sec-
20 retary shall take into account the nature, cir-
21 cumstances, extent, and gravity of the prohibited
22 acts committed and, with respect to the violator, the
23 degree of culpability, any history of prior violations,
24 and such other matters as justice may require.

1 “(2) CIVIL ACTIONS.—At the request of the
2 Secretary, the Attorney General may bring a civil
3 action in an appropriate district court of the United
4 States to enforce this section or any regulation
5 issued under this section. Any court before which
6 such an action is brought may award appropriate re-
7 lief, including temporary or permanent injunctions
8 and civil penalties.

9 “(m) CONSULTATION WITH CANADA, MEXICO, AND
10 OTHER FOREIGN GOVERNMENTS.—In developing the
11 guidelines and regulations to be issued under this section,
12 the Secretary is encouraged to consult with the Govern-
13 ment of Canada, the Government of Mexico and any other
14 government of a foreign country that the Secretary, after
15 consultation with the Task Force, determines to be nec-
16 essary to develop and implement an effective international
17 program for preventing the unintentional introduction and
18 spread of aquatic nuisance species through ballast water.

19 “(n) INTERNATIONAL COOPERATION.—The Sec-
20 retary, in cooperation with the Under Secretary, the Sec-
21 retary of State, the Administrator, the heads of other rel-
22 evant Federal agencies, the International Maritime Orga-
23 nization of the United Nations, and the Commission on
24 Environmental Cooperation established pursuant to the
25 North American Free Trade Agreement, is encouraged to

1 enter into negotiations with the governments of foreign
2 countries to develop and implement an effective inter-
3 national program for preventing the unintentional intro-
4 duction and spread of aquatic invasive species. The Sec-
5 retary is particularly encouraged to seek bilateral or multi-
6 lateral agreements with Canada, Mexico, and other na-
7 tions in the Wider Caribbean Region (as defined in the
8 Convention for the Protection and Development of the Ma-
9 rine Environment of the Wider Caribbean, signed at
10 Cartagena on March 24, 1983 (TIAF 11085), to carry
11 out the objectives of this section.

12 “(o) NONDISCRIMINATION.—The Secretary shall en-
13 sure that foreign vessels do not receive more favorable
14 treatment than vessels of the United States when the Sec-
15 retary performs studies, reviews compliance, determines
16 effectiveness, establishes requirements, or performs any
17 other responsibilities under this Act.

18 “(p) CONSULTATION WITH TASK FORCE.—The Sec-
19 retary shall consult with the Task Force in carrying out
20 this section.

21 “(q) PREEMPTION.—

22 “(1) IN GENERAL.—Except as provided in sub-
23 section (i)(4) and paragraph (4) of this subsection
24 but notwithstanding any other provision of law, the
25 provisions of subsections (e) and (f) supersede any

1 provision of State or local law that is inconsistent
2 with the requirements of those subsections or that
3 conflicts with the requirements of those subsections.

4 “(2) GREATER PENALTIES OR FEES.—For pur-
5 pose of paragraph (1), the imposition by State or
6 local law of greater penalties or fees for acts or
7 omissions that are violations of such law and also
8 violations of this Act or the imposition by a State of
9 incentives under subsection (f)(9)(B) shall not be
10 considered to be inconsistent, or to conflict, with the
11 requirements of subsections (e) and (f).

12 “(3) RECEPTION FACILITIES.—The standards
13 issued by the Secretary or the heads of other appro-
14 priate Federal agencies under subsection (f)(2) do
15 not supersede any more stringent standard under
16 any otherwise applicable Federal, State, or local law.

17 “(4) LIMITATION ON APPLICATION.—Until Jan-
18 uary 1, 2012, this subsection does not apply to a
19 State law requiring ballast water treatment and any
20 regulations prescribed under that law as those laws
21 and regulations were in effect on January 1, 2007.

22 “(r) LEGAL ACTIONS.—

23 “(1) CIVIL ACTION.—Any person may petition
24 the Secretary to bring a civil action in an appro-
25 priate district court of the United States to enforce

1 this section, or any regulation promulgated here-
2 under. Within 90 days after receiving such a peti-
3 tion, the Secretary shall—

4 “(A) respond to the person filing the peti-
5 tion with a determination of whether a violation
6 of this section, or any regulation promulgated
7 hereunder, has occurred or is occurring; and

8 “(B) if the Secretary determines that a
9 violation of this section, or any regulation pro-
10 mulgated hereunder, has occurred or is occur-
11 ring—

12 “(i) immediately bring a civil action in
13 an appropriate district court of the United
14 States to enforce this section, or any regu-
15 lation promulgated hereunder; or

16 “(ii) demonstrate that the violation
17 has ceased.

18 “(2) RELIEF.—Any court before which such an
19 action is brought may award appropriate relief, in-
20 cluding temporary or permanent injunctive relief and
21 civil penalties.

22 “(s) COAST GUARD REPORT ON OTHER SOURCES OF
23 VESSEL-BOURNE NUISANCE SPECIES.—

24 “(1) IN GENERAL.—

1 “(A) HULL-FOULING AND OTHER VESSEL
2 SOURCES.—Not later than 180 days after the
3 date of enactment of the Ballast Water Treat-
4 ment Act of 2008, the Secretary shall transmit
5 a report to the Committee on Commerce,
6 Science, and Transportation of the Senate and
7 the Committee on Transportation and Infra-
8 structure of the House of Representatives on
9 vessel-related pathways of harmful aquatic or-
10 ganisms and pathogens other than ballast water
11 and sediment, including vessel hulls and equip-
12 ment, and from vessels equipped with ballast
13 tanks that carry no ballast water on board.

14 “(B) BEST PRACTICES.—

15 “(i) IN GENERAL.—As soon as prac-
16 ticable, the Secretary shall develop best
17 practices standards and procedures de-
18 signed to reduce the introduction and
19 spread of invasive species into and within
20 the United States from vessels and estab-
21 lish a timeframe for implementation of
22 those standards and procedures by vessels.
23 Such standards and procedures shall in-
24 clude designation of geographical locations
25 for uptake and discharge of untreated bal-

1 last water, as well as standards and proce-
2 dure for other vessel pathways of aquatic
3 invasive species.

4 “(ii) REPORT.—The Secretary shall
5 transmit a report to the committees re-
6 ferred to in subparagraph (A) describing
7 the standards and procedures developed
8 under this subparagraph and the imple-
9 mentation timeframe, together with such
10 recommendations as the Secretary deter-
11 mines appropriate.

12 “(iii) REGULATIONS.—The Secretary
13 may issue regulations to incorporate and
14 enforce standards and procedures devel-
15 oped under this paragraph.

16 “(2) TRANSITING VESSELS.—Not later than
17 180 days after the date of enactment of the Ballast
18 Water Treatment Act of 2008, the Secretary shall
19 transmit a report to the Committee on Commerce,
20 Science, and Transportation of the Senate and the
21 Committee on Transportation and Infrastructure of
22 the House of Representatives containing—

23 “(A) an assessment of the magnitude and
24 potential adverse impacts of ballast water oper-
25 ations from foreign vessels designed, adapted,

1 or constructed to carry ballast water that are
2 transiting waters subject to the jurisdiction of
3 the United States; and

4 “(B) recommendations, including legisla-
5 tive recommendations if appropriate, of options
6 for addressing ballast water operations of those
7 vessels.”.

8 (b) DEFINITIONS.—Section 1003 of the Nonindige-
9 nous Aquatic Nuisance Prevention and Control Act of
10 1990 (16 U.S.C. 4702) is amended—

11 (1) by redesignating—

12 (A) paragraphs (1), (2), and (3) as para-
13 graphs (2), (3), and (4), respectively;

14 (B) paragraphs (4), (5), and (6) as para-
15 graphs (8), (9), and (10), respectively;

16 (C) paragraphs (7), (8), (9), and (10) as
17 paragraphs (12), (13), (14), and (15), respec-
18 tively;

19 (D) paragraphs (11) and (12) as para-
20 graphs (17) and (18), respectively;

21 (E) paragraphs (13), (14), and (15) as
22 paragraphs (20), (21), and (22), respectively;

23 (F) paragraph (16) as paragraph (27); and

24 (G) paragraph (17) as paragraph (23);

1 (2) by moving paragraph (23), as so redesignated, after paragraph (22), as so redesignated;

2 (3) by inserting before paragraph (2), as so redesignated, the following:

3 “(1) ‘Administrator’ means the Administrator of the Environmental Protection Agency;”;

4 (4) by striking paragraph (4), as so redesignated, and inserting the following:

5 “(4) ‘ballast water’ means—

6 “(A) water taken on board a vessel to control trim, list, draught, stability, or stresses of the vessel, including matter suspended in such water; or

7 “(B) any water placed into a ballast tank during cleaning, maintenance, or other operations;”;

8 (5) by inserting after paragraph (4), as so redesignated and amended, the following:

9 “(5) ‘ballast water capacity’ means the total volumetric capacity of any tanks, spaces, or compartments on a vessel that is used for carrying, loading, or discharging ballast water, including any multi-use tank, space, or compartment designed to allow carriage of ballast water;

1 “(6) ‘ballast water management’ means me-
2 chanical, physical, chemical, and biological processes
3 used, either singularly or in combination, to remove,
4 render harmless, or avoid the uptake or discharge of
5 harmful aquatic organisms and pathogens within
6 ballast water and sediment;

7 “(7) ‘constructed’ means a state of construction
8 of a vessel at which—

9 “(A) the keel is laid;

10 “(B) construction identifiable with the spe-
11 cific vessel begins;

12 “(C) assembly of the vessel has begun
13 comprising at least 50 tons or 1 percent of the
14 estimated mass of all structural material of the
15 vessel, whichever is less; or

16 “(D) the vessel undergoes a major conver-
17 sion;”;

18 (6) by inserting after paragraph (10), as so re-
19 designated, the following:

20 “(11) ‘foreign vessel’ has the meaning such
21 term has under section 110 of title 46, United
22 States Code;”;

23 (7) by inserting after paragraph (15), as so re-
24 designated, the following:

1 “(16) ‘major conversion’ means a conversion of
2 a vessel, that—

3 “(A) changes its ballast water carrying ca-
4 pacity by at least 15 percent;

5 “(B) changes the vessel class;

6 “(C) is projected to prolong the vessel’s life
7 by at least 10 years (as determined by the Sec-
8 retary); or

9 “(D) results in modifications to the vessel’s
10 ballast water system, except—

11 “(i) component replacement-in-kind;

12 or

13 “(ii) conversion of a vessel to meet the
14 requirements of section 1101(e);”;

15 (8) by inserting after paragraph (18), as so re-
16 designated, the following:

17 “(19) ‘sediment’ means matter that has settled
18 out of ballast water within a vessel;”;

19 (9) in paragraph (12), as so redesignated, by
20 striking the period at the end and inserting a semi-
21 colon;

22 (10) by inserting after paragraph (23), as so
23 redesignated and moved, the following:

24 “(24) ‘United States port’ means a port, river,
25 harbor, or offshore terminal under the jurisdiction of

1 the United States, including ports located in Puerto
2 Rico, Guam, and the United States Virgin Islands;

3 “(25) ‘vessel of the Armed Forces’ means—

4 “(A) any vessel owned or operated by the
5 Department of Defense, other than a time or
6 voyage chartered vessel; and

7 “(B) any vessel owned or operated by the
8 Department of Homeland Security that is des-
9 ignated by the Secretary as a vessel equivalent
10 to a vessel described in subparagraph (A);

11 “(26) ‘vessel of the United States’ has the
12 meaning such term has under section 116 of title
13 46, United States Code;” and

14 (11) in paragraph (23), as so redesignated, by
15 striking the period at the end and inserting “;”.

16 (c) REPEAL OF SECTION 1103.—Section 1103 of the
17 Nonindigenous Aquatic Nuisance Prevention and Control
18 Act of 1990 (16 U.S.C. 4713) is repealed.

19 (d) INTERIM FINAL RULE.—The Secretary shall
20 issue an interim final rule as a temporary regulation im-
21 plementing the amendments made by this section as soon
22 as practicable after the date of enactment of this section,
23 without regard to the provisions of chapter 5 of title 5,
24 United States Code. All regulations issued under the au-
25 thority of this subsection that are not earlier superseded

1 by final regulations shall expire not later than one year
2 after the date of enactment of this Act.

3 **SEC. 504. NATIONAL BALLAST WATER MANAGEMENT IN-**
4 **FORMATION.**

5 Section 1102 (16 U.S.C. 4712) is amended—

6 (1) by adding at the end the following:

7 “(g) BALLAST WATER SURVEYS.—

8 “(1) IN GENERAL.—The Secretary shall con-
9 duct the following ballast water surveys:

10 “(A) A survey of the number of living or-
11 ganisms in untreated ballast water of a rep-
12 resentative number of vessels, as determined by
13 the Secretary.

14 “(B) A survey of the number of living or-
15 ganisms in the ballast water of a representative
16 number of vessels, as determined by the Sec-
17 retary, that has been exchanged on the high
18 seas.

19 “(C) Surveys of the number of living orga-
20 nisms in the ballast water of vessels that are
21 participating in a program to test and evaluate
22 promising ballast water treatment, as approved
23 by the Secretary.

24 “(2) REPORTS.—The Secretary shall submit to
25 the Committee on Transportation and Infrastructure

1 of the House of Representatives and the Committee
2 on Commerce, Science, and Transportation of the
3 Senate—

4 “(A) a report on the results of the surveys
5 under subparagraphs (A) and (B) of paragraph
6 (1) by not later than 18 months after the date
7 of enactment of the Ballast Water Treatment
8 Act of 2008; and

9 “(B) a report on the results of the surveys
10 required under subparagraph (C) of paragraph
11 (1) upon completion of each demonstration con-
12 cerned.”;

13 (2) in subsection (b)(1)(B)(ii), by striking
14 “guidelines issued and”;

15 (3) in subsection (b)(2)(B)(ii), by striking “vol-
16 untary guidelines issued, and regulations promul-
17 gated,” and inserting “regulations promulgated”;

18 (4) in subsection (c)(1), by striking “section
19 1101(b)” and inserting “section 1101(a)”; and

20 (5) in subsection (f)(1)(B), by striking “guide-
21 lines issued pursuant to section 1101(c)” and insert-
22 ing “regulations issued pursuant to section 1101”.

23 **SEC. 505. BALLAST WATER MANAGEMENT EVALUATION**
24 **AND DEMONSTRATION PROGRAM.**

25 Section 1104 (16 U.S.C. 4714) is amended—

1 (1) by striking the section heading and insert-
2 ing the following:

3 **“SEC. 1104. BALLAST WATER TREATMENT TECHNOLOGY**
4 **EVALUATION AND DEMONSTRATION PRO-**
5 **GRAMS.”;**

6 (2) by striking subsection (a);

7 (3) by redesignating subsection (b) as sub-
8 section (a);

9 (4) by redesignating subsection (c) as sub-
10 section (d);

11 (5) in subsection (a), as so redesignated—

12 (A) by striking so much as precedes para-
13 graph (2) and inserting the following:

14 “(a) SHIPBOARD TECHNOLOGY EVALUATION PRO-
15 GRAM.—

16 “(1) IN GENERAL.—The Secretary shall estab-
17 lish a Shipboard Technology Evaluation Program to
18 evaluate ballast water treatment technologies aboard
19 vessels to prevent aquatic nuisance species from
20 being introduced into and spread through discharges
21 of ballast water in waters of the United States.”;
22 and

23 (B) in paragraph (2) by striking “of the
24 technologies and practices used in the dem-
25 onstration program” and inserting “of ballast

1 water treatment technologies used in the pro-
2 gram”;

3 (6) in subsection (a)(3), as so redesignated, by
4 striking “technologies and practices” and all that
5 follows through “shall—” and inserting “ballast
6 water treatment technologies on vessels under this
7 subsection, the Secretary shall—”;

8 (7) in subsection (a)(3)(A), as so redesignated,
9 by striking clause (i) and redesignating clauses (ii)
10 and (iii) in order as clauses (i) and (ii);

11 (8) by amending subsection (a)(3)(A)(i), as so
12 redesignated, to read as follows:

13 “(i) have ballast water systems condu-
14 cive to testing aboard the vessel; and”;

15 (9) by amending subsection (a)(3)(C), as so re-
16 designated, to read as follows:

17 “(C) seek to use a variety of vessel types.”;

18 (10) by amending subsection (a)(4), as so re-
19 designated, to read as follows:

20 “(4) SELECTION OF BALLAST WATER TREAT-
21 MENT TECHNOLOGIES.—In order for a ballast water
22 treatment technology to be eligible to be installed on
23 vessels for evaluation under this section, such tech-
24 nology must be, at a minimum—

1 “(A) determined by the Secretary to have
2 the demonstrated potential to reduce the num-
3 ber of organisms greater than or equal to 50
4 microns in minimum dimension in discharged
5 ballast water to fewer than 10 living organisms
6 per cubic meter of water;

7 “(B) cost-effective;

8 “(C) environmentally sound;

9 “(D) operationally practical;

10 “(E) able to be retrofitted on existing ves-
11 sels or incorporated in new vessel design (or
12 both);

13 “(F) safe for a vessel and crew; and

14 “(G) accessible to monitoring.”;

15 (11) in subsection (a), as so redesignated, by
16 adding at the end the following:

17 “(6) AUTHORITY OF SECRETARY TO REVIEW
18 AND REVISE CRITERIA.—The Secretary may review
19 and revise the criteria described in paragraph (4)(A)
20 to require ballast water treatment technologies to
21 meet a more stringent ballast water discharge stand-
22 ard, including standards promulgated under section
23 1101(f), before being eligible for installation aboard
24 vessels under the program.”;

1 (12) by inserting after subsection (a), as so re-
2 designated, the following:

3 “(b) SHIPBOARD TECHNOLOGY DEMONSTRATION
4 PROGRAM.—

5 “(1) IN GENERAL.—The Under Secretary, with
6 the concurrence of and in cooperation with the Sec-
7 retary, shall conduct a program to demonstrate bal-
8 last water treatment technologies evaluated aboard
9 vessels under subsection (a) to prevent aquatic nui-
10 sance species from being introduced into and spread
11 through ballast water in waters of the United States.

12 “(2) LOCATION.—The installation and con-
13 struction of ballast water treatment technologies
14 used in the demonstration program under this sub-
15 section shall be performed in the United States.

16 “(3) VESSEL ELIGIBILITY.—Vessels eligible to
17 participate in the demonstration program under this
18 subsection shall consist only of vessels that have
19 been accepted into and are actively participating in
20 the Shipboard Technology Evaluation Program
21 under subsection (a).

22 “(4) GRANTS.—

23 “(A) IN GENERAL.—The Under Secretary
24 shall establish a grant program to provide fund-
25 ing for acquiring, installing, and operating bal-

1 last water treatment technologies aboard vessels
2 participating in the program under this sub-
3 section.

4 “(B) MATCHING REQUIREMENTS.—The
5 amount of Federal funds used for any dem-
6 onstration project under this subsection—

7 “(i) shall not exceed \$1,000,000; and

8 “(ii) shall not exceed 50 percent of
9 the total cost of such project.

10 “(c) ALTERNATIVE SHIP PATHWAY PROGRAM.—

11 “(1) IN GENERAL.—The Under Secretary, with
12 the concurrence of and in cooperation with the Sec-
13 retary, shall conduct a program to demonstrate and
14 verify technologies and practices to monitor and con-
15 trol the introduction of aquatic invasive species by
16 ship pathways other than the release of ballast
17 water.

18 “(2) SELECTION OF METHODS.—The Under
19 Secretary may not select technologies and practices
20 for demonstration or verification under paragraph
21 (1) unless such technologies and practices, in the de-
22 termination of the Under Secretary, in consultation
23 with the Secretary, meet the criteria outlined in sub-
24 paragraphs (B) through (G) of subsection (a)(4).

1 “(3) LOCATION.—The installation and con-
2 struction of technologies and practices for dem-
3 onstration and verification under this subsection
4 shall be performed in the United States.”; and

5 (13) in subsection (d), as so redesignated, by
6 striking “Secretary of the Interior” each place it ap-
7 pears and inserting “Secretary, in consultation with
8 the Under Secretary,”.

9 **SEC. 506. RAPID RESPONSE PLAN.**

10 Subtitle C of title I of the Nonindigenous Aquatic
11 Nuisance Prevention and Control Act of 1990 (16 U.S.C.
12 4721 et seq.) is amended by adding at the end the fol-
13 lowing:

14 **“SEC. 1210. RAPID RESPONSE PLAN.**

15 “(a) PREPARATION BY PRESIDENT.—The President
16 shall prepare and publish a national rapid response plan
17 for killing, removing, or minimizing the spread of aquatic
18 nuisance species in the waters of the United States in ac-
19 cordance with this section.

20 “(b) CONTENTS.—The national rapid response plan
21 shall provide for efficient, coordinated, and effective action
22 to minimize damage from aquatic nuisance species in the
23 navigable waters of the United States, including killing,
24 containing, and removal of the aquatic nuisance species,
25 and shall include the following:

1 “(1) Assignment of duties and responsibilities
2 among Federal departments and agencies in coordi-
3 nation with State and local agencies and port au-
4 thorities and private entities.

5 “(2) Identification, procurement, maintenance,
6 and storage of equipment and supplies needed to fa-
7 cilitate the killing, containment, and removal of
8 aquatic nuisance species under this section.

9 “(3) Establishment or designation by the Presi-
10 dent of Federal aquatic nuisance species response
11 teams, consisting of—

12 “(A) personnel who shall be trained and
13 prepared by the President and shall be available
14 to provide necessary services to carry out the
15 national rapid response plan;

16 “(B) adequate equipment and material
17 needed to facilitate the killing, containment,
18 and removal of aquatic nuisance species under
19 this section; and

20 “(C) a detailed plans to kill, contain, and
21 remove aquatic nuisance species, including
22 measures to protect fisheries and wildlife.

23 “(4) A system of surveillance and notice de-
24 signed to safeguard against, as well as ensure ear-
25 liest possible notice of, the introduction of aquatic

1 nuisance species and imminent threats of such intro-
2 duction to the appropriate State and Federal agen-
3 cies.

4 “(5) Establishment by the President of a na-
5 tional center to provide coordination and direction
6 for operations in carrying out the plan.

7 “(6) Procedures and techniques to be employed
8 in identifying, containing, killing, and removing
9 aquatic nuisance species in the waters of the United
10 States.

11 “(7) A schedule, prepared by the President in
12 cooperation with the States, identifying—

13 “(A) mitigating devices and substances, if
14 any, that may be used in carrying out the plan;

15 “(B) the waters in which such mitigating
16 devices and substances may be used; and

17 “(C) the quantities of such mitigating de-
18 vice or substance which can be used safely in
19 such waters.

20 “(8) A system whereby the State or States af-
21 fected by an aquatic nuisance species may act where
22 necessary to remove such species.

23 “(9) Establishment by the President of criteria
24 and procedures to ensure immediate and effective

1 Federal identification of, and response to, an intro-
2 duction of aquatic nuisance species.

3 “(10) Designation by the President of the Fed-
4 eral official who shall be the Federal on-scene coor-
5 dinator for measures taken to kill, contain, and re-
6 move aquatic nuisance species under this section.

7 “(11) A fish and wildlife response plan for the
8 immediate and effective protection, rescue, and reha-
9 bilitation of, and the minimization of risk of damage
10 to, fish and wildlife resources and their habitat that
11 are harmed or that may be jeopardized by an intro-
12 duction of an aquatic nuisance species.

13 “(c) FEDERAL REMOVAL AUTHORITY.—

14 “(1) REMOVAL REQUIREMENT.—

15 “(A) IN GENERAL.—The President shall
16 ensure, in accordance with the national rapid
17 response plan, effective and immediate killing,
18 containing, and removal of the aquatic nuisance
19 species in the waters of the United States.

20 “(B) DISCRETIONARY AUTHORITY.—In
21 carrying out this paragraph, the President
22 may—

23 “(i) kill, contain, and remove an
24 aquatic nuisance species, at any time; and

1 “(ii) direct or monitor all Federal,
2 State, and private actions to kill, contain,
3 and remove the aquatic nuisance species.

4 “(2) ACTIONS IN ACCORDANCE WITH NATIONAL
5 RAPID RESPONSE PLAN.—Each Federal agency,
6 State, owner or operator, or other person partici-
7 pating in efforts under this subsection shall act in
8 accordance with the national rapid response plan or
9 as directed by the President to carry out the plan.”.

10 **SEC. 507. AUTHORIZATION OF APPROPRIATIONS.**

11 Section 1301(a) of the Nonindigenous Aquatic Nui-
12 sance Prevention and Control Act of 1990 (16 U.S.C.
13 4741(a)) is amended—

14 (1) by striking “and” after the semicolon in
15 paragraph (4)(B);

16 (2) by striking the period at the end of para-
17 graph (5)(B) and inserting a semicolon; and

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

19 “(6) \$20,000,000 for each of fiscal years 2008
20 through 2012 to the Secretary to carry out section
21 1101;

22 “(7) \$500,000 to the Secretary for each of fis-
23 cal years 2008 through 2013 to carry out section
24 1102(f);

1 “(8) \$6,000,000 to the Under Secretary for
2 each of fiscal years 2008 through 2013 to carry out
3 paragraph (4) of section 1104(b); and

4 “(9) \$1,500,000 to the Under Secretary for
5 each of fiscal years 2008 through 2013 to carry out
6 section 1104(c).”.

7 **TITLE VI—MARITIME** 8 **POLLUTION PREVENTION**

9 **SEC. 601. SHORT TITLE.**

10 This title may be cited as the “Maritime Pollution
11 Prevention Act of 2008”.

12 **SEC. 602. REFERENCES.**

13 Wherever in this title an amendment or repeal is ex-
14 pressed in terms of an amendment to or a repeal of a sec-
15 tion or other provision, the reference shall be considered
16 to be made to a section or other provision of the Act to
17 Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).

18 **SEC. 603. DEFINITIONS.**

19 Section 2(a) (33 U.S.C. 1901(a)) is amended—

20 (1) by redesignating the paragraphs (1)
21 through (12) as paragraphs (2) through (13), re-
22 spectively;

23 (2) by inserting before paragraph (2) (as so re-
24 designated) the following:

1 “(1) ‘Administrator’ means the Administrator
2 of the Environmental Protection Agency.”;

3 (3) in paragraph (5) (as so redesignated) by
4 striking “and V” and inserting “V, and VI”;

5 (4) in paragraph (6) (as so redesignated) by
6 striking “‘discharge’ and ‘garbage’ and ‘harmful
7 substance’ and ‘incident’” and inserting “‘dis-
8 charge’, ‘emission’, ‘garbage’, ‘harmful substance’,
9 and ‘incident’”; and

10 (5) by redesignating paragraphs (7) through
11 (13) (as redesignated) as paragraphs (8) through
12 (14), respectively, and inserting after paragraph (6)
13 (as redesignated) the following:

14 “(7) ‘navigable waters’ includes the territorial
15 sea of the United States (as defined in Presidential
16 Proclamation 5928 of December 27, 1988) and the
17 internal waters of the United States;”.

18 **SEC. 604. APPLICABILITY.**

19 Section 3 (33 U.S.C. 1902) is amended—

20 (1) in subsection (a)—

21 (A) by striking “and” at the end of para-
22 graph (3);

23 (B) by striking the period at the end of
24 paragraph (4) and inserting “; and”; and

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

1 “(5) with respect to Annex VI to the Conven-
2 tion, and other than with respect to a ship referred
3 to in paragraph (1)—

4 “(A) to a ship that is in a port, shipyard,
5 offshore terminal, or the internal waters of the
6 United States;

7 “(B) to a ship that is bound for, or depart-
8 ing from, a port, shipyard, offshore terminal, or
9 the internal waters of the United States, and is
10 in—

11 “(i) the navigable waters of the
12 United States;

13 “(ii) an emission control area des-
14 ignated pursuant to section 4; or

15 “(iii) any other area that the Admin-
16 istrator, in consultation with the Secretary
17 and each State in which any part of the
18 area is located, has designated by order as
19 being an area from which emissions from
20 ships are of concern with respect to protec-
21 tion of public health, welfare, or the envi-
22 ronment;

23 “(C) to a ship that is entitled to fly the
24 flag of, or operating under the authority of, a
25 party to Annex VI, and is in—

1 “(i) the navigable waters of the
2 United States;

3 “(ii) an emission control area des-
4 ignated under section 4; or

5 “(iii) any other area that the Admin-
6 istrator, in consultation with the Secretary
7 and each State in which any part of the
8 area is located, has designated by order as
9 being an area from which emissions from
10 ships are of concern with respect to protec-
11 tion of public health, welfare, or the envi-
12 ronment; and

13 “(D) to the extent consistent with inter-
14 national law, to any other ship that is in—

15 “(i) the exclusive economic zone of the
16 United States;

17 “(ii) the navigable waters of the
18 United States;

19 “(iii) an emission control area des-
20 ignated under section 4; or

21 “(iv) any other area that the Adminis-
22 trator, in consultation with the Secretary
23 and each State in which any part of the
24 area is located, has designated by order as
25 being an area from which emissions from

1 ships are of concern with respect to protec-
2 tion of public health, welfare, or the envi-
3 ronment.”;

4 (2) in subsection (b)—

5 (A) in paragraph (1) by striking “para-
6 graph (2)” and inserting “paragraphs (2) and
7 (3)”;

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

9 “(3) With respect to Annex VI the Administrator, or
10 the Secretary, as relevant to their authorities pursuant to
11 this Act, may determine that some or all of the require-
12 ments under this Act shall apply to one or more classes
13 of public vessels, except that such a determination by the
14 Administrator shall have no effect unless the head of the
15 Department or agency under which the vessels operate
16 concur in the determination. This paragraph does not
17 apply during time of war or during a declared national
18 emergency.”;

19 (3) by redesignating subsections (c) through (g)
20 as subsections (d) through (h), respectively, and in-
21 serting after subsection (b) the following:

22 “(c) APPLICATION TO OTHER PERSONS.—This Act
23 shall apply to all persons to the extent necessary to ensure
24 compliance with Annex VI to the Convention.”; and

25 (4) in subsection (e), as redesignated—

1 (A) by inserting “or the Administrator,
2 consistent with section 4 of this Act,” after
3 “Secretary”;

4 (B) by striking “of section (3)” and insert-
5 ing “of this section”; and

6 (C) by striking “Protocol, including regula-
7 tions conforming to and giving effect to the re-
8 quirements of Annex V” and inserting “Pro-
9 tocol (or the applicable Annex), including regu-
10 lations conforming to and giving effect to the
11 requirements of Annex V and Annex VI”.

12 **SEC. 605. ADMINISTRATION AND ENFORCEMENT.**

13 Section 4 (33 U.S.C. 1903) is amended—

14 (1) by redesignating subsections (b) and (c) as
15 subsections (c) and (d), respectively, and inserting
16 after subsection (a) the following:

17 “(b) DUTY OF THE ADMINISTRATOR.—In addition to
18 other duties specified in this Act, the Administrator and
19 the Secretary, respectively, shall have the following duties
20 and authorities:

21 “(1) The Administrator shall, and no other per-
22 son may, issue Engine International Air Pollution
23 Prevention certificates in accordance with Annex VI
24 and the International Maritime Organization’s Tech-
25 nical Code on Control of Emissions of Nitrogen Ox-

1 ides from Marine Diesel Engines, on behalf of the
2 United States for a vessel of the United States as
3 that term is defined in section 116 of title 46,
4 United States Code. The issuance of Engine Inter-
5 national Air Pollution Prevention certificates shall
6 be consistent with any applicable requirements of
7 the Clean Air Act or regulations prescribed under
8 that Act.

9 “(2) The Administrator shall have authority to
10 administer regulations 12, 13, 14, 15, 16, 17, 18,
11 and 19 of Annex VI to the Convention.

12 “(3) The Administrator shall, only as specified
13 in section 8(f), have authority to enforce Annex VI
14 of the Convention.”;

15 (2) in subsection (c), as redesignated, by redesi-
16 gnating paragraph (2) as paragraph (4), and insert-
17 ing after paragraph (1) the following:

18 “(2) In addition to the authority the Secretary has
19 to prescribe regulations under this Act, the Administrator
20 shall also prescribe any necessary or desired regulations
21 to carry out the provisions of regulations 12, 13, 14, 15,
22 16, 17, 18, and 19 of Annex VI to the Convention.

23 “(3) In prescribing any regulations under this sec-
24 tion, the Secretary and the Administrator shall consult

1 with each other, and with respect to regulation 19, with
2 the Secretary of the Interior.”; and

3 (3) by adding at the end of subsection (c), as
4 redesignated, the following:

5 “(5) No standard issued by any person or Federal
6 authority, with respect to emissions from tank vessels sub-
7 ject to regulation 15 of Annex VI to the Convention, shall
8 be effective until 6 months after the required notification
9 to the International Maritime Organization by the Sec-
10 retary.”.

11 **SEC. 606. CERTIFICATES.**

12 Section 5 (33 U.S.C. 1904) is amended—

13 (1) in subsection (a) by striking “The Sec-
14 retary” and inserting “Except as provided in section
15 4(b)(1), the Secretary”;

16 (2) in subsection (b) by striking “Secretary
17 under the authority of the MARPOL protocol.” and
18 inserting “Secretary or the Administrator under the
19 authority of this Act.”; and

20 (3) in subsection (e) by striking “environment.”
21 and inserting “environment or the public health and
22 welfare.”.

23 **SEC. 607. RECEPTION FACILITIES.**

24 Section 6 (33 U.S.C. 1905) is amended—

1 (1) in subsection (a) by adding at the end the
2 following:

3 “(3) The Secretary and the Administrator, after con-
4 sulting with appropriate Federal agencies, shall jointly
5 prescribe regulations setting criteria for determining the
6 adequacy of reception facilities for receiving ozone deplet-
7 ing substances, equipment containing such substances,
8 and exhaust gas cleaning residues at a port or terminal,
9 and stating any additional measures and requirements as
10 are appropriate to ensure such adequacy. Persons in
11 charge of ports and terminals shall provide reception fa-
12 cilities, or ensure that reception facilities are available, in
13 accordance with those regulations. The Secretary and the
14 Administrator may jointly prescribe regulations to certify,
15 and may issue certificates to the effect, that a port’s or
16 terminal’s facilities for receiving ozone depleting sub-
17 stances, equipment containing such substances, and ex-
18 haust gas cleaning residues from ships are adequate.”;

19 (2) in subsection (b) by inserting “or the Ad-
20 ministrator” after “Secretary”;

21 (3) in subsection (e) by striking paragraph (2)
22 and inserting the following:

23 “(2) The Secretary may deny the entry of a ship to
24 a port or terminal required by the MARPOL Protocol, this
25 Act, or regulations prescribed under this section relating

1 to the provision of adequate reception facilities for gar-
2 bage, ozone depleting substances, equipment containing
3 those substances, or exhaust gas cleaning residues, if the
4 port or terminal is not in compliance with the MARPOL
5 Protocol, this Act, or those regulations.”;

6 (4) in subsection (f)(1) by striking “Secretary
7 is” and inserting “Secretary and the Administrator
8 are”; and

9 (5) in subsection (f)(2) by striking “(A)”.

10 **SEC. 608. INSPECTIONS.**

11 Section 8(f) (33 U.S.C. 1907(f)) is amended to read
12 as follows:

13 “(f)(1) The Secretary may inspect a ship to which
14 this Act applies as provided under section 3(a)(5), to
15 verify whether the ship is in compliance with Annex VI
16 to the Convention and this Act.

17 “(2) If an inspection under this subsection or any
18 other information indicates that a violation has occurred,
19 the Secretary, or the Administrator in a matter referred
20 by the Secretary, may undertake enforcement action under
21 this section.

22 “(3) Notwithstanding subsection (b) and paragraph
23 (2) of this subsection, the Administrator shall have all of
24 the authorities of the Secretary, as specified in subsection
25 (b) of this section, for the purposes of enforcing regula-

1 tions 17 and 18 of Annex VI to the Convention to the
2 extent that shoreside violations are the subject of the ac-
3 tion and in any other matter referred to the Administrator
4 by the Secretary.”.

5 **SEC. 609. AMENDMENTS TO THE PROTOCOL.**

6 Section 10(b) (33 U.S.C. 1909(b)) is amended by in-
7 serting “or the Administrator as provided for in this Act,”
8 after “Secretary,”.

9 **SEC. 610. PENALTIES.**

10 Section 9 (33 U.S.C. 1908) is amended—

11 (1) by striking “Protocol,,” each place it ap-
12 pears and inserting “Protocol,”;

13 (2) in subsection (b)—

14 (A) by inserting “, or the Administrator as
15 provided for in this Act” after “Secretary” the
16 first place it appears;

17 (B) in paragraph (2), by inserting “, or
18 the Administrator as provided for in this Act,”
19 after “Secretary”; and

20 (C) in the matter after paragraph (2)—

21 (i) by inserting “, or the Adminis-
22 trator as provided for in this Act” after
23 “Secretary” the first place it appears; and

24 (ii) by inserting “, or the Adminis-
25 trator as provided for in this Act,” after

1 “Secretary” the second and third places it
2 appears;

3 (3) in subsection (c), by inserting “, or the Ad-
4 ministrator as provided for in this Act,” after “Sec-
5 retary” each place it appears; and

6 (4) in subsection (f), by inserting “, or the Ad-
7 ministrator as provided for in this Act” after “Sec-
8 retary” the first place appears.

9 **SEC. 611. EFFECT ON OTHER LAWS.**

10 Section 15 (33 U.S.C. 1911) is amended to read as
11 follows:

12 **“SEC. 15. EFFECT ON OTHER LAWS.**

13 “Authorities, requirements, and remedies of this Act
14 supplement and neither amend nor repeal any other au-
15 thorities, requirements, or remedies conferred by any
16 other provision of law. Nothing in this Act shall limit,
17 deny, amend, modify, or repeal any other authority, re-
18 quirement, or remedy available to the United States or
19 any other person, except as expressly provided in this
20 Act.”.

21 **TITLE VII—PORT SECURITY**

22 **SEC. 701. MARITIME HOMELAND SECURITY PUBLIC AWARE-**
23 **NESS PROGRAM.**

24 The Secretary of Homeland Security shall establish
25 a program to help prevent acts of terrorism and other ac-

1 tivities that jeopardize maritime homeland security, by
2 seeking the cooperation of the commercial and recreational
3 boating industries and the public to improve awareness of
4 activity in the maritime domain and report suspicious or
5 unusual activity.

6 **SEC. 702. TRANSPORTATION WORKER IDENTIFICATION**
7 **CREDENTIAL.**

8 (a) ASSESSMENT OF TWIC PROGRAM IMPLEMENTA-
9 TION.—

10 (1) IN GENERAL.—Not later than 120 days
11 after implementing the Transportation Worker Iden-
12 tification Credential program (in this section re-
13 ferred to as “TWIC”) at the ten ports designated
14 top priority by the Secretary of Homeland Security,
15 as required by section 70105(i)(2)(A) of title 46,
16 United States Code, the Secretary shall submit to
17 the Committee on Homeland Security of the House
18 of Representatives, the Committee on Commerce,
19 Science, and Transportation of the Senate, and the
20 Committee on Homeland Security and Governmental
21 Affairs of the Senate and to the Comptroller General
22 of the United States a report containing an assess-
23 ment of the progress of the program’s implementa-
24 tion. The report shall include—

1 (A) the number of workers enrolled in the
2 program to date and the extent to which key
3 metrics and contract requirements have been
4 met; and

5 (B) an overview of the challenges encoun-
6 tered during implementation of the enrollment
7 process, and plans for how these challenges will
8 be addressed as the program is implemented at
9 additional ports.

10 (2) GAO ASSESSMENT.—The Comptroller Gen-
11 eral shall review the report and submit to the Com-
12 mittee on Homeland Security of the House of Rep-
13 resentatives, the Committee on Commerce, Science,
14 and Transportation of the Senate, and the Com-
15 mittee on Homeland Security and Governmental Af-
16 fairs of the Senate an assessment of the report’s
17 findings and recommendations.

18 (b) ASSESSMENT OF TWIC PILOT.—

19 (1) IN GENERAL.—Not later than 120 days
20 after completing the pilot program under section
21 70105(k)(1) of title 46, United States Code, to test
22 TWIC access control technologies at port facilities
23 and vessels nationwide, the Secretary of Homeland
24 Security shall submit to the Committee on Home-
25 land Security of the House of Representatives, the

1 Committee on Commerce, Science, and Transpor-
2 tation of the Senate, and the Committee on Home-
3 land Security and Governmental Affairs of the Sen-
4 ate and to the Comptroller General a report con-
5 taining an assessment of the results of the pilot. The
6 report shall include—

7 (A) the findings of the pilot program with
8 respect to key technical and operational aspects
9 of implementing TWIC technologies in the mar-
10 itime sector;

11 (B) a comprehensive listing of the extent
12 to which established metrics were achieved dur-
13 ing the pilot program; and

14 (C) an analysis of the viability of those
15 technologies for use in the maritime environ-
16 ment, including any challenges to implementing
17 those technologies and strategies for mitigating
18 identified challenges.

19 (2) GAO ASSESSMENT.—The Comptroller Gen-
20 eral shall review the report and submit to the Com-
21 mittee on Homeland Security of the House of Rep-
22 resentatives, the Committee on Commerce, Science,
23 and Transportation of the Senate, and the Com-
24 mittee on Homeland Security and Governmental Af-

1 fairs of the Senate an assessment of the report's
2 findings and recommendations.

3 **SEC. 703. STUDY TO IDENTIFY REDUNDANT BACKGROUND**
4 **RECORDS CHECKS.**

5 (a) STUDY.—The Comptroller General of the United
6 States shall conduct a study comparing those background
7 records checks required under section 70105 of title 46,
8 United States Code, and those conducted by States for
9 similar homeland security purposes.

10 (b) REPORT.—Not later than 6 months after the date
11 of enactment of this Act, the Comptroller General of the
12 United States shall submit a report to the Committee on
13 Homeland Security of the House of Representatives, the
14 Committee on Transportation and Infrastructure of the
15 House of Representatives, the Committee on Commerce,
16 Science, and Transportation of the Senate, and the Com-
17 mittee on Homeland Security and Governmental Affairs
18 of the Senate on the results of the study, including—

19 (1) an identification of redundancies and ineffi-
20 ciencies in connection with such checks referred to
21 in subsection (a); and

22 (2) recommendations for eliminating such
23 redundancies and inefficiencies.

1 **SEC. 704. REVIEW OF INTERAGENCY OPERATIONAL CEN-**
2 **TERS.**

3 (a) **IN GENERAL.**—Within 180 days of enactment of
4 this Act, the Department of Homeland Security Inspector
5 General shall provide a report to the Committee on Home-
6 land Security of the House of Representatives and the
7 Committees on Homeland Security and Governmental Af-
8 fairs and Commerce, Science, and Transportation of the
9 Senate concerning the establishment of Interagency Oper-
10 ational Centers for Port Security required by section 108
11 of the SAFE Port Act (Public Law 109–347).

12 (b) **REPORT.**—The report shall include—

13 (1) an examination of the Department’s efforts
14 to establish the Interagency Operational Centers;

15 (2) a timeline for construction;

16 (3) a detailed breakdown, by center, as to the
17 incorporation of those representatives required by
18 section 70107A(b)(3) of title 46, United States
19 Code;

20 (4) an analysis of the hurdles faced by the De-
21 partment in developing these centers;

22 (5) information on the number of security clear-
23 ances attained by State, local, and tribal officials
24 participating in the program; and

25 (6) an examination of the relationship between
26 the Interagency Operational Centers and State, local

1 and regional fusion centers participating in the De-
2 partment of Homeland Security’s State, Local, and
3 Regional Fusion Center Initiative under section 511
4 of the Implementing the Recommendations of the 9/
5 11 Commission Act of 2007 (Public Law 110–53),
6 with a particular emphasis on—

7 (A) how the centers collaborate and coordi-
8 nate their efforts; and

9 (B) the resources allocated by the Coast
10 Guard to both initiatives.

11 **SEC. 705. MARITIME SECURITY RESPONSE TEAMS.**

12 (a) IN GENERAL.—Section 70106 of title 46, United
13 States Code, is amended by striking subsection (c) and
14 inserting the following:

15 “(c) MARITIME SECURITY RESPONSE TEAMS.—

16 “(1) IN GENERAL.—In addition to the maritime
17 safety and security teams, the Secretary shall estab-
18 lish no less than two maritime security response
19 teams to act as the Coast Guard’s rapidly deployable
20 counterterrorism and law enforcement response
21 units that can apply advanced interdiction skills in
22 response to threats of maritime terrorism.

23 “(2) MINIMIZATION OF RESPONSE TIME.—The
24 maritime security response teams shall be stationed
25 in such a way to minimize, to the extent practicable,

1 the response time to any reported maritime terrorist
2 threat.

3 “(d) COORDINATION WITH OTHER AGENCIES.—To
4 the maximum extent feasible, each maritime safety and
5 security team and maritime security response team shall
6 coordinate its activities with other Federal, State, and
7 local law enforcement and emergency response agencies.”.

8 **SEC. 706. COAST GUARD DETECTION CANINE TEAM PRO-**
9 **GRAM EXPANSION.**

10 (a) DEFINITIONS.—For purposes of this section:

11 (1) CANINE DETECTION TEAM.—The term “de-
12 tection canine team” means a canine and a canine
13 handler that are trained to detect narcotics or explo-
14 sives, or other threats as defined by the Secretary.

15 (2) SECRETARY.—The term “Secretary” means
16 the Secretary of Homeland Security.

17 (b) DETECTION CANINE TEAMS.—

18 (1) INCREASED CAPACITY.—Not later than 240
19 days after the date of enactment of this Act, the
20 Secretary shall—

21 (A) begin to increase the number of detec-
22 tion canine teams certified by the Coast Guard
23 for the purposes of maritime-related security by
24 no fewer than 10 canine teams annually
25 through fiscal year 2012; and

1 (B) encourage owners and operators of
2 port facilities, passenger cruise liners, ocean-
3 going cargo vessels, and other vessels identified
4 by the Secretary to strengthen security through
5 the use of highly trained detection canine
6 teams.

7 (2) CANINE PROCUREMENT.—The Secretary,
8 acting through the Commandant of the Coast
9 Guard, shall—

10 (A) procure detection canine teams as effi-
11 ciently as possible, including, to the greatest ex-
12 tent possible, through increased domestic breed-
13 ing, while meeting the performance needs and
14 criteria established by the Commandant;

15 (B) support expansion and upgrading of
16 existing canine training facilities operated by
17 the department in which the Coast Guard is op-
18 erating; and

19 (C) as appropriate, partner with other
20 Federal, State, or local agencies, nonprofit or-
21 ganizations, universities, or the private sector to
22 increase the breeding and training capacity for
23 Coast Guard canine detection teams.

24 (c) DEPLOYMENT.—The Secretary shall prioritize de-
25 ployment of the additional canine teams to ports based

1 on risk, consistent with the Security and Accountability
2 For Every Port Act of 2006 (Public Law 109–347).

3 (d) AUTHORIZATION.—There are authorized to be ap-
4 propriated to the Secretary such sums as may be nec-
5 essary to carry out this section for fiscal years 2008
6 through 2012.

7 **SEC. 707. COAST GUARD PORT ASSISTANCE PROGRAM.**

8 Section 70110 of title 46, United States Code, is
9 amended by adding at the end the following:

10 “(f) COAST GUARD ASSISTANCE PROGRAM.—

11 “(1) IN GENERAL.—The Secretary may lend,
12 lease, donate, or otherwise provide equipment, and
13 provide technical training and support, to the owner
14 or operator of a foreign port or facility—

15 “(A) to assist in bringing the port or facil-
16 ity into compliance with applicable International
17 Ship and Port Facility Code standards;

18 “(B) to assist the port or facility in meet-
19 ing standards established under section 70109A
20 of this chapter; and

21 “(C) to assist the port or facility in exceed-
22 ing the standards described in subparagraphs
23 (A) and (B).

24 “(2) CONDITIONS.—The Secretary—

1 “(A) shall provide such assistance based
2 upon an assessment of the risks to the security
3 of the United States and the inability of the
4 owner or operator of the port or facility other-
5 wise to bring the port or facility into compli-
6 ance with those standards and to maintain com-
7 pliance with them;

8 “(B) may not provide such assistance un-
9 less the port or facility has been subjected to a
10 comprehensive port security assessment by the
11 Coast Guard or a third party entity certified by
12 the Secretary under section 70110A(b) to vali-
13 date foreign port or facility compliance with
14 International Ship and Port Facility Code
15 standards; and

16 “(C) may only lend, lease, or otherwise
17 provide equipment that the Secretary has first
18 determined is not required by the Coast Guard
19 for the performance of its missions.”.

20 **SEC. 708. MARITIME BIOMETRIC IDENTIFICATION.**

21 (a) **IN GENERAL.**—Within one year after the date of
22 the enactment of this Act, the Secretary of Homeland Se-
23 curity, acting through the Commandant of the Coast
24 Guard, shall conduct, in the maritime environment, a pro-
25 gram for the mobile biometric identification of suspected

1 individuals, including terrorists, to enhance border secu-
2 rity and for other purposes.

3 (b) REQUIREMENTS.—The Secretary shall ensure the
4 program required in this section is coordinated with other
5 biometric identification programs within the Department
6 of Homeland Security.

7 (c) COST ANALYSIS.—Within 90 days after the date
8 of the enactment of this Act, the Secretary shall submit
9 to the Committees on Appropriations and Homeland Secu-
10 rity of the House of Representatives and the Committees
11 on Appropriations and Homeland Security and Govern-
12 mental Affairs of the Senate an analysis of the cost of
13 expanding the Coast Guard’s biometric identification ca-
14 pabilities for use by the Coast Guards Deployable Oper-
15 ations Group, cutters, stations, and other deployable mari-
16 time teams considered appropriate by the Secretary, and
17 any other appropriate Department of Homeland Security
18 maritime vessels and units. The analysis may include a
19 tiered plan for the deployment of this program that gives
20 priority to vessels and units more likely to encounter indi-
21 viduals suspected of making illegal border crossings
22 through the maritime environment.

23 (d) DEFINITION.—For the purposes of this section,
24 the term “biometric identification” means use of finger-
25 print and digital photography images.

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 bia, Puerto Rico, the Northern Mariana Islands, the
2 United States Virgin Islands, Guam, American
3 Samoa, and any other territory or possession of the
4 United States.

5 (c) SAVINGS CLAUSE.—Nothing in this section shall
6 be interpreted to discourage immediate notification to the
7 Secretary of a covered security incident, nor shall this sec-
8 tion prohibit earlier notifications of covered security inci-
9 dents otherwise required by law or regulation.

10 (d) AVAILABILITY OF INCIDENT DATA VIA INTER-
11 NET.—

12 (1) WEBSITE.—The Secretary shall maintain,
13 on an Internet site of the department in which the
14 Coast Guard is operating, a numerical accounting of
15 the missing persons and alleged crimes in covered
16 security incidents for which the Secretary receives
17 notification under subsection (a). The data shall be
18 updated no less frequently than quarterly, aggre-
19 gated by cruise line, and each cruise line shall be
20 identified by name.

21 (2) ACCESS TO WEBSITE.—Each cruise line
22 taking on or discharging passengers in the United
23 States shall include on its Internet site a link to the
24 Internet site referred to in paragraph (1), that is
25 available to the public.

1 **SEC. 712. SAFETY AND SECURITY ASSISTANCE FOR FOR-**
2 **EIGN PORTS.**

3 (a) IN GENERAL.—Section 70110(e)(1) of title 46,
4 United States Code, is amended by striking the second
5 sentence and inserting the following: “The Secretary shall
6 establish a strategic plan to utilize those assistance pro-
7 grams to assist ports and facilities that are found by the
8 Secretary under subsection (a) not to maintain effective
9 antiterrorism measures in the implementation of port se-
10 curity antiterrorism measures.”.

11 (b) CONFORMING AMENDMENTS.—

12 (1) Section 70110 of title 46, United States
13 Code, is amended—

14 (A) by inserting “**OR FACILITIES**” after
15 “**PORTS**” in the section heading;

16 (B) by inserting “or facility” after “port”
17 each place it appears; and

18 (C) by striking “PORTS” in the heading
19 for subsection (e) and inserting “PORTS, FA-
20 CILITIES,”.

21 (2) The chapter analysis for chapter 701 of title
22 46, United States Code, is amended by striking the
23 item relating to section 70110 and inserting the fol-
24 lowing:

“70110. Actions and assistance for foreign ports or facilities and United States territories”.

1 **SEC. 713. SEASONAL WORKERS.**

2 (a) STUDY.—The Comptroller General of the United
3 States shall conduct a study on the effects that the Trans-
4 portation Worker Identification Card (in this section re-
5 ferred to as “TWIC”) required by section 70105 of title
6 46, United States Code, has on companies that employ
7 seasonal employees.

8 (b) REPORT.—Not later than one year after the date
9 of enactment of this Act, the Comptroller General shall
10 submit a report to the Committee on Transportation and
11 Infrastructure and the Committee on Homeland Security
12 of the House of Representatives and the Committee on
13 Commerce, Science, and Transportation of the Senate on
14 the results of the study, including—

15 (1) costs associated in requiring seasonal em-
16 ployees to obtain TWIC cards on companies

17 (2) whether the Coast Guard and Transpor-
18 tation Security Administration are processing TWIC
19 applications quickly enough for seasonal workers to
20 obtain TWIC certification;

21 (3) whether TWIC compliance costs or other
22 factors have led to a reduction in service;

23 (3) the impact of TWIC on the recruiting and
24 hiring of seasonal and other temporary employees;
25 and

1 (4) an assessment of possible alternatives to
2 TWIC certification that may be used for seasonal
3 employees including any security vulnerabilities cre-
4 ated by those alternatives.

5 **SEC. 714. COMPARATIVE RISK ASSESSMENT OF VESSEL-**
6 **BASED AND FACILITY-BASED LIQUEFIED NAT-**
7 **URAL GAS REGASIFICATION PROCESSES.**

8 (a) **IN GENERAL.**—Within 90 days after the date of
9 enactment of this Act, the Secretary of Homeland Secu-
10 rity, acting through the Commandant of the Coast Guard,
11 shall enter into an arrangement for the performance of
12 an independent study to conduct a comparative risk as-
13 sessment examining the relative safety and security risk
14 associated with vessel-based and facility-based liquefied
15 natural gas regasification processes conducted within 3
16 miles from land versus such processes conducted more
17 than 3 miles from land.

18 (b) **REPORT.**—Not later than 1 year after the date
19 of enactment of this Act, the Secretary Homeland Secu-
20 rity, acting through the Commandant, shall provide a re-
21 port on the findings and conclusions of the study required
22 by this section to the Committees on Homeland Security,
23 Transportation and Infrastructure, and Energy and Com-
24 merce of the House of Representatives, and the Commit-

1 tees on Homeland Security and Governmental Affairs and
2 Commerce, Science, and Transportation of the Senate.

3 **SEC. 715. PILOT PROGRAM FOR FINGERPRINTING OF MARI-**
4 **TIME WORKERS.**

5 (a) IN GENERAL.—Within 180 days after the date
6 of enactment of this Act, the Secretary of Homeland Secu-
7 rity shall establish procedures providing for an individual
8 who is required to be fingerprinted for purposes of obtain-
9 ing a transportation security card under section 70105 of
10 title 46, United States Code, to be fingerprinted at any
11 facility operated by or under contract with an agency of
12 the Department of Homeland Security that fingerprints
13 the public for the Department.

14 (b) EXPIRATION.—This section expires on December
15 31, 2012.

16 **SEC. 716. TRANSPORTATION SECURITY CARDS ON VESSELS.**

17 Section 70105(b)(2) of title 46, United States Code,
18 is amended—

19 (1) in subparagraph (B), by inserting after
20 “title” the following: “allowed unescorted access to
21 a secure area designated in a vessel security plan ap-
22 proved under section 70103 of this title”; and

23 (2) in subparagraph (D), by inserting after
24 “tank vessel” the following: “allowed unescorted ac-

1 cess to a secure area designated in a vessel security
2 plan approved under section 70103 of this title”.

3 **SEC. 717. INTERNATIONAL LABOR STUDY.**

4 The Comptroller General of the United States shall
5 conduct a study of methods to conduct a background secu-
6 rity investigation of an individual who possesses a biomet-
7 ric identification card that complies with International
8 Labor Convention number 185 that are equivalent to the
9 investigation conducted on individuals applying for a visa
10 to enter the United States. The Comptroller General shall
11 submit a report on the study within 180 days after the
12 date of enactment of this Act to the Committee on Trans-
13 portation and Infrastructure and the Committee on
14 Homeland Security of the House of Representatives and
15 the Committee on Commerce, Science, and Transportation
16 of the Senate.

17 **SEC. 718. MARITIME SECURITY ADVISORY COMMITTEES.**

18 Section 70112 of title 46, United States Code, is
19 amended—

20 (1) by amending subsection (b)(5) to read as
21 follows:

22 “(5)(A) The National Maritime Security Advisory
23 Committee shall be composed of—

24 “(i) at least 1 individual who represents the in-
25 terests of the port authorities;

1 “(ii) at least 1 individual who represents the in-
2 terests of the facilities owners or operators;

3 “(iii) at least 1 individual who represents the
4 interests of the terminal owners or operators;

5 “(iv) at least 1 individual who represents the
6 interests of the vessel owners or operators;

7 “(v) at least 1 individual who represents the in-
8 terests of the maritime labor organizations;

9 “(vi) at least 1 individual who represents the
10 interests of the academic community;

11 “(vii) at least 1 individual who represents the
12 interests of State or local governments; and

13 “(viii) at least 1 individual who represents the
14 interests of the maritime industry.

15 “(B) Each Area Maritime Security Advisory
16 Committee shall be composed of individuals who rep-
17 resents the interests of the port industry, terminal
18 operators, port labor organizations, and other users
19 of the port areas.”; and

20 (2) in subsection (g)—

21 (A) in paragraph (1)(A), by striking
22 “2008;” and inserting “2010;”;

23 (B) by repealing paragraph (2);

24 (C) by striking “(1)”; and

1 (D) by redesignating subparagraphs (A)
2 and (B) as paragraphs (1) and (2).

3 **SEC. 719. SEAMEN'S SHORESIDE ACCESS.**

4 Each facility security plan approved under section
5 70103(c) of title 46, United States Code, shall provide a
6 system for seamen assigned to a vessel at that facility,
7 pilots, and representatives of seamen's welfare and labor
8 organizations to board and depart the vessel through the
9 facility in a timely manner at no cost to the individual.

10 **SEC. 720. WATERSIDE SECURITY AROUND LIQUEFIED NAT-**

11 **URAL GAS TERMINALS AND LIQUEFIED NAT-**

12 **URAL GAS TANKERS.**

13 (a) ENFORCEMENT OF SECURITY ZONES.—Con-
14 sistent with other provisions of law, any security zone es-
15 tablished by the Coast Guard around a tanker containing
16 liquified natural gas shall be enforced by the Coast Guard.
17 If the Coast Guard must enforce multiple simultaneous
18 security zones, the Coast Guard shall allocate resources
19 so as to deter to the maximum extent practicable a trans-
20 portation security incident (as that term is defined in
21 section 70101 of title 46, United States Code).

22 (b) LIMITATION ON RELIANCE ON STATE AND LOCAL
23 GOVERNMENT.—Any security arrangement approved as
24 part of a facility security plan approved after the date of
25 enactment of this Act under section 70103 of title 46,

1 United States Code, for a liquefied natural gas terminal
2 on or adjacent to the navigable waters of the United
3 States, or to assist in the enforcement of any security zone
4 established by the Coast Guard around a tanker con-
5 taining liquefied natural gas, may not be based upon the
6 provision of security by a State or local government unless
7 the State or local government has entered into a contract,
8 cooperative agreement, or other arrangement with the ter-
9 minal operator to provide such services and the Secretary
10 of the department in which the Coast Guard is operating,
11 acting through the Commandant of the Coast Guard, en-
12 sures that the waterborne patrols operated as part of that
13 security arrangement by a State or local government have
14 the training, resources, personnel, equipment, and experi-
15 ence necessary to deter to the maximum extent practicable
16 a transportation security incident (as that term is defined
17 in section 70101 of title 46, United States Code).

18 (c) DETERMINATION REQUIRED FOR NEW LNG TER-
19 MINALS.—The Secretary of the department in which the
20 Coast Guard is operating, acting through the Com-
21 mandant of the Coast Guard, may not approve a facility
22 security plan under section 70103 of title 46, United
23 States Code, for a new liquefied natural gas terminal the
24 construction of which is begun after the date of enactment
25 of this Act unless the Secretary determines that the Coast

1 Guard has available to the sector in which the terminal
2 is located the resources, including State and local govern-
3 ment resources available in accordance with subsection
4 (b), it needs to carry out the navigation and maritime se-
5 curity risk management measures identified in the water-
6 way suitability report prepared pursuant to the Ports and
7 Waterways Safety Act.

8 **SEC. 721. REVIEW OF LIQUEFIED NATURAL GAS FACILI-**
9 **TIES.**

10 (a) NOTICE OF DETERMINATION.—Consistent with
11 other provisions of law, the Secretary of Homeland Secu-
12 rity must notify the Federal Energy Regulatory Commis-
13 sion when a determination is made that the waterway to
14 a proposed waterside liquefied natural gas facility is suit-
15 able or unsuitable for the marine traffic associated with
16 such facility.

17 (b) FEDERAL ENERGY REGULATORY COMMISSION
18 RESPONSE.—The Federal Energy Regulatory Commission
19 shall respond to the Secretary’s determination under sub-
20 section (a) by informing the Secretary within 90 days of
21 notification or at the conclusion of any available appeal
22 process, whichever is later, of what action the Commission
23 has taken, pursuant to its authorities under the Natural
24 Gas Act, regarding a proposal to construct and operate

1 a waterside liquefied natural gas facility subject to a deter-
2 mination made under subsection (a).

3 **SEC. 722. USE OF SECONDARY AUTHENTICATION FOR**
4 **TRANSPORTATION SECURITY CARDS.**

5 The Secretary of Homeland Security may use a sec-
6 ondary authentication system for individuals applying for
7 transportation security cards when fingerprints are not
8 able to be taken or read to enhance transportation secu-
9 rity.

10 **SEC. 723. REPORT ON STATE AND LOCAL LAW ENFORCE-**
11 **MENT AUGMENTATION OF COAST GUARD RE-**
12 **SOURCES WITH RESPECT TO SECURITY**
13 **ZONES AND UNITED STATES PORTS.**

14 Not later than 180 days after the date of enactment
15 of this Act, the Secretary of the department in which the
16 Coast Guard is operating shall submit to the Committees
17 on Transportation and Infrastructure and Homeland Se-
18 curity of the House of Representatives and the Commit-
19 tees on Commerce, Science, and Transportation and
20 Homeland Security and Governmental Affairs of the Sen-
21 ate a report on the extent to which State and local law
22 enforcement entities are augmenting Coast Guard re-
23 sources by enforcing Coast Guard-imposed security zones
24 around vessels transiting to, through, or from United

1 States ports and conducting port security patrols. At a
2 minimum, the report shall specify—

3 (1) the number of ports in which State and
4 local law enforcement entities are providing any
5 services to enforce Coast Guard-imposed security
6 zones around vessels transiting to, through, or from
7 United States ports or to conduct security patrols in
8 United States ports;

9 (2) the number of formal agreements entered
10 into between the Coast Guard and State and local
11 law enforcement entities to engage State and local
12 law enforcement entities in the enforcement of Coast
13 Guard-imposed security zones around vessels
14 transiting to, through, or from United States ports
15 or the conduct of port security patrols in United
16 States ports, the duration of those agreements, and
17 the aid that State and local entities are engaged to
18 provided through these agreements;

19 (3) the extent to which the Coast Guard has set
20 national standards for training, equipment, and re-
21 sources to ensure that State and local law enforce-
22 ment entities engaged in enforcing Coast Guard-im-
23 posed security zones around vessels transiting to,
24 through, or from United States ports or in con-
25 ducting port security patrols in United States ports

1 (or both) can deter to the maximum extent prac-
2 ticable a transportation security incident (as that
3 term is defined in section 70101 of title 46, United
4 States Code);

5 (4) the extent to which the Coast Guard has as-
6 sessed the ability of State and local law enforcement
7 entities to carry out the security assignments which
8 they have been engaged to perform, including their
9 ability to meet any national standards for training,
10 equipment, and resources that have been established
11 by the Coast Guard in order to ensure that these en-
12 tities can deter to the maximum extent practicable
13 a transportation security incident (as that term is
14 defined in section 70101 of title 46, United States
15 Code);

16 (5) the extent to which State and local law en-
17 forcement entities are able to meet national stand-
18 ards for training, equipment, and resources estab-
19 lished by the Coast Guard to ensure that those enti-
20 ties can deter to the maximum extent practicable a
21 transportation security incident (as that term is de-
22 fined in section 70101 of title 46, United States
23 Code);

24 (6) the differences in law enforcement author-
25 ity, and particularly boarding authority, between the

1 Coast Guard and State and local law enforcement
2 entities, and the impact that these differences have
3 on the ability of State and local law enforcement en-
4 tities to provide the same level of security that the
5 Coast Guard provides during the enforcement of
6 Coast Guard-imposed security zones and the conduct
7 of security patrols in United States ports; and

8 (7) the extent of resource, training, and equip-
9 ment differences between State and local law en-
10 forcement entities and the Coast Guard units en-
11 gaged in enforcing Coast Guard-imposed security
12 zones around vessels transiting to, through, or from
13 United States ports or conducting security patrols in
14 United States ports.

15 **SEC. 724. ASSESSMENT OF TRANSPORTATION SECURITY**

16 **CARD ENROLLMENT SITES.**

17 (a) IN GENERAL.—Not later than 30 days after the
18 date of the enactment of this Act, the Secretary of Home-
19 land Security shall prepare an assessment of the enroll-
20 ment sites for transportation security cards issued under
21 section 70105 of title 46, United States Code, including—

22 (1) the feasibility of keeping those enrollment
23 sites open 24 hours per day, and 7 days per week,
24 in order to better handle the large number of appli-
25 cations for such cards;

1 (2) the feasibility of keeping those enrollment
2 sites open after September 25, 2008;

3 (3) the quality of customer service, including
4 the periods of time individuals are kept on hold on
5 the telephone, whether appointments are kept, and
6 processing times for applications.

7 (b) **TIMELINES AND BENCHMARKS.**—The Secretary
8 shall develop timelines and benchmarks for implementing
9 the findings of the assessment as the Secretary deems nec-
10 essary.

11 **TITLE VIII—COAST GUARD INTE-**
12 **GRATED DEEPWATER PRO-**
13 **GRAM**

14 **SEC. 801. SHORT TITLE.**

15 This title may be cited as the “Integrated Deepwater
16 Program Reform Act”.

17 **SEC. 802. IMPLEMENTATION OF COAST GUARD INTE-**
18 **GRATED DEEPWATER ACQUISITION PRO-**
19 **GRAM.**

20 (a) **USE OF PRIVATE SECTOR ENTITY AS A LEAD**
21 **SYSTEMS INTEGRATOR.**—

22 (1) **IN GENERAL.**—Except as otherwise pro-
23 vided in this subsection, the Secretary may not use
24 a private sector entity as a lead systems integrator
25 for procurements under, or in support of, the Deep-

1 water Program beginning on the earlier of October
2 1, 2011, or the date on which the Secretary certifies
3 in writing to the Committee on Transportation and
4 Infrastructure and the Committee on Homeland Se-
5 curity of the House of Representatives and the Com-
6 mittee on Commerce, Science, and Transportation of
7 the Senate that the Coast Guard has available and
8 can retain sufficient contracting personnel and ex-
9 pertise within the Coast Guard, through an arrange-
10 ment with other Federal agencies, or through con-
11 tracts or other arrangements with private sector en-
12 tities, to perform the functions and responsibilities
13 of the lead system integrator in an efficient and
14 cost-effective manner.

15 (2) COMPLETION OF EXISTING DELIVERY OR-
16 DERS AND TASK ORDERS.—The Secretary may use
17 a private sector entity as a lead systems integrator
18 to complete any delivery order or task order under
19 the Deepwater Program that was issued to the lead
20 systems integrator on or before the date of enact-
21 ment of this Act.

22 (3) ASSISTANCE OF OTHER FEDERAL AGEN-
23 CIES.—In any case in which the Secretary is the sys-
24 tems integrator under the Deepwater Program, the
25 Secretary may obtain any type of assistance the Sec-

1 retary considers appropriate, with any systems inte-
2 gration functions, from any Federal agency with ex-
3 perience in systems integration involving maritime
4 vessels and aircraft.

5 (4) ASSISTANCE OF PRIVATE SECTOR ENTI-
6 TIES.—In any case in which the Secretary is the sys-
7 tems integrator under the Deepwater Program, the
8 Secretary may, subject to the availability of appro-
9 priations, obtain by grant, contract, or cooperative
10 agreement any type of assistance the Secretary con-
11 siders appropriate, with any systems integration
12 functions, from any private sector entity with experi-
13 ence in systems integration involving maritime ves-
14 sels and aircraft.

15 (b) COMPETITION.—

16 (1) IN GENERAL.—Except as otherwise pro-
17 vided in this subsection, the Secretary shall use full
18 and open competition for each class of asset acquisi-
19 tions under the Deepwater Program for which an
20 outside contractor is used, if the asset is procured
21 directly by the Coast Guard or by the Integrated
22 Coast Guard System acting under a contract with
23 the Coast Guard.

24 (2) EXCEPTION.—The Secretary may use a pro-
25 curement method that is less than full and open

1 competition to procure an asset under the Deep-
2 water Program, if—

3 (A) the Secretary determines that such
4 method is in the best interests of the Federal
5 Government; and

6 (B) by not later than 30 days before the
7 date of the award of a contract for the procure-
8 ment, the Secretary submits to the Committee
9 on Transportation and Infrastructure and the
10 Committee on Homeland Security of the House
11 of Representatives and the Committee on Com-
12 merce, Science, and Transportation of the Sen-
13 ate a report explaining why such procurement
14 is in the best interests of the Federal Govern-
15 ment.

16 (3) LIMITATION ON APPLICATION.—Paragraph
17 (1) shall not apply to a contract, subcontract, or
18 task order that was issued before the date of enact-
19 ment of this Act, if there is no change in the quan-
20 tity of assets or the specific type of assets procured.

21 (c) REQUIRED CONTRACT TERMS.—The Secretary
22 shall include in each contract, subcontract, and task order
23 issued under the Deepwater Program after the date of en-
24 actment of this Act the following provisions, as applicable:

1 (1) TECHNICAL REVIEWS.—A requirement that
2 the Secretary shall conduct a technical review of all
3 proposed designs, design changes, and engineering
4 changes, and a requirement that the contractor must
5 specifically address all engineering concerns identi-
6 fied in the technical reviews, before any funds may
7 be obligated.

8 (2) RESPONSIBILITY FOR TECHNICAL REQUIRE-
9 MENTS.—A requirement that the Secretary shall
10 maintain the authority to establish, approve, and
11 maintain technical requirements.

12 (3) COST ESTIMATE OF MAJOR CHANGES.—A
13 requirement that an independent cost estimate must
14 be prepared and approved by the Secretary before
15 the execution of any change order costing more than
16 5 percent of the unit cost approved in the Deepwater
17 Program baseline in effect as of May 2007.

18 (4) PERFORMANCE MEASUREMENT.—A require-
19 ment that any measurement of contractor and sub-
20 contractor performance must be based on the status
21 of all work performed, including the extent to which
22 the work performed met all cost, schedule, and mis-
23 sion performance requirements outlined in the Deep-
24 water Program contract.

1 (5) EARLY OPERATIONAL ASSESSMENT.—For
2 the acquisition of any cutter class for which an
3 Early Operational Assessment has not been devel-
4 oped—

5 (A) a requirement that the Secretary of
6 the Department in which the Coast Guard is
7 operating shall cause an Early Operational As-
8 sessment to be conducted by the Department of
9 the Navy after the development of the prelimi-
10 nary design of the cutter and before the con-
11 duct of the critical design review of the cutter;
12 and

13 (B) a requirement that the Coast Guard
14 shall develop a plan to address the findings pre-
15 sented in the Early Operational Assessment.

16 (6) TRANSIENT ELECTROMAGNETIC PULSE
17 EMANATION.—For the acquisition or upgrade of air,
18 surface, or shore assets for which compliance with
19 transient electromagnetic pulse emanation (TEM-
20 PEST) is a requirement, a provision specifying that
21 the standard for determining such compliance shall
22 be the air, surface, or shore asset standard then
23 used by the Department of the Navy.

24 (7) OFFSHORE PATROL CUTTER UNDERWAY RE-
25 QUIREMENT.—For any contract issued to acquire an

1 Offshore Patrol Cutter, provisions specifying the
2 service life, fatigue life, days underway in general
3 Atlantic and North Pacific Sea conditions, maximum
4 range, and maximum speed the cutter shall be built
5 to achieve.

6 (8) INSPECTOR GENERAL ACCESS.—A require-
7 ment that the Department of Homeland Security’s
8 Office of the Inspector General shall have access to
9 all records maintained by all contractors working on
10 the Deepwater Program, and shall have the right to
11 privately interview any contractor personnel.

12 (d) LIFE CYCLE COST ESTIMATE.—

13 (1) IN GENERAL.—The Secretary shall develop
14 an authoritative life cycle cost estimate for the
15 Deepwater Program.

16 (2) CONTENTS.—The life cycle cost estimate
17 shall include asset acquisition and logistics support
18 decisions and planned operational tempo and loca-
19 tions as of the date of enactment of this Act.

20 (3) SUBMITTAL.—The Secretary shall—

21 (A) submit the life cycle cost estimate to
22 the Committee on Transportation and Infra-
23 structure and the Committee on Homeland Se-
24 curity of the House of Representatives and the
25 Committee on Commerce, Science, and Trans-

1 portation of the Senate within 4 months after
2 the date of enactment of this Act; and

3 (B) submit updates of the life cycle cost
4 estimate to such Committees annually.

5 (e) CONTRACT OFFICERS.—The Secretary shall as-
6 sign a separate contract officer for each class of cutter
7 and aircraft acquired or rehabilitated under the Deep-
8 water Program, including the National Security Cutter,
9 the Offshore Patrol Cutter, the Fast Response Cutter A,
10 the Fast Response Cutter B, maritime patrol aircraft, the
11 aircraft HC-130J, the helicopter HH-65, the helicopter
12 HH-60, and the vertical unmanned aerial vehicle.

13 (f) TECHNOLOGY RISK REPORT.—The Secretary
14 shall submit to the Committee on Transportation and In-
15 frastructure and the Committee on Homeland Security of
16 the House of Representatives and the Committee on Com-
17 merce, Science, and Transportation of the Senate a report
18 identifying the technology risks and level of maturity for
19 major technologies used on each class of asset acquisitions
20 under the Deepwater Program, including the Fast Re-
21 sponse Cutter A (FRC-A), the Fast Response Cutter B
22 (FRC-B), the Offshore Patrol Cutter (OPC), and the
23 Vertical Unmanned Aerial Vehicle (VUAV), not later than
24 90 days before the date of award of a contract for such
25 an acquisition.

1 (g) SUBMISSION OF ASSESSMENT RESULTS AND
2 PLANS TO CONGRESS.—The Commandant of the Coast
3 Guard shall submit to the Committee on Transportation
4 and Infrastructure and the Committee on Homeland Security
5 of the House of Representatives and the Committee
6 on Commerce, Science, and Transportation of the Senate—
7 ate—

8 (1) the results of each Early Operational Assessment
9 conducted pursuant to subsection (c)(5)(A)
10 and the plan approved by the Commandant pursuant
11 to subsection (c)(5)(B) for addressing the findings
12 of such assessment, within 30 days after the Commandant
13 approves the plan; and

14 (2) a report describing how the recommendations
15 of each Early Operational Assessment conducted
16 pursuant to subsection (c)(5)(A) on the first
17 in class of a new cutter class have been addressed
18 in the design on which construction is to begin, within
19 30 days before initiation of construction.

20 **SEC. 803. CHIEF ACQUISITION OFFICER.**

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

1 **“§ 56. Chief Acquisition Officer**

2 “(a) ESTABLISHMENT OF AGENCY CHIEF ACQUISITION OFFICER.—The Commandant shall appoint or designate a career reserved employee as Chief Acquisition Officer for the Coast Guard, who shall—

6 “(1) have acquisition management as that official’s primary duty; and

8 “(2) report directly to the Commandant to advise and assist the Commandant to ensure that the mission of the Coast Guard is achieved through the management of the Coast Guard’s acquisition activities.

13 “(b) AUTHORITY AND FUNCTIONS OF THE CHIEF ACQUISITION OFFICER.—The functions of the Chief Acquisition Officer shall include—

16 “(1) monitoring the performance of acquisition activities and acquisition programs of the Coast Guard, evaluating the performance of those programs on the basis of applicable performance measurements, and advising the Commandant regarding the appropriate business strategy to achieve the mission of the Coast Guard;

23 “(2) increasing the use of full and open competition in the acquisition of property and services by the Coast Guard by establishing policies, procedures, and practices that ensure that the Coast

1 Guard receives a sufficient number of sealed bids or
2 competitive proposals from responsible sources to
3 fulfill the Government’s requirements (including per-
4 formance and delivery schedules) at the lowest cost
5 or best value considering the nature of the property
6 or service procured;

7 “(3) ensuring the use of detailed performance
8 specifications in instances in which performance-
9 based contracting is used;

10 “(4) making acquisition decisions consistent
11 with all applicable laws and establishing clear lines
12 of authority, accountability, and responsibility for
13 acquisition decisionmaking within the Coast Guard;

14 “(5) managing the direction of acquisition pol-
15 icy for the Coast Guard, including implementation of
16 the unique acquisition policies, regulations, and
17 standards of the Coast Guard;

18 “(6) developing and maintaining an acquisition
19 career management program in the Coast Guard to
20 ensure that there is an adequate professional work-
21 force; and

22 “(7) as part of the strategic planning and per-
23 formance evaluation process required under section
24 306 of title 5 and sections 1105(a)(28), 1115, 1116,
25 and 9703 of title 31—

1 “(A) assessing the requirements estab-
2 lished for Coast Guard personnel regarding
3 knowledge and skill in acquisition resources
4 management and the adequacy of such require-
5 ments for facilitating the achievement of the
6 performance goals established for acquisition
7 management;

8 “(B) in order to rectify any deficiency in
9 meeting such requirements, developing strate-
10 gies and specific plans for hiring, training, and
11 professional development; and

12 “(C) reporting to the Commandant on the
13 progress made in improving acquisition man-
14 agement capability.”.

15 (b) CLERICAL AMENDMENT.—The table of sections
16 at the beginning of such chapter is amended by adding
17 at the end the following:

“56. Chief Acquisition Officer.”.

18 (c) SPECIAL RATE SUPPLEMENTS.—

19 (1) REQUIREMENT TO ESTABLISH.—Not later
20 than 1 year after the date of enactment of this Act
21 and in accordance with part 9701.333 of title 5,
22 Code of Federal Regulations, the Commandant of
23 the Coast Guard shall establish special rate supple-
24 ments that provide higher pay levels for employees

1 necessary to carry out the amendment made by this
2 section.

3 (2) SUBJECT TO APPROPRIATIONS.—The re-
4 quirement under paragraph (1) is subject to the
5 availability of appropriations.

6 **SEC. 804. TESTING AND CERTIFICATION.**

7 (a) IN GENERAL.—The Secretary shall—

8 (1) cause each cutter, other than a National Se-
9 curity Cutter, acquired by the Coast Guard and de-
10 livered after the date of enactment of this Act to be
11 classed by the American Bureau of Shipping, before
12 acceptance of delivery;

13 (2) cause the design and construction of each
14 National Security Cutter, other than National Secu-
15 rity Cutter 1 and 2, to be certified by an inde-
16 pendent third party with expertise in vessel design
17 and construction certification to be able to meet a
18 185-underway-day requirement under general Atlan-
19 tic and North Pacific sea conditions for a period of
20 at least 30 years;

21 (3) cause all electronics on all aircraft, surface,
22 and shore assets that require TEMPEST certifi-
23 cation and that are delivered after the date of enact-
24 ment of this Act to be tested and certified in accord-
25 ance with TEMPEST standards and communica-

1 tions security (COMSEC) standards by an inde-
2 pendent third party that is authorized by the Fed-
3 eral Government to perform such testing and certifi-
4 cation; and

5 (4) cause all aircraft and aircraft engines ac-
6 quired by the Coast Guard and delivered after the
7 date of enactment of this Act to be certified for air-
8 worthiness by an independent third party with ex-
9 pertise in aircraft and aircraft engine certification,
10 before acceptance of delivery.

11 (b) **FIRST IN CLASS OF A MAJOR ASSET ACQUI-**
12 **SION.**—The Secretary shall cause the first in class of a
13 major asset acquisition of a cutter or an aircraft to be
14 subjected to an assessment of operational capability con-
15 ducted by the Secretary of the Navy.

16 (c) **FINAL ARBITER.**—The Secretary shall be the
17 final arbiter of all technical disputes regarding designs
18 and acquisitions of vessels and aircraft for the Coast
19 Guard.

20 **SEC. 805. NATIONAL SECURITY CUTTERS.**

21 (a) **NATIONAL SECURITY CUTTERS 1 AND 2.**—

22 (1) **REPORT ON OPTIONS UNDER CONSIDER-**
23 **ATION.**—The Secretary shall submit to the Com-
24 mittee on Transportation and Infrastructure and the
25 Committee on Homeland Security of the House of

1 Representatives and the Committee on Commerce,
2 Science, and Transportation of the Senate—

3 (A) within 120 days after the date of en-
4 actment of this Act, a report describing in de-
5 tail the cost increases that have been experi-
6 enced on National Security Cutters 1 and 2
7 since the date of the issuance of the task orders
8 for construction of those cutters and explaining
9 the causes of these cost increases; and

10 (B) within 180 days after the date of en-
11 actment of this Act, a report on the options
12 that the Coast Guard is considering to
13 strengthen the hulls of National Security Cutter
14 1 and National Security Cutter 2, including—

15 (i) the costs of each of the options
16 under consideration;

17 (ii) a schedule for when the hull
18 strengthening repairs are anticipated to be
19 performed; and

20 (iii) the impact that the weight likely
21 to be added to each the cutter by each op-
22 tion will have on the cutter's ability to
23 meet both the original performance re-
24 quirements included in the Deepwater Pro-
25 gram contract and the performance re-

1 requirements created by contract Amend-
2 ment Modification 00042 dated February
3 7, 2007.

4 (2) DESIGN ASSESSMENT.—Not later than 30
5 days before the Coast Guard signs any contract, de-
6 livery order, or task order to strengthen the hull of
7 either of National Security Cutter 1 or 2 to resolve
8 the structural design and performance issues identi-
9 fied in the Department of Homeland Security In-
10 spector General’s report OIG–07–23 dated January
11 2007, the Secretary shall submit to the Committee
12 on Transportation and Infrastructure and the Com-
13 mittee on Homeland Security of the House of Rep-
14 resentatives and the Committee on Commerce,
15 Science, and Transportation of the Senate all results
16 of an assessment of the proposed hull strengthening
17 design conducted by the Naval Surface Warfare
18 Center, Carderock Division, including a description
19 in detail of the extent to which the hull strength-
20 ening measures to be implemented on those cutters
21 will enable the cutters to meet a 185-underway-day
22 requirement under general Atlantic and North Pa-
23 cific sea conditions for a period of at least 30 years.

24 (b) NATIONAL SECURITY CUTTERS 3 THROUGH 8.—
25 Not later than 30 days before the Coast Guard signs any

1 contract, delivery order, or task order authorizing con-
2 struction of National Security Cutters 3 through 8, the
3 Secretary shall submit to the Committee on Transpor-
4 tation and Infrastructure and the Committee on Home-
5 land Security of the House of Representatives and the
6 Committee on Commerce, Science, and Transportation of
7 the Senate all results of an assessment of the proposed
8 designs to resolve the structural design, safety, and per-
9 formance issues identified by the Department of Home-
10 land Security Office of Inspector General report OIG-07-
11 23 for the hulls of those cutters conducted by the Naval
12 Surface Warfare Center, Carderock Division, including a
13 description in detail of the extent to which such designs
14 will enable the cutters to meet a 185-underway-day re-
15 quirement under general Atlantic and North Pacific sea
16 conditions.

17 **SEC. 806. MISCELLANEOUS REPORTS.**

18 (a) IN GENERAL.—The Secretary shall submit the
19 following reports 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:

23 (1) Within 4 months after the date of enact-
24 ment of this Act, a justification for why 8 National

1 Security Cutters are required to meet the oper-
2 ational needs of the Coast Guard, including—

3 (A) how many days per year each National
4 Security Cutter will be underway at sea;

5 (B) where each National Security Cutter
6 will be home ported;

7 (C) the amount of funding that will be re-
8 quired to establish home port operations for
9 each National Security Cutter;

10 (D) the extent to which 8 National Secu-
11 rity Cutters deployed without vertical un-
12 manned aerial vehicles (VUAV) will meet or ex-
13 ceed the mission capability (including surveil-
14 lance capacity) of the 12 Hamilton-class high
15 endurance cutters that the National Security
16 Cutters will replace;

17 (E) the business case in support of con-
18 structing National Security Cutters 3 through
19 8, including a cost-benefit analysis; and

20 (F) an analysis of how many Offshore Pa-
21 trol Cutters would be required to provide the
22 patrol coverage provided by a National Security
23 Cutter.

24 (2) Within 4 months after the date of enact-
25 ment of this Act, a report on—

1 (A) the impact that deployment of a Na-
2 tional Security Cutter and other cutter assets
3 without the vertical unmanned aerial vehicle
4 (VUAV) will have on the amount of patrol cov-
5 erage that will be able to be provided during
6 missions conducted by the National Security
7 Cutter and all other cutters planned to be
8 equipped with a VUAV;

9 (B) how the coverage gap will be made up;

10 (C) an update on the current status of the
11 development of the VUAV; and

12 (D) the timeline detailing the major mile-
13 stones to be achieved during development of the
14 VUAV and identifying the delivery date for the
15 first and last VUAV.

16 (3) Within 30 days after the elevation to flag-
17 level for resolution of any design or other dispute re-
18 garding the Deepwater Program contract or an item
19 to be procured under that contract, including a de-
20 tailed description of the issue and the rationale un-
21 derlying the decision taken by the flag officer to re-
22 solve the issue.

23 (4) Within 4 months after the date of enact-
24 ment of this Act, a report detailing the total number
25 of change orders that have been created by the

1 Coast Guard under the Deepwater Program before
2 the date of enactment of this Act, the total cost of
3 these change orders, and their impact on the Deep-
4 water Program schedule.

5 (5) Within 180 days after the date of enact-
6 ment of this Act, a report detailing the technology
7 risks and level of maturity for major technologies
8 used on maritime patrol aircraft, the HC-130J, and
9 the National Security Cutter.

10 (6) Not less than 60 days before signing a con-
11 tract to acquire any vessel or aircraft, a report com-
12 paring the cost of purchasing that vessel or aircraft
13 directly from the manufacturer or shipyard with the
14 cost of procuring it through the Integrated Coast
15 Guard System.

16 (7) Within 30 days after the Program Execu-
17 tive Officer of the Deepwater Program becomes
18 aware of a likely cost overrun exceeding 5 percent of
19 the overall asset acquisition contract cost or schedule
20 delay exceeding 5 percent of the estimated asset con-
21 struction period under the Deepwater Program, a
22 report by the Commandant containing a description
23 of the cost overrun or delay, an explanation of the
24 overrun or delay, a description of Coast Guard's re-
25 sponse, and a description of significant delays in the

1 procurement schedule likely to be caused by the
2 overrun or delay.

3 (8) Within 90 days after the date of enactment
4 of this Act, articulation of a doctrine and description
5 of an anticipated implementation of a plan for man-
6 agement of acquisitions programs, financial manage-
7 ment (including earned value management and cost
8 estimating), engineering and logistics management,
9 and contract management, that includes—

10 (A) a description of how the Coast Guard
11 will cultivate among uniformed personnel exper-
12 tise in acquisitions management and financial
13 management;

14 (B) a description of the processes that will
15 be followed to draft and ensure technical review
16 of procurement packages, including statements
17 of work, for any class of assets acquired by the
18 Coast Guard;

19 (C) a description of how the Coast Guard
20 will conduct an independent cost estimating
21 process, including independently developing cost
22 estimates for major change orders; and

23 (D) a description of how Coast Guard will
24 strengthen the management of change orders.

1 (9) Within 4 months after the date of enact-
2 ment of this Act, a report on the development of a
3 new acquisitions office within the Coast Guard de-
4 scribing the specific staffing structure for that direc-
5 torate, including—

6 (A) identification of all managerial posi-
7 tions proposed as part of the office, the func-
8 tions that each managerial position will fill, and
9 the number of employees each manager will su-
10 pervise; and

11 (B) a formal organizational chart and
12 identification of when managerial positions are
13 to be filled.

14 (10) Ninety days prior to the issuance of a Re-
15 quest for Proposals for construction of an Offshore
16 Patrol Cutter, a report detailing the service life, fa-
17 tigue life, maximum range, maximum speed, and
18 number of days underway under general Atlantic
19 and North Pacific Sea conditions the cutter shall be
20 built to achieve.

21 (11) The Secretary shall report annually on the
22 percentage of the total amount of funds expended on
23 procurements under the Deepwater Program that
24 has been paid to each of small businesses and minor-
25 ity-owned businesses.

1 (12) Within 120 days after the date of enact-
2 ment of this Act, a report on any Coast Guard mis-
3 sion performance gap due to the removal of Deep-
4 water Program assets from service. The report shall
5 include the following:

6 (A) A description of the mission perform-
7 ance gap detailing the geographic regions and
8 Coast Guard capabilities affected.

9 (B) An analysis of factors affecting the
10 mission performance gap that are unrelated to
11 the Deepwater Program, including deployment
12 of Coast Guard assets overseas and continuous
13 vessel shortages.

14 (C) A description of measures being taken
15 in the near term to fill the mission performance
16 gap, including what those measures are and
17 when they will be implemented.

18 (D) A description of measures being taken
19 in the long term to fill the mission performance
20 gap, including what those measures are and
21 when they will be implemented.

22 (E) A description of the potential alter-
23 natives to fill the mission performance gap, in-
24 cluding any acquisition or lease considered and
25 the reasons they were not pursued.

1 (b) REPORT REQUIRED ON ACCEPTANCE OF DELIV-
2 ERY OF INCOMPLETE ASSET.—

3 (1) IN GENERAL.—If the Secretary accepts de-
4 livery of an asset after the date of enactment of this
5 Act for which a contractually required certification
6 cannot be achieved within 30 days after the date of
7 delivery or with any system that is not fully func-
8 tional for the mission for which it was intended, the
9 Secretary shall submit to the Committee on Trans-
10 portation and Infrastructure and the Committee on
11 Homeland Security of the House of Representatives
12 and the Committee on Commerce, Science, and
13 Transportation of the United States Senate within
14 30 days after accepting delivery of the asset a report
15 explaining why acceptance of the asset in such a
16 condition is in the best interests of the United
17 States Government.

18 (2) CONTENTS.—The report shall—

19 (A) specify the systems that are not able
20 to achieve contractually required certifications
21 within 30 days after the date of delivery and
22 the systems that are not fully functional at the
23 time of delivery for the missions for which they
24 were intended;

1 (B) identify milestones for the completion
2 of required certifications and to make all sys-
3 tems fully functional; and

4 (C) identify when the milestones will be
5 completed, who will complete them, and the cost
6 to complete them.

7 **SEC. 807. USE OF THE NAVAL SEA SYSTEMS COMMAND, THE**
8 **NAVAL AIR SYSTEMS COMMAND, AND THE**
9 **SPACE AND NAVAL WARFARE SYSTEMS COM-**
10 **MAND TO ASSIST THE COAST GUARD IN EX-**
11 **ERCISING TECHNICAL AUTHORITY FOR THE**
12 **DEEPWATER PROGRAM AND OTHER COAST**
13 **GUARD ACQUISITION PROGRAMS.**

14 (a) FINDINGS.—Congress finds that the Coast
15 Guard’s use of the technical, contractual, and program
16 management oversight expertise of the Department of the
17 Navy in ship and aircraft production complements and
18 augments the Coast Guard’s organic expertise as it pro-
19 cures assets for the Deepwater Program.

20 (b) INTER-SERVICE TECHNICAL ASSISTANCE.—The
21 Secretary may enter into a memorandum of understanding
22 or a memorandum of agreement with the Secretary of the
23 Navy to provide for the use of the Navy Systems Com-
24 mands to assist the Coast Guard with the oversight of
25 Coast Guard major acquisition programs. Such memo-

1 randum of understanding or memorandum of agreement
2 shall, at a minimum provide for—

3 (1) the exchange of technical assistance and
4 support that the Coast Guard Chief Engineer and
5 the Coast Guard Chief Information Officer, as Coast
6 Guard Technical Authorities, may identify;

7 (2) the use, as appropriate, of Navy technical
8 expertise; and

9 (3) the temporary assignment or exchange of
10 personnel between the Coast Guard and the Navy
11 Systems Commands to facilitate the development of
12 organic capabilities in the Coast Guard.

13 (c) TECHNICAL AUTHORITIES.—The Coast Guard
14 Chief Engineer, Chief Information Officer, and Chief Ac-
15 quisition Officer shall adopt, to the extent practicable, pro-
16 cedures that are similar to those used by the Navy Senior
17 Acquisition Official to ensure the Coast Guard Technical
18 Authorities, or designated Technical Warrant Holders, ap-
19 prove all technical requirements.

20 (d) COORDINATION.—The Secretary, acting through
21 the Commandant of the Coast Guard, may coordinate with
22 the Secretary of the Navy, acting through the Chief of
23 Naval Operations, to develop processes by which the as-
24 sistance will be requested from the Navy Systems Com-
25 mands and provided to the Coast Guard.

1 (e) REPORT.—Not later than 120 days after the date
2 of enactment of this Act and every twelve months there-
3 after, the Commandant of the Coast Guard shall report
4 to the Committee on Transportation and Infrastructure
5 and the Committee on Homeland Security of the House
6 of Representatives and the Committee on Commerce,
7 Science, and Transportation of the Senate on the activities
8 undertaken pursuant to such memorandum of under-
9 standing or memorandum of agreement.

10 **SEC. 808. DEFINITIONS.**

11 In this title:

12 (1) DEEPWATER PROGRAM.—The term “Deep-
13 water Program” means the Integrated Deepwater
14 Systems Program described by the Coast Guard in
15 its report to Congress entitled “Revised Deepwater
16 Implementation Plan 2005”, dated March 25, 2005.
17 The Deepwater Program primarily involves the pro-
18 curement of cutter and aviation assets that operate
19 more than 50 miles offshore.

20 (2) SECRETARY.—The term “Secretary” means
21 the Secretary of the department in which the Coast
22 Guard is operating.

1 **TITLE IX—MINORITY SERVING**
2 **INSTITUTIONS**

3 **SEC. 901. MSI MANAGEMENT INTERNSHIP PROGRAM.**

4 (a) ESTABLISHMENT AND PURPOSE.—The Com-
5 mandant of the Coast Guard shall establish a two part
6 management internship program for students at minority
7 serving institutions (MSI) to intern at Coast Guard head-
8 quarters or a Coast Guard regional office, to be known
9 as the “MSI Management Internship Program”, to de-
10 velop a cadre of civilian, career mid-level and senior man-
11 agers for the Coast Guard.

12 (b) OPERATION.—The MSI Management Internship
13 Program shall be managed by the Secretary of Homeland
14 Security, acting through the Commandant of the Coast
15 Guard, in coordination with National Association for
16 Equal Opportunity in Higher Education, the Hispanic As-
17 sociation of Colleges and Universities, and the American
18 Indian Higher Education Consortium.

19 (c) CRITERIA FOR SELECTION.—Participation in the
20 MSI Management Internship Program shall be open to
21 sophomores, juniors, and seniors at minority serving insti-
22 tutions, with an emphasis on such students who are major-
23 ing in management or business administration, inter-
24 national affairs, political science, marine sciences, criminal
25 justice, or any other major related to homeland security.

1 (d) AUTHORIZATION OF APPROPRIATIONS.—There
2 are authorized to be appropriated \$2,000,000 to the Com-
3 mandant to carry out this section.

4 **SEC. 902. MSI INITIATIVES.**

5 (a) ESTABLISHMENT OF MSI STUDENT PRE-COM-
6 MISSIONING INITIATIVE.—The Commandant of the Coast
7 Guard shall establish an MSI component of the College
8 Student Pre-Commissioning Initiative (to be known as the
9 “MSI Student Pre-Commissioning Initiative Program”) to
10 ensure greater participation by students from MSIs in the
11 College Student Pre-Commissioning Initiative.

12 (b) PARTICIPATION IN OFFICER CANDIDATE
13 SCHOOL.—The Commandant of the Coast Guard shall en-
14 sure that graduates of the MSI Student Pre-Commis-
15 sioning Initiative Program are included in the first enroll-
16 ment for Officer Candidate School that commences after
17 the date of enactment of this title and each enrollment
18 period thereafter.

19 (c) REPORTS.—Not later than 90 days after the con-
20 clusion of each academic year with respect to which the
21 College Student Pre-Commissioning Initiative and the
22 MSI Student Pre-Commissioning Initiative Program is
23 carried out beginning with the first full academic year
24 after the date of the enactment of this title, the Com-
25 mandant shall submit to the Committee on Transportation

1 and Infrastructure and the Committee on Homeland Secu-
2 rity of the House of Representatives and the Committee
3 on Commerce of the Senate a report on the number of
4 students in the College Student Pre-Commissioning Initia-
5 tive and the number of students in the MSI Student Pre-
6 Commissioning Initiative Program, outreach efforts, and
7 demographic information of enrollees including, age, gen-
8 der, race, and disability.

9 (d) ESTABLISHMENT OF MSI AVIATION OFFICER
10 CORPS INITIATIVE.—The Commandant of the Coast
11 Guard shall establish an MSI Aviation Officer Corps Ini-
12 tiative to increase the diversity of the Coast Guard Avia-
13 tion Officer Corps through an integrated recruiting, acces-
14 sion, training, and assignment process that offers guaran-
15 teed flight school opportunities to students from minority
16 serving institutions.

17 (e) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated \$3,000,000 to the Com-
19 mandant to carry out this section.

20 **SEC. 903. COAST GUARD-MSI COOPERATIVE TECHNOLOGY**
21 **PROGRAM.**

22 (a) ESTABLISHMENT.—The Commandant of the
23 Coast Guard shall establish a Coast Guard Laboratory of
24 Excellence-MSI Cooperative Technology Program at three
25 minority serving institutions to focus on priority security

1 areas for the Coast Guard, such as global maritime sur-
2 veillance, resilience, and recovery.

3 (b) COLLABORATION.—The Commandant shall en-
4 courage collaboration among the minority serving institu-
5 tions selected under subsection (a) and institutions of
6 higher education with institutional research and academic
7 program resources and experience.

8 (c) PARTNERSHIPS.—The heads of the laboratories
9 established at the minority serving institutions pursuant
10 to subsection (a) may seek to establish partnerships with
11 the private sector, especially small, disadvantaged busi-
12 nesses, to—

13 (1) develop increased research and development
14 capacity;

15 (2) increase the number of baccalaureate and
16 graduate degree holders in science, technology, engi-
17 neering, mathematics (STEM), and information
18 technology or other fields critical to the mission of
19 the Coast Guard; and

20 (3) strengthen instructional ability among fac-
21 ulty.

22 (d) AUTHORIZATION OF APPROPRIATIONS.—There
23 are authorized to be appropriated \$2,500,000 to the Com-
24 mandant to carry out this section, including for instru-
25 mentation acquisition and funding undergraduate student

1 scholarships, graduate fellowships, and faculty-post doc-
2 toral study.

3 **SEC. 904. DEFINITION.**

4 For purposes of this title, the terms “minority serv-
5 ing institution”, “minority serving institutions”, and
6 “MSI” mean a historically Black college or university (as
7 defined in section 322 of the Higher Education Act of
8 1965), a Hispanic-serving institution (as defined in sec-
9 tion 502 of such Act), a Tribal College or University (as
10 defined in section 316 of such Act), a Predominantly
11 Black institution (as defined in section 499A(c) of such
12 Act), or a Native American-serving nontribal institution
13 (as defined in section 499A(c) of such Act).

14 **TITLE X—APPEALS TO NA-**
15 **TIONAL TRANSPORTATION**
16 **SAFETY BOARD**

17 **SEC. 1001. RIGHTS OF APPEAL REGARDING LICENSES, CER-**
18 **TIFICATES OF REGISTRY, AND MERCHANT**
19 **MARINERS’ DOCUMENTS.**

20 (a) DENIAL OF ISSUANCE OR RENEWAL.—

21 (1) LICENSES AND CERTIFICATES OF REG-
22 ISTRY.—Section 7101 of title 46, United States
23 Code, is amended by adding at the end the following
24 new subsection:

1 “(j) APPEALS TO THE NATIONAL TRANSPORTATION
2 SAFETY BOARD.—

3 “(1) IN GENERAL.—An individual whose appli-
4 cation for the issuance or renewal of a license or cer-
5 tificate of registry has been denied under this chap-
6 ter by the Secretary may appeal that decision to the
7 National Transportation Safety Board, unless the
8 individual holds a license or certificate that—

9 “(A) is suspended at the time of the de-
10 nial; or

11 “(B) was revoked within the one-year pe-
12 riod ending on the date of the denial.

13 “(2) PROCEDURE.—The Board shall conduct a
14 hearing on the appeal. The Board is not bound by
15 findings of fact of the Secretary but is bound by all
16 validly adopted interpretations of laws and regula-
17 tions the Secretary carries out unless the Board
18 finds an interpretation is arbitrary, capricious, or
19 otherwise not according to law. At the end of the
20 hearing, the Board shall decide whether the indi-
21 vidual meets the requirements for issuance or re-
22 newal of the license or certificate of registry under
23 applicable regulations and standards. The Secretary
24 is bound by the Board’s decision.”.

1 (2) MERCHANT MARINERS' DOCUMENTS.—Sec-
2 tion 7302 of title 46, United States Code, is amend-
3 ed by adding at the end the following new sub-
4 section:

5 “(h) APPEALS TO THE NATIONAL TRANSPORTATION
6 SAFETY BOARD.—

7 “(1) IN GENERAL.—An individual whose appli-
8 cation for the issuance or renewal of a merchant
9 mariners' document has been denied under this
10 chapter by the Secretary may appeal that decision to
11 the National Transportation Safety Board, unless
12 the individual holds a merchant mariners' document
13 that—

14 “(A) is suspended at the time of the de-
15 nial; or

16 “(B) was revoked within the one-year pe-
17 riod ending on the date of denial.

18 “(2) PROCEDURE.—The Board shall conduct a
19 hearing on the appeal. The Board is not bound by
20 findings of fact of the Secretary but is bound by all
21 validly adopted interpretations of laws and regula-
22 tions the Secretary carries out unless the Board
23 finds an interpretation is arbitrary, capricious, or
24 otherwise not according to law. At the end of the
25 hearing, the Board shall decide whether the indi-

1 vidual meets the requirements for issuance or re-
2 newal of the document under applicable regulations
3 and standards. The Secretary is bound by the
4 Board’s decision.”.

5 (b) SUSPENSION AND REVOCATION.—Chapter 77 of
6 title 46, United States Code, is amended—

7 (1) in section 7702—

8 (A) by striking subsection (b); and

9 (B) by redesignating subsections (c) and
10 (d) as subsections (b) and (c), respectively;

11 (2) by adding at the end the following new sec-
12 tions:

13 **“§ 7707. Appeals to the National Transportation Safe-**
14 **ty Board**

15 “(a) IN GENERAL.—An individual whose license, cer-
16 tificate of registry, or merchant mariners’ document has
17 been suspended or revoked under this chapter by the Sec-
18 retary may appeal that decision within 30 days to the Na-
19 tional Transportation Safety Board. The Board shall af-
20 firm or reverse the order after providing notice and an
21 opportunity for a hearing on the record. In conducting the
22 hearing under this section, the Board is not bound by find-
23 ings of fact of the Secretary but is bound by all validly
24 adopted interpretations of laws and regulations the Sec-
25 retary carries out and of written agency policy guidance

1 available to the public related to sanctions to be imposed
2 under this section, unless the Board finds an interpreta-
3 tion is arbitrary, capricious, or otherwise not according to
4 law.

5 “(b) EFFECTIVENESS OF ORDER PENDING AP-
6 PEAL.—

7 “(1) IN GENERAL.—Except as provided in para-
8 graph (2), upon the filing by an individual of an ap-
9 peal with the Board under this subsection, the order
10 of the Secretary suspending or revoking the license,
11 certificate of registry, or merchant mariners’ docu-
12 ment is stayed.

13 “(2) EXCEPTION.—If the Secretary notifies the
14 Board that the Secretary has determined there ex-
15 ists an emergency affecting safety in maritime trans-
16 portation requires the immediate effectiveness of the
17 order—

18 “(A) the order shall remain in effect pend-
19 ing disposition of the appeal;

20 “(B) the Board shall make a final disposi-
21 tion of the appeal not later than 60 days after
22 the Secretary so notifies the Board; and

23 “(C) if the Board does not act within such
24 60-day period, the order shall continue in effect
25 unless modified by the Secretary.

1 “(c) REVIEW OF EMERGENCY ORDER.—A person af-
2 fected by the immediate effectiveness of the Secretary’s
3 order under subsection (b)(2) may petition for a review
4 by the Board under procedures promulgated by the Board
5 of the Secretary’s determination that an emergency exists.
6 Such petition shall be filed with the Board not later than
7 48 hours after the order is received by the person. If the
8 Board finds that an emergency does not exist that requires
9 the immediate application of the order in the interest of
10 safety in maritime transportation, the order shall be
11 stayed, notwithstanding subsection (b). The Board shall
12 dispose of a petition under this subsection not later than
13 5 days after the date on which the petition is filed.

14 “(d) JUDICIAL REVIEW.—An individual who is sub-
15 stantially affected by an order of the Board under this
16 section, or the Secretary if the Secretary decides that an
17 order of the Board will have a significant adverse effect
18 on carrying out this part, may obtain judicial review of
19 the order. The Secretary shall be made a party to the judi-
20 cial review proceedings. In those proceedings, findings of
21 fact of the Board are conclusive if supported by substan-
22 tial evidence.

1 **“§ 7708. Limitations on the Coast Guard’s conduct of**
 2 **administrative proceedings**

3 “The Coast Guard shall not conduct any administra-
 4 tive proceeding under section 7101, 7302, 7503, chapter
 5 77, or section 9303 of this title under any contractual rela-
 6 tionship or interagency agreement with the National
 7 Transportation Safety Board after October 1, 2009.”; and

8 (3) in the analysis at the beginning of the chap-
 9 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.”.

10 (c) **EFFECTIVE DATE.**—This section shall take effect
 11 on October 1, 2008.

12 **SEC. 1002. AUTHORITIES OF NATIONAL TRANSPORTATION**
 13 **SAFETY BOARD.**

14 (a) **REVIEW OF OTHER AGENCY ACTION.**—Section
 15 1133 of title 49, United States Code, is amended by strik-
 16 ing paragraph (3) and inserting the following:

17 “(3) the denial, amendment, modification, sus-
 18 pension, or revocation of a license, certificate, docu-
 19 ment, or register in a proceeding under section
 20 7101, 7302, 7503, or 9303, or chapter 77, of title
 21 46; and”.

22 (b) **JUDICIAL REVIEW.**—

23 (1) **IN GENERAL.**—Section 1153 of title 49,
 24 United States Code, is amended—

1 (A) in the heading for subsection (b) by in-
2 serting “and maritime” after “aviation”; and

3 (B) by adding at the end the following new
4 subsection:

5 “(d) SECRETARY SEEKING JUDICIAL REVIEW OF
6 MARITIME MATTERS.—If the Secretary of the department
7 in which the Coast Guard is operating decides that an
8 order of the Board under chapter 77 of title 46 will have
9 a significant impact on carrying out this chapter with re-
10 spect to a maritime matter, the Secretary may obtain judi-
11 cial review of the order. Findings of fact of the Board are
12 conclusive in those proceedings if supported by substantial
13 evidence.”.

14 (e) EFFECTIVE DATE.—This section shall take effect
15 on October 1, 2008.

16 **SEC. 1003. TRANSFER OF PENDING APPEALS TO THE NA-**
17 **TIONAL TRANSPORTATION SAFETY BOARD.**

18 (a) ADMINISTRATION OF PENDING DOCKET.—

19 (1) TRANSFER OF PENDING CASES.—On Octo-
20 ber 1, 2008, any pending cases remaining undecided
21 by the Coast Guard Office of Administrative Law
22 Judges shall be transferred to the National Trans-
23 portation Safety Board for adjudication. Such cases
24 shall be sequenced into the docket of the National
25 Transportation Safety Board Office of Administra-

1 tive Law Judges in the same order as the dates of
2 filing with the Coast Guard.

3 (2) DETAIL OF ADMINISTRATIVE LAW
4 JUDGES.—The Secretary of the department in which
5 the Coast Guard is operating shall, if requested by
6 the Chairman of the National Transportation Safety
7 Board, make available to the Board via temporary
8 detail not to exceed 180 days, and thereafter at the
9 discretion of the Secretary, Administrative Law
10 Judges currently employed by the Coast Guard suffi-
11 cient to address the docket of maritime enforcement
12 cases transferred by this subsection to the National
13 Transportation Safety Board and those subsequently
14 filed with the National Transportation Safety Board.

15 (3) ADMINISTRATIVE ASSISTANCE.—The Sec-
16 retary of the department in which the Coast Guard
17 is operating shall, if requested by the Chairman of
18 the National Transportation Safety Board, make
19 available assistance from the administrative offices
20 of the Coast Guard Office of the Administrative Law
21 Judges sufficient administrative personnel and other
22 resources adequate to effect an orderly transfer of
23 pending cases to the National Transportation Safety
24 Board.

1 (b) TRANSFER OF FUNDS.—For each of fiscal years
2 2009 and 2010, 80 percent of all funding appropriated
3 for the Coast Guard’s Office of Administrative Law
4 Judges shall be transferred as an interagency transfer to
5 the National Transportation Safety Board and used for
6 the Safety Board Office of Administrative Law Judges.

7 (c) MARITIME ENFORCEMENT APPEALS ACTIVITY.—

8 (1) IN GENERAL.—The National Transpor-
9 tation Safety Board may establish within the Na-
10 tional Transportation Safety Board Office of Admin-
11 istrative Law Judges a maritime enforcement ap-
12 peals activity, to operate in concert or parallel with
13 the aviation enforcement appeals activity currently
14 existing, sufficient to handle maritime enforcement
15 appeals under title 46, United States Code, as
16 amended by this title.

17 (2) FILLING OF ADMINISTRATIVE LAW JUDGE
18 POSITIONS.—Any Administrative Law Judge posi-
19 tion established by the National Transportation
20 Safety Board to address the cases and responsibil-
21 ities transferred under this section shall be filled
22 through the established Administrative Law Judge
23 hiring process.

24 (3) LIMITATION ON EFFECT.—This section
25 shall not be construed—

1 (A) to transfer from the Coast Guard any
2 personnel, offices, or equipment funded under
3 this provision; or

4 (B) to authorize requiring any person to
5 transfer from the Coast Guard to the National
6 Transportation Safety Board.

7 (4) EXEMPTION FROM REGULATIONS RELATING
8 TO REDUCTIONS IN FORCE.—Any redesignation of
9 agency responsibilities under this title is exempt
10 from subpart C of part 351 of title 5, Code of Fed-
11 eral Regulations, and does not constitute a transfer
12 of function (as that term is defined in section
13 351.203 of that title) for purposes of that subpart.

14 **SEC. 1004. RULEMAKING REQUIREMENTS.**

15 (a) INTERIM FINAL RULE.—The National Transpor-
16 tation Safety Board shall issue an interim final rule as
17 a temporary regulation implementing this title (including
18 the amendments made by this title) as soon as practicable
19 after the date of enactment of this Act, without regard
20 to chapter 5 of title 5, United States Code. All regulations
21 prescribed under the authority of this subsection that are
22 not earlier superseded by final regulations shall expire not
23 later than 1 year after the date of enactment of this Act.

24 (b) INITIATION OF RULEMAKING.—The Board may
25 initiate a rulemaking to implement this title (including the

1 amendments made by this title) as soon as practicable
2 after the date of enactment of this Act. The final rule
3 issued pursuant to that rulemaking may supersede the in-
4 terim final rule issued under this section.

5 **SEC. 1005. ADMINISTRATIVE LAW JUDGE RECRUITING PRO-**
6 **GRAM.**

7 (a) IN GENERAL.—Within 60 days after the date of
8 enactment of this Act, the Secretary of the department
9 in which the Coast Guard is operating shall establish a
10 program to recruit qualified individuals from appropriate
11 sources in an effort to achieve a workforce drawn from
12 all segments of society in the Coast Guard’s Administra-
13 tive Law Judge program. This program shall include—

14 (1) improved outreach efforts to include organi-
15 zations outside the Federal Government in order to
16 increase the number of minority candidates in the
17 selection pool for Administrative Law Judges from
18 which the Coast Guard selects their judges; and

19 (2) recruitment of minority candidates for
20 Coast Guard Administrative Law Judges from other
21 Federal agencies.

22 (b) REPORT.—The Secretary shall provide a report
23 to the Committee on Transportation and Infrastructure
24 of the House of Representatives and the Committee on
25 Commerce, Science, and Transportation of the Senate by

1 October 1 of each year detailing the activities of the Coast
2 Guard to comply with the requirements of this section.

3 **TITLE XI—MARINE SAFETY**

4 **SEC. 1101. MARINE SAFETY.**

5 (a) ESTABLISH MARINE SAFETY AS A COAST GUARD
6 FUNCTION.—Chapter 5 of title 14, United States Code,
7 is further amended by adding at the end the following new
8 section:

9 **“§ 100. Marine safety**

10 “To protect life, property, and the environment on,
11 under, and over waters subject to the jurisdiction of the
12 United States and on vessels subject to the jurisdiction
13 of the United States, the Commandant shall promote mar-
14 itime safety as follows:

15 “(1) By taking actions necessary and in the
16 public interest to protect such life, property, and the
17 environment.

18 “(2) Based on the following priorities:

19 “(A) Preventing marine casualties and
20 threats to the environment.

21 “(B) Minimizing the impacts of marine
22 casualties and environmental threats.

23 “(C) Maximizing lives and property saved
24 and environment protected in the event of a
25 marine casualty.”.

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

“100. Marine safety.”.

4 **SEC. 1102. MARINE SAFETY STAFF.**

5 (a) IN GENERAL.—Chapter 3 of title 14, United
6 States Code, is further amended by adding at the end the
7 following new section:

8 **“§ 57. Marine safety staff**

9 “(a) ASSISTANT COMMANDANT FOR MARINE SAFE-
10 TY.—(1) There shall be in the Coast Guard an Assistant
11 Commandant for Marine Safety who shall be a Rear Ad-
12 miral or civilian from the Senior Executive Service (career
13 reserved) selected by the Secretary.

14 “(2) The Assistant Commandant for Marine Safety
15 shall serve as the principal advisor to the Commandant
16 regarding marine safety, and carry out the duties and
17 powers delegated and imposed by the Secretary under sec-
18 tion 631(b).

19 “(b) CHIEF OF MARINE SAFETY.—(1) There shall be
20 in each Coast Guard sector a Chief of Marine Safety
21 who—

22 “(A) shall be at least a Commander or civilian
23 at level GS–14; and

24 “(B) shall be colocated with the Coast Guard
25 officer in command of that sector.

1 “(2) The chief of marine safety for a sector—

2 “(A) is responsible for all individuals who, on
3 behalf of the Coast Guard, inspect or examine ves-
4 sels, conduct marine casualty investigations, or per-
5 form other marine safety responsibilities defined in
6 section 631(b) in the sector; and

7 “(B) if not the Coast Guard officer in command
8 of that sector, is the principle advisor to that officers
9 regarding marine safety matters in that sector.

10 “(c) QUALIFICATIONS.—(1) The Assistant Com-
11 mandant for Marine Safety and the Chiefs of Marine Safe-
12 ty of sectors, and all marine safety inspectors, investiga-
13 tors, examiners, and other professional staff assigned to
14 the marine safety program of the Coast Guard, shall be
15 appointed on the basis of their—

16 “(A) knowledge, skill, and practical experience
17 in—

18 “(i) the construction and operation of com-
19 mercial vessels; and

20 “(ii) judging the character, strength, sta-
21 bility, and safety qualities of such vessels and
22 their equipment; and

23 “(B) knowledge about the qualifications and
24 training of vessel personnel.

1 “(2) Marine inspectors shall have the training, expe-
2 rience, and qualifications equivalent to that required for
3 a surveyor of a similar position of a classification society
4 recognized by the Secretary under section 3316 of title
5 46 for the type of vessel, system, or equipment that is
6 inspected.

7 “(3) Marine casualty investigators shall have the
8 training, experience, and qualifications in investigation,
9 accident reconstruction, human factors, and documenta-
10 tion equivalent to that required for a marine casualty in-
11 vestigator of the National Transportation Safety Board.

12 “(4) The Chief of Marine Safety of a sector shall be
13 a qualified marine casualty investigator and marine in-
14 spector qualified to inspect vessels, vessel systems, and
15 equipment commonly found in the sector.

16 “(5) Each individual signing a letter of qualification
17 for marine safety personnel must hold a letter of qualifica-
18 tion for the type they are signing.

19 “(6) The Assistant Commandant for Marine Safety
20 shall be a qualified marine casualty investigator and a ma-
21 rine inspector qualified for types of vessels, vessel systems,
22 and equipment.

1 **“§ 58. Limited duty officers**

2 “(a) ESTABLISHMENT.—The Commandant shall es-
3 tablish in the Coast Guard a limited duty officer program
4 for marine safety.

5 “(b) OFFICER ELIGIBILITY.—(1) Only commissioned
6 officers in the Coast Guard with grade not above com-
7 mander and chief warrant officers who have more than
8 four years of marine safety experience may serve as lim-
9 ited duty officers under such program.

10 “(2) The Commandant may establish other limita-
11 tions on eligibility that the Commandant believes are nec-
12 essary for the good of the marine safety program.

13 “(3) Notwithstanding section 41a and chapter 11 of
14 this title, the Commandant shall, by regulation, establish
15 procedures pertaining to—

16 “(A) the promotion of commissioned officers
17 and chief warrant officers who serve as limited duty
18 officers, including the maintenance of a separate
19 promotion list for commissioned officers who serve
20 as limited duty officers;

21 “(B) the discharge, retirement, and revocation
22 of commissions of such officers; and

23 “(C) the separation for cause of such officers.

24 “(4) The Commandant shall ensure that the proce-
25 dures promulgated under paragraph (3)(A) encourage a
26 specialization in marine safety and do not, in any way,

1 inhibit or prejudice the orderly promotion or advancement
2 of commissioned officers and chief warrant officers who
3 serve as limited duty officers.

4 “(5) The Commandant shall, by regulation, prescribe
5 a step increase in the pay system for limited duty officers
6 in the marine safety program.

7 “(c) RECRUITMENT.—(1) The Commandant shall, by
8 regulation, establish procedures pertaining to the recruit-
9 ment of graduates from the United States Merchant Ma-
10 rine Academy and the State maritime colleges and individ-
11 uals holding licenses issued under chapter 71 of title 46
12 to serve as limited duty officers.

13 “(2) Not later than the date of the submission of the
14 President’s budget request under section 1105 of title 31
15 for each fiscal year, the Commandant shall submit to the
16 Committee on Transportation and Infrastructure of the
17 House of Representatives and the Committee on Com-
18 merce, Science, and Transportation of the Senate a report
19 on the Coast Guard’s efforts to recruit graduates from the
20 United States Merchant Marine Academy and the State
21 maritime colleges and individuals holding licenses issued
22 under chapter 71 of title 46 to serve as limited duty offi-
23 cers. The report shall include information on the number
24 of graduates recruited, the lengths of service, the retention

1 rates, and other activities undertaken by the Coast Guard
2 to sustain or increase the numbers of recruits and officers.

3 **“§ 59. Center for Expertise for Marine Safety**

4 “(a) ESTABLISHMENT.—The Commandant of the
5 Coast Guard may establish and operate a one or more
6 Centers for Expertise for Marine Safety (in this section
7 referred to as a ‘Center’).

8 “(b) MISSIONS.—The Centers shall—

9 “(1) be used to provide and facilitate education,
10 training, and research in marine safety including
11 vessel inspection and casualty investigation;

12 “(2) develop a repository of information on ma-
13 rine safety; and

14 “(3) perform any other missions as the Com-
15 mandant may specify.

16 “(c) JOINT OPERATION WITH EDUCATIONAL INSTI-
17 TUTION AUTHORIZED.—The Commandant may enter into
18 an agreement with an appropriate official of an institution
19 of higher education to—

20 “(1) provide for joint operation of a Center;
21 and

22 “(2) provide necessary administrative services
23 for a Center, including administration and allocation
24 of funds.

1 “(d) ACCEPTANCE OF DONATIONS.—(1) Except as
2 provided in paragraph (2), the Commandant may accept,
3 on behalf of a Center, donations to be used to defray the
4 costs of the Center or to enhance the operation of the Cen-
5 ter. Those donations may be accepted from any State or
6 local government, any foreign government, any foundation
7 or other charitable organization (including any that is or-
8 ganized or operates under the laws of a foreign country),
9 or any individual.

10 “(2) The Commandant may not accept a donation
11 under paragraph (1) if the acceptance of the donation
12 would compromise or appear to compromise—

13 “(A) the ability of the Coast Guard or the de-
14 partment in which the Coast Guard is operating, any
15 employee of the Coast Guard or the department, or
16 any member of the armed forces to carry out any re-
17 sponsibility or duty in a fair and objective manner;
18 or

19 “(B) the integrity of any program of the Coast
20 Guard, the department in which the Coast Guard is
21 operating, or of any person involved in such a pro-
22 gram.

23 “(3) The Commandant shall prescribe written guid-
24 ance setting forth the criteria to be used in determining

1 whether or not the acceptance of a donation from a foreign
2 source would have a result described in paragraph (2).

3 **“§ 60. Marine industry training program.**

4 “(a) IN GENERAL.—The Commandant shall, by pol-
5 icy, establish a program under which an officer, member,
6 or employee of the Coast Guard may be assigned to a pri-
7 vate entity to further the institutional interests of the
8 Coast Guard with regard to marine safety, including for
9 the purpose of providing training to an officer, member,
10 or employee. Policies to carry out the program—

11 “(1) with regard to an employee of the Coast
12 Guard, shall include provisions, consistent with sec-
13 tions 3702 through 3704 of title 5, as to matters
14 concerning—

15 “(A) the duration and termination of as-
16 signments;

17 “(B) reimbursements; and

18 “(C) status, entitlements, benefits, and ob-
19 ligations of program participants; and

20 “(2) shall require the Commandant, before ap-
21 proving the assignment of an officer, member, or
22 employee of the Coast Guard to a private entity, to
23 determine that the assignment is an effective use of
24 the Coast Guard’s funds, taking into account the
25 best interests of the Coast Guard and the costs and

1 benefits of alternative methods of achieving the same
2 results and objectives.

3 “(b) ANNUAL REPORT.—Not later than the date of
4 the submission each year of the President’s budget request
5 under section 1105 of title 31, the Commandant shall sub-
6 mit to the Committee on Transportation and Infrastruc-
7 ture of the House of Representatives and the Committee
8 on Commerce, Science, and Transportation of the Senate
9 a report that describes—

10 “(1) the number of officers, members, and em-
11 ployees of the Coast Guard assigned to private enti-
12 ties under this section;

13 “(2) the specific benefit that accrues to the
14 Coast Guard for each assignment.”.

15 (b) CERTIFICATES OF INSPECTION.—Section 3309 of
16 title 46, United States Code, is amended by adding at the
17 end the following:

18 “(d) A certificate of inspection issued under this sec-
19 tion shall be signed by the individuals that inspected the
20 vessel.”.

21 (c) CLERICAL AMENDMENT.—The table of sections
22 at the beginning of such chapter is amended by adding
23 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.”.

1 **SEC. 1103. MARINE SAFETY MISSION PRIORITIES AND LONG**
2 **TERM GOALS.**

3 (a) IN GENERAL.—Chapter 21 of title 46, United
4 States Code, is further amended by adding after section
5 2116, as added by section 313 of this division, the fol-
6 lowing new section:

7 **“§ 2117. Marine Safety Strategy, goals, and perform-**
8 **ance assessments**

9 “(a) LONG-TERM STRATEGY AND GOALS.—In con-
10 junction with existing federally required strategic planning
11 efforts, the Secretary shall develop a long-term strategy
12 for improving vessel safety and the safety of individuals
13 on vessels. The strategy shall include the issuance each
14 year of an annual plan and schedule for achieving the fol-
15 lowing goals:

16 “(1) Reducing the number and rates of marine
17 casualties.

18 “(2) Improving the consistency and effective-
19 ness of vessel and operator enforcement and compli-
20 ance programs.

21 “(3) Identifying and targeting enforcement ef-
22 forts at high-risk vessels and operators.

23 “(4) Improving research efforts to enhance and
24 promote vessel and operator safety and performance.

25 “(b) CONTENTS OF STRATEGY AND ANNUAL
26 PLANS.—

1 “(1) MEASURABLE GOALS.—The strategy and
2 annual plans shall include specific numeric or meas-
3 urable goals designed to achieve the goals set forth
4 in subsection (a). The purposes of the numeric or
5 measurable goals are the following:

6 “(A) To increase the number of safety ex-
7 aminations on all high-risk vessels.

8 “(B) To eliminate the backlog of marine
9 safety-related rulemakings.

10 “(C) To improve the quality and effective-
11 ness of marine safety information databases by
12 ensuring that all Coast Guard personnel accu-
13 rately and effectively report all safety, casualty,
14 and injury information.

15 “(D) To provide for a sufficient number of
16 Coast Guard marine safety personnel, and pro-
17 vide adequate facilities and equipment to carry
18 out the powers and duties delegated and im-
19 posed by the Secretary under section 631(b).

20 “(2) RESOURCE NEEDS.—The strategy and an-
21 nual plans shall include estimates of—

22 “(A) the funds and staff resources needed
23 to accomplish each activity included in the
24 strategy and plans; and

1 “(B) the staff skills and training needed
2 for timely and effective accomplishment of each
3 goal.

4 “(c) SUBMISSION WITH THE PRESIDENT’S BUDG-
5 ET.—Beginning with fiscal year 2010 and each fiscal year
6 thereafter, the Secretary shall submit to Congress the
7 strategy and annual plan at the same time as the Presi-
8 dent’s budget submission under section 1105 of title 31.

9 “(d) ACHIEVEMENT OF GOALS.—

10 “(1) PROGRESS ASSESSMENT.—No less fre-
11 quently than semiannually, the Coast Guard Com-
12 mandant and the Assistant Commandant for Marine
13 Safety shall jointly assess the progress of the Coast
14 Guard toward achieving the goals set forth in sub-
15 section (b). The Commandant and the Assistant
16 Commandant shall jointly convey their assessment to
17 the employees of the Assistant Commandant and
18 shall identify any deficiencies that should be rem-
19 edied before the next progress assessment.

20 “(2) REPORT TO CONGRESS.—The Secretary
21 shall report annually to the Committee on Transpor-
22 tation and Infrastructure of the House of Represent-
23 atives and the Committee on Commerce, Science,
24 and Transportation of the Senate—

1 “(A) on the performance of the marine
2 safety program in achieving the goals of the
3 marine safety strategy and annual plan under
4 subsection (a) for the year covered by the re-
5 port;

6 “(B) on the program’s mission perform-
7 ance in achieving numerical measurable goals
8 established under subsection (b); and

9 “(C) recommendations on how to improve
10 performance of the program.”.

11 (b) CLERICAL AMENDMENT.—The analysis for such
12 chapter is amended by adding at the end the following
13 new item:

 “2117. Marine Safety Strategy, goals, and performance assessments.”.

14 **SEC. 1104. POWERS AND DUTIES.**

15 Section 631 of title 14, United States Code, is
16 amended—

17 (1) by inserting “(a)” before the first sentence;

18 and

19 (2) by adding at the end the following new sub-
20 section:

21 “(b) The Assistant Commandant for Marine Safety
22 shall serve as the principle advisor to the Commandant
23 regarding—

24 “(1) the operation, regulation, inspection, iden-
25 tification, manning, and measurement of vessels, in-

1 including plan approval and the application of load
2 lines;

3 “(2) approval of materials, equipment, appli-
4 ances, and associated equipment;

5 “(3) the reporting and investigation of marine
6 casualties and accidents;

7 “(4) the licensing, certification, documentation,
8 protection and relief of merchant seamen;

9 “(5) suspension and revocation of licenses and
10 certificates;

11 “(6) enforcement of manning requirements, citi-
12 zenship requirements, control of log books;

13 “(7) documentation and numbering of vessels;

14 “(8) State boating safety programs;

15 “(9) commercial instruments and maritime
16 liens;

17 “(10) the administration of bridge safety;

18 “(11) administration of the navigation rules;

19 “(12) the prevention of pollution from vessels;

20 “(13) ports and waterways safety;

21 “(14) waterways management; including regula-
22 tion for regattas and marine parades;

23 “(15) aids to navigation; and

24 “(16) other duties and powers of the Secretary
25 related to marine safety and stewardship.

1 “(c) OTHER AUTHORITY NOT AFFECTED.—Nothing
2 in subsection (b) affects—

3 “(1) the authority of Coast Guard officers and
4 members to enforce marine safety regulations using
5 authority under section 89 of this title; or

6 “(2) the exercise of authority under section 91
7 of this title and the provisions of law codified at sec-
8 tions 191 through 195 of title 50 on the date of en-
9 actment of this paragraph.”.

10 **SEC. 1105. APPEALS AND WAIVERS.**

11 (a) IN GENERAL.—Chapter 5 of title 14, United
12 States Code, is further amended by inserting at the end
13 the following new section:

14 **“§ 102. Appeals and waivers**

15 “Except for the Commandant of the Coast Guard,
16 any individual adjudicating an appeal of a decision or
17 granting a waiver regarding marine safety, including in-
18 spection or manning and threats to the environment, shall
19 be a qualified specialist with the training, experience and
20 qualifications in marine safety to judge the facts and cir-
21 cumstances involved in the appeal or waiver and make a
22 judgment regarding the merits of the appeal or waiver.
23 In the case of an appeal or waiver involving an inspected
24 vessel, vessel systems or equipment, the individual shall
25 hold a letter of qualification to inspect the type of vessel,

1 vessel systems or equipment involved in the appeal or
2 waiver.”.

3 (b) CLERICAL AMENDMENT.—The analysis for such
4 chapter is further amended by adding at the end the fol-
5 lowing new item:

“102. Appeals and waivers.”.

6 **SEC. 1106. COAST GUARD ACADEMY.**

7 (a) IN GENERAL.—Chapter 9 of title 14, United
8 States Code, is amended by adding at the end the fol-
9 lowing new section:

10 **“§ 199. Marine safety curriculum**

11 “The Commandant of the Coast Guard shall ensure
12 that professional courses of study in marine safety are
13 provided at the Coast Guard Academy, and during other
14 officer accession programs, to give Coast Guard cadets
15 and other officer candidates a background and under-
16 standing of the marine safety program. These courses may
17 include such topics as program history, vessel design and
18 construction, vessel inspection, casualty investigation, and
19 administrative law and regulations.”.

20 (b) CLERICAL AMENDMENT.—The analysis for such
21 chapter is further amended by adding at the end the fol-
22 lowing new item:

“199. Marine safety curriculum.”.

1 **SEC. 1107. GEOGRAPHIC STABILITY.**

2 (a) IN GENERAL.—Chapter 11 of title 14, United
3 States Code, is further amended by inserting after section
4 336 the following new section:

5 **“§ 337. Geographic stability**

6 “The Commandant shall establish procedures that
7 provide geographic stability to interested Coast Guard of-
8 ficers, employees, and members assigned to the marine
9 safety program carried out under section 100 who have
10 a minimum of 10 years of service in the marine safety
11 program.”.

12 (b) CLERICAL AMENDMENT.—The analysis for such
13 chapter is further amended by adding at the end the fol-
14 lowing new item:

“337. Geographic stability.”.

15 **SEC. 1108. APPRENTICE PROGRAM.**

16 (a) IN GENERAL.—Chapter 11 of title 14, United
17 States Code, is further amended by inserting after section
18 337, as added by section 1107 of this division, the fol-
19 lowing new section:

20 **“§ 338. Apprentice program**

21 “Any officer, member, or employee of the Coast
22 Guard in training to become a marine inspector shall serve
23 a minimum of one-year apprenticeship, unless otherwise
24 directed by the Commandant of the Coast Guard, under
25 the guidance of a qualified inspector before conducting un-

1 supervised inspections of vessels under part B of subtitle
2 II of title 46. The Commandant may authorize shorter ap-
3 prentice periods for certain qualifications, as appro-
4 priate.”.

5 (b) CLERICAL AMENDMENT.—The analysis for such
6 chapter is further amended by adding at the end the fol-
7 lowing new item:

“338. Apprentice program.”.

8 **SEC. 1109. REPORT REGARDING CIVILIAN MARINE INSPEC-**
9 **TORS.**

10 Not later than one year after the date of enactment
11 of this Act, the Commandant of the Coast Guard shall
12 submit to the Committee on Transportation and Infra-
13 structure of the House of Representatives and the Com-
14 mittee on Commerce, Science, and Transportation of the
15 Senate a report on Coast Guard’s efforts to recruit and
16 retain civilian marine inspectors and investigators and the
17 impact of such recruitment and retention efforts on Coast
18 Guard organizational performance.

1 **TITLE XII—ADDITIONAL**
2 **MISCELLANEOUS PROVISIONS**

3 **SEC. 1201. MISSION REQUIREMENT ANALYSIS FOR NAVI-**
4 **GABLE PORTIONS OF THE RIO GRANDE**
5 **RIVER, TEXAS, INTERNATIONAL WATER**
6 **BOUNDARY.**

7 Not later than 90 days after the date of the enact-
8 ment of this Act, the Secretary of the department in which
9 the Coast Guard is operating shall prepare a mission re-
10 quirement analysis for the navigable portions of the Rio
11 Grande River, Texas, international water boundary. The
12 analysis shall take into account the Coast Guard's involve-
13 ment on the Rio Grande River by assessing Coast Guard
14 missions, assets, and personnel assigned along the Rio
15 Grande River. The analysis shall also identify what would
16 be needed for the Coast Guard to increase search and res-
17 cue operations, migrant interdiction operations, and drug
18 interdiction operations.

19 **SEC. 1202. OPERATION OF SUBMERSIBLE OR SEMI-SUB-**
20 **MERSIBLE VESSEL WITHOUT NATIONALITY.**

21 (a) IN GENERAL.—Chapter 111 of title 18, United
22 States Code, is amended by adding at the end the fol-
23 lowing new section:

1 **“§ 2285. Operation of submersible or semi-submers-**
2 **ible vessel without nationality**

3 “(a) FINDINGS AND DECLARATIONS.—Congress
4 finds and declares that operating or embarking in a sub-
5 mersible or semi-submersible vessel without nationality
6 and on an international voyage is a serious international
7 problem, facilitates transnational crime, including drug
8 trafficking, and terrorism, and presents a specific threat
9 to the safety of maritime navigation and the security of
10 the United States.

11 “(b) OFFENSES.—

12 “(1) IN GENERAL.—Whoever knowingly or in-
13 tentiously operates by any means or embarks in any
14 submersible or semi-submersible vessel that is with-
15 out nationality and that is navigating or has navi-
16 gated into, through or from waters beyond the outer
17 limit of the territorial sea of a single country or a
18 lateral limit of that country’s territorial sea with an
19 adjacent country, shall be punished as prescribed in
20 subsection (h).

21 “(2) ATTEMPTS AND CONSPIRACIES.—Whoever
22 attempts or conspires to violate this section shall be
23 punished as prescribed in subsection (h).

24 “(c) DEFINITIONS.—In this section, the term—

1 “(1) ‘submersible vessel’ means a vessel that is
2 capable of operating below the surface of the water,
3 and includes manned and unmanned watercraft.

4 “(2) ‘semi-submersible vessel’ means any
5 watercraft constructed or adapted to be capable of
6 putting much of its bulk under the surface of the
7 water.

8 “(3) ‘vessel without nationality’ has the same
9 meaning as section 70502(d) of title 46.

10 “(d) EXTRATERRITORIAL JURISDICTION.—There is
11 extraterritorial Federal jurisdiction over the offenses de-
12 scribed in this section, including an attempt or conspiracy
13 to commit such offense.

14 “(e) CLAIM OF NATIONALITY OR REGISTRY.—

15 “(1) A claim of nationality or registry under
16 this section includes only—

17 “(A) possession on board the vessel and
18 production of documents evidencing the vessel’s
19 nationality as provided in article 5 of the 1958
20 Convention on the High Seas;

21 “(B) flying its nation’s ensign or flag; or

22 “(C) a verbal claim of nationality or reg-
23 istry by the master or individual in charge of
24 the vessel.

1 “(2) The failure of any submersible or semi-
2 submersible vessel to display registry numbers or a
3 national ensign or flag shall create a rebuttable pre-
4 sumption that the vessel is without nationality, as
5 defined in this section.

6 “(f) FEDERAL ACTIVITIES.—Nothing in this section
7 applies to lawfully authorized activities carried out by or
8 at the direction of the United States Government.

9 “(g) APPLICABILITY OF OTHER PROVISIONS.—Sec-
10 tions 70504 and 70505 of title 46 apply to this section.

11 “(h) PENALTIES.—

12 “(1) VIOLATIONS.—A person violating this sec-
13 tion shall be fined under this title, imprisoned not
14 more than 20 years, or both.

15 “(2) CONSECUTIVE SENTENCE.—Notwith-
16 standing any other provision of law, a term of im-
17 prisonment imposed under this section shall be con-
18 secutive to the sentence of imprisonment for any
19 other offense.”.

20 (b) CONFORMING AMENDMENT.—The table of sec-
21 tions for chapter 111 of title 18, United States Code, is
22 amended by adding at the end the following new item:

“2285. Operation of submersible or semi-submersible vessel without nation-
 ality.”.

1 **SEC. 1203. LEGAL AUTHORITY OF THE COAST GUARD TO**
2 **CARRY OUT ITS HOMELAND SECURITY MIS-**
3 **SIONS NOT IMPAIRED.**

4 The provisions of this division governing the marine
5 safety mission of the Coast Guard shall not impair the
6 legal authority of the Coast Guard to carry out its home-
7 land security missions including—

8 (1) protecting ports, waterways, coastal secu-
9 rity, and the marine transportation system from an
10 act of terrorism;

11 (2) securing our borders against aliens seeking
12 to unlawfully enter the United States, illegal drugs,
13 firearms, and weapons of mass destruction at ports,
14 waterways, and throughout the marine transpor-
15 tation system;

16 (3) preventing human smuggling operations at
17 ports, waterways, and throughout the marine trans-
18 portation system;

19 (4) maintaining defense readiness to rapidly de-
20 ploy defensive port operations and security oper-
21 ations and environmental defense operations;

22 (5) coordinating efforts and intelligence with
23 Federal, State, and local agencies to deter, detect,
24 and respond to the threat of terrorism at ports, on
25 waterways, and throughout the marine transpor-
26 tation system;

1 (6) preventing Osama Bin Laden, al Qaeda, or
2 any other terrorist or terrorist organization from at-
3 tacking the United States or any United States per-
4 son;

5 (7) protecting the United States or any United
6 States person from threats posed by weapons of
7 mass destruction or other threats to national secu-
8 rity.

9 **DIVISION B—ALIEN SMUGGLING**
10 **AND TERRORISM PREVEN-**
11 **TION ACT OF 2008**

12 **SEC. 101. SHORT TITLE.**

13 This division may be cited as the “Alien Smuggling
14 and Terrorism Prevention Act of 2008”.

15 **SEC. 102. FINDINGS.**

16 Congress finds that—

17 (1) Alien smuggling by land, air and sea is a
18 transnational crime that violates the integrity of
19 United States borders, compromises our Nation’s
20 sovereignty, places the country at risk of terrorist
21 activity, and contravenes the rule of law.

22 (2) Aggressive enforcement activity against
23 alien smuggling is needed to protect our borders and
24 ensure the security of our Nation. The border secu-
25 rity and anti-smuggling efforts of the men and

1 women on the Nation's front line of defense are to
2 be commended. Special recognition is due the De-
3 partment of Homeland Security through the United
4 States Border Patrol, United States Coast Guard,
5 Customs and Border Protection, and Immigration
6 and Customs Enforcement, and the Department of
7 Justice through the Federal Bureau of Investigation.

8 (3) The law enforcement community must be
9 given the statutory tools necessary to address this
10 security threat. Only through effective alien smug-
11 gling statutes can the Justice Department, through
12 the United States Attorneys' Offices and the Domes-
13 tic Security Section of the Criminal Division, pros-
14 ecute these cases successfully.

15 (4) Alien smuggling has a destabilizing effect
16 on border communities. State and local law enforce-
17 ment, medical personnel, social service providers,
18 and the faith community play important roles in
19 combating smuggling and responding to its effects.

20 (5) Existing penalties for alien smuggling are
21 insufficient to provide appropriate punishment for
22 alien smugglers.

23 (6) Existing alien smuggling laws often fail to
24 reach the conduct of alien smugglers, transporters,
25 recruiters, guides, and boat captains.

1 (7) Existing laws concerning failure to heave to
2 are insufficient to appropriately punish boat opera-
3 tors and crew who engage in the reckless transpor-
4 tation of aliens on the high seas and seek to evade
5 capture.

6 (8) Much of the conduct in alien smuggling
7 rings occurs outside of the United States.
8 Extraterritorial jurisdiction is needed to ensure that
9 smuggling rings can be brought to justice for re-
10 cruiting, sending, and facilitating the movement of
11 those who seek to enter the United States without
12 lawful authority.

13 (9) Alien smuggling can include unsafe or reck-
14 lessly dangerous conditions that expose individuals
15 to particularly high risk of injury or death.

16 **SEC. 103. CHECKS AGAINST TERRORIST WATCHLIST.**

17 The Department of Homeland Security shall, to the
18 extent practicable, check against all available terrorist
19 watchlists those alien smugglers and smuggled individuals
20 who are interdicted at the land, air, and sea borders of
21 the United States.

22 **SEC. 104. STRENGTHENING PROSECUTION AND PUNISH-**
23 **MENT OF ALIEN SMUGGLERS.**

24 Section 274(a) of the Immigration and Nationality
25 Act (8 U.S.C. 1324(a)) is amended—

1 (1) by amending the subsection heading to read
2 as follows: “SMUGGLING OF UNLAWFUL AND TER-
3 RORIST ALIENS.—”;

4 (2) by redesignating clause (iv) of paragraph
5 (1)(B) as clause (vii);

6 (3) in paragraph (1), by striking “(1)(A)” and
7 all that follows through clause (iii) of subparagraph
8 (B) and inserting the following:

9 “(1)(A) Whoever, knowing or in reckless disregard of
10 the fact that an individual is an alien who lacks lawful
11 authority to come to, enter, or reside in the United States,
12 knowingly—

13 “(i) brings that individual to the United States
14 in any manner whatsoever regardless of any future
15 official action which may be taken with respect to
16 such alien;

17 “(ii) recruits, encourages, or induces that indi-
18 vidual to come to, enter, or reside in the United
19 States;

20 “(iii) transports or moves that individual in the
21 United States, in furtherance of their unlawful pres-
22 ence; or

23 “(iv) harbors, conceals, or shields from detec-
24 tion the individual in any place in the United States,

1 including any building or any means of transpor-
2 tation;
3 or attempts or conspires to do so, shall be punished as
4 provided in subparagraph (C).

5 “(B) Whoever, knowing that an individual is an alien,
6 brings that individual to the United States in any manner
7 whatsoever at a place other than a designated port of
8 entry or place other than as designated by the Secretary
9 of Homeland Security, regardless of whether such alien
10 has received prior official authorization to come to, enter,
11 or reside in the United States and regardless of any future
12 official action which may be taken with respect to such
13 alien, or attempts or conspires to do so, shall be punished
14 as provided in subparagraph (C).

15 “(C) A violator of this paragraph shall, for each alien
16 in respect to whom such a violation occurs—

17 “(i) unless the offense is otherwise described in
18 another clause of this subparagraph, be fined under
19 title 18, United States Code or imprisoned not more
20 than 5 years, or both;

21 “(ii) if the offense involved the transit of the
22 defendant’s spouse, child, sibling, parent, grand-
23 parent, or niece or nephew, and the offense is not
24 described in any of clauses (iii) through (vii), be

1 fined under title 18, United States Code or impris-
2 oned not more than 1 year, or both;

3 “(iii) if the offense is a violation of paragraphs
4 (1)(A)(ii), (iii), or (iv), or paragraph (1)(B), and
5 was committed for the purpose of profit, commercial
6 advantage, or private financial gain, be fined under
7 title 18, United States Code or imprisoned not more
8 than 10 years, or both;

9 “(iv) if the offense is a violation of paragraph
10 (1)(A)(i) and was committed for the purpose of prof-
11 it, commercial advantage, or private financial gain,
12 or if the offense was committed with the intent or
13 reason to believe that the individual unlawfully
14 brought into the United States will commit an of-
15 fense against the United States or any State that is
16 punishable by imprisonment for more than 1 year,
17 be fined under title 18, United States Code, and im-
18 prisoned, in the case of a first or second violation,
19 not less than 3 nor more than 10 years, and for any
20 other violation, not less than 5 nor more than 15
21 years; and

22 “(v) if the offense results in serious bodily in-
23 jury (as defined in section 1365 of title 18, United
24 States Code) or places in jeopardy the life of any

1 person, be fined under title 18, United States Code
2 or imprisoned not more than 20 years, or both;

3 “(vi) if the offense involved an individual who
4 the defendant knew was engaged in or intended to
5 engage in terrorist activity (as defined in section
6 212(a)(3)(B)), be fined under title 18, United States
7 Code or imprisoned not more than 30 years, or both;
8 and”;

9 (4) in the clause (vii) so redesignated by para-
10 graph (2) of this subsection (which now becomes
11 clause (vii) of the new subparagraph (C))—

12 (A) by striking “in the case” and all that
13 follows through “(v) resulting” and inserting
14 “if the offense results”; and

15 (B) by inserting “and if the offense in-
16 volves kidnaping, an attempt to kidnap, the
17 conduct required for aggravated sexual abuse
18 (as defined in section 2241 without regard to
19 where it takes place), or an attempt to commit
20 such abuse, or an attempt to kill, be fined
21 under such title or imprisoned for any term of
22 years or life, or both” after “or both”; and

23 (5) by striking existing subparagraph (C) of
24 paragraph (1) (without affecting the new subpara-
25 graph (C) added by the amendments made by this

1 Act) and all that follows through paragraph (2) and
2 inserting the following:

3 “(2)(A) There is extraterritorial jurisdiction over the
4 offenses described in paragraph (1).

5 “(B) In a prosecution for a violation of, or an attempt
6 or conspiracy to violate subsection (a)(1)(A)(i),
7 (a)(1)(A)(ii), or (a)(1)(B), that occurs on the high seas,
8 no defense based on necessity can be raised unless the de-
9 fendant—

10 “(i) as soon as practicable, reported to the
11 Coast Guard the circumstances of the necessity, and
12 if a rescue is claimed, the name, description, registry
13 number, and location of the vessel engaging in the
14 rescue; and

15 “(ii) did not bring, attempt to bring, or in any
16 manner intentionally facilitate the entry of any alien
17 into the land territory of the United States without
18 lawful authority, unless exigent circumstances ex-
19 isted that placed the life of that alien in danger, in
20 which case the reporting requirement set forth in
21 clause (i) of this subparagraph is satisfied by noti-
22 fying the Coast Guard as soon as practicable after
23 delivering the alien to emergency medical or law en-
24 forcement personnel ashore.

1 “(C) It is a defense to a violation of, or an attempt
2 or conspiracy to violate, clause (iii) or (iv) of subsection
3 (a)(1)(A) for a religious denomination having a bona fide
4 nonprofit, religious organization in the United States, or
5 the agents or officer of such denomination or organization,
6 to encourage, invite, call, allow, or enable an alien who
7 is present in the United States to perform the vocation
8 of a minister or missionary for the denomination or orga-
9 nization in the United States as a volunteer who is not
10 compensated as an employee, notwithstanding the provi-
11 sion of room, board, travel, medical assistance, and other
12 basic living expenses, provided the minister or missionary
13 has been a member of the denomination for at least one
14 year.

15 “(D) For purposes of this paragraph and paragraph
16 (1)—

17 “(i) the term ‘United States’ means the several
18 States, the District of Columbia, the Commonwealth
19 of Puerto Rico, Guam, American Samoa, the United
20 States Virgin Islands, the Commonwealth of the
21 Northern Mariana Islands, and any other territory
22 or possession of the United States; and

23 “(ii) the term ‘lawful authority’ means permis-
24 sion, authorization, or waiver that is expressly pro-
25 vided for in the immigration laws of the United

1 States or the regulations prescribed under those
2 laws and does not include any such authority se-
3 cured by fraud or otherwise obtained in violation of
4 law or authority that has been sought but not ap-
5 proved.”.

6 **SEC. 105. MARITIME LAW ENFORCEMENT.**

7 (a) PENALTIES.—Subsection (b) of section 2237 of
8 title 18, United States Code, is amended to read as fol-
9 lows:

10 “(b)(1) Whoever intentionally violates this section
11 shall, unless the offense is described in paragraph (2), be
12 fined under this title or imprisoned for not more than 5
13 years, or both.

14 “(2) If the offense—

15 “(A) is committed in the course of a violation
16 of section 274 of the Immigration and Nationality
17 Act (alien smuggling); chapter 77 (peonage, slavery,
18 and trafficking in persons), section 111 (shipping),
19 111A (interference with vessels), 113 (stolen prop-
20 erty), or 117 (transportation for illegal sexual activ-
21 ity) of this title; chapter 705 (maritime drug law en-
22 forcement) of title 46, or title II of the Act of June
23 15, 1917 (Chapter 30; 40 Stat. 220), the offender
24 shall be fined under this title or imprisoned for not
25 more than 10 years, or both;

1 “(B) results in serious bodily injury (as defined
2 in section 1365 of this title) or transportation under
3 inhumane conditions, the offender shall be fined
4 under this title, imprisoned not more than 15 years,
5 or both; or

6 “(C) results in death or involves kidnaping, an
7 attempt to kidnap, the conduct required for aggra-
8 vated sexual abuse (as defined in section 2241 with-
9 out regard to where it takes place), or an attempt
10 to commit such abuse, or an attempt to kill, be fined
11 under such title or imprisoned for any term of years
12 or life, or both.”.

13 (b) LIMITATION ON NECESSITY DEFENSE.—Section
14 2237(c) of title 18, United States Code, is amended—

15 (1) by inserting “(1)” after “(c)”;

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

17 “(2) In a prosecution for a violation of this section,
18 no defense based on necessity can be raised unless the de-
19 fendant—

20 “(A) as soon as practicable upon reaching
21 shore, delivered the person with respect to which the
22 necessity arose to emergency medical or law enforce-
23 ment personnel;

1 “(B) as soon as practicable, reported to the
2 Coast Guard the circumstances of the necessity re-
3 sulting giving rise to the defense; and

4 “(C) did not bring, attempt to bring, or in any
5 manner intentionally facilitate the entry of any alien,
6 as that term is defined in section 101(a)(3) of the
7 Immigration and Nationality Act (8 U.S.C. 1101
8 (a)(3)), into the land territory of the United States
9 without lawful authority, unless exigent cir-
10 cumstances existed that placed the life of that alien
11 in danger, in which case the reporting requirement
12 of subparagraph (B) is satisfied by notifying the
13 Coast Guard as soon as practicable after delivering
14 that person to emergency medical or law enforce-
15 ment personnel ashore.”.

16 (c) DEFINITION.—Section 2237(e) of title 18, United
17 States Code, is amended—

18 (1) by striking “and” at the end of paragraph
19 (3);

20 (2) by striking the period at the end of para-
21 graph (4) and inserting “; and”; and

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

23 “(5) the term ‘transportation under inhumane
24 conditions’ means the transportation of persons in
25 an engine compartment, storage compartment, or

1 other confined space, transportation at an excessive
2 speed, transportation of a number of persons in ex-
3 cess of the rated capacity of the means of transpor-
4 tation, or intentionally grounding a vessel in which
5 persons are being transported.”.

6 **SEC. 106. AMENDMENT TO THE SENTENCING GUIDELINES.**

7 (a) IN GENERAL.—Pursuant to its authority under
8 section 994 of title 28, United States Code, and in accord-
9 ance with this section, the United States Sentencing Com-
10 mission shall review and, if appropriate, amend the sen-
11 tencing guidelines and policy statements applicable to per-
12 sons convicted of alien smuggling offenses and criminal
13 failure to heave to or obstruction of boarding.

14 (b) CONSIDERATIONS.—In carrying out this sub-
15 section, the Sentencing Commission, shall—

16 (1) consider providing sentencing enhancements
17 or stiffening existing enhancements for those con-
18 victed of offenses described in paragraph (1) of this
19 subsection that—

20 (A) involve a pattern of continued and fla-
21 grant violations;

22 (B) are part of an ongoing commercial or-
23 ganization or enterprise;

24 (C) involve aliens who were transported in
25 groups of 10 or more;

1 (D) involve the transportation or abandon-
2 ment of aliens in a manner that endangered
3 their lives; or

4 (E) involve the facilitation of terrorist ac-
5 tivity; and

6 (2) consider cross-references to the guidelines
7 for Criminal Sexual Abuse and Attempted Murder.

8 (c) EXPEDITED PROCEDURES.—The Commission
9 may promulgate the guidelines or amendments under this
10 subsection in accordance with the procedures set forth in
11 section 21(a) of the Sentencing Act of 1987, as though
12 the authority under that Act had not expired.

Passed the House of Representatives April 24, 2008.

Attest:

Clerk.

110TH CONGRESS
2^D SESSION

H. R. 2830

AN ACT

To authorize appropriations for the Coast Guard for fiscal year 2008, to amend the Immigration and Nationality Act and title 18, United States Code, to combat the crime of alien smuggling and related activities, and for other purposes.