

112TH CONGRESS
1ST SESSION

H. R. 2838

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16, 2011

Received; read twice and referred to the Committee on Commerce, Science,
and Transportation

AN ACT

To authorize appropriations for the Coast Guard for fiscal
years 2012 through 2015, 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. SHORT TITLE.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Coast Guard and Maritime Transportation Act of 2011”.

4 (b) **TABLE OF CONTENTS.**—The table of contents for
5 this Act is as follows:

Sec. 1. Short title.

TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.

Sec. 102. Authorized levels of military strength and training.

TITLE II—COAST GUARD AND SERVICEMEMBER PARITY

Sec. 201. Academy emoluments.

Sec. 202. Policy on sexual harassment and sexual violence.

Sec. 203. Appointments of permanent commissioned officers.

Sec. 204. Minor construction.

Sec. 205. Treatment of reports of aircraft accident investigations.

Sec. 206. Acquisition workforce expedited hiring authority.

Sec. 207. Coast Guard housing report.

Sec. 208. Advance procurement funding.

TITLE III—COAST GUARD REFORM

Sec. 301. Repeals.

Sec. 302. Interference with Coast Guard transmissions.

Sec. 303. National security cutters.

Sec. 304. Major acquisitions report.

Sec. 305. Environmental compliance and restoration backlog.

Sec. 306. Coast Guard auxiliarist enrollment eligibility.

Sec. 307. Decommissionings.

Sec. 308. Assessment of needs for additional coast guard presence in high latitude regions.

Sec. 309. Limitation on expenditures.

Sec. 310. Restriction on the use of aircraft.

TITLE IV—SHIPPING AND NAVIGATION

Sec. 401. Committee on the Marine Transportation System.

Sec. 402. Report on determinations.

Sec. 403. Dockside examinations.

Sec. 404. Recourse for noncitizens.

Sec. 405. Maritime liens on fishing permits.

Sec. 406. Short sea transportation.

Sec. 407. Mission of the Maritime Administration.

Sec. 408. Limitation on liability for non-Federal vessel traffic service operators.

Sec. 409. Authority to extend the duration of medical certificates.

Sec. 410. Identification of actions to enable qualified United States flag capacity to meet national defense requirements.

Sec. 411. Classification societies.

TITLE V—FEDERAL MARITIME COMMISSION

Sec. 501. Authorization of appropriations.

TITLE VI—MISCELLANEOUS

Sec. 601. Technical corrections.

Sec. 602. Report on Coast Guard merchant mariner medical evaluation program.

Sec. 603. Notice of arrival.

Sec. 604. Technical corrections to title 14.

Sec. 605. Distant water tuna fleet.

Sec. 606. Waivers.

Sec. 607. Report on options to improve integration of U.S. Coast Guard and Canadian Coast Guard Great Lakes icebreaking operational information.

Sec. 608. Standby vessels.

Sec. 609. Cap on penalty wages.

Sec. 610. Report on impediments to the U.S.-flag registry.

Sec. 611. Report on drug interdiction in the Caribbean basin.

Sec. 612. Report on survival craft.

Sec. 613. Consideration of information relating to employment when awarding contracts.

Sec. 614. Requirement of Corps.

Sec. 615. Conveyance of decommissioned Coast Guard Cutter STORIS.

Sec. 616. Transportation of passengers between ports in Puerto Rico.

TITLE VII—COMMERCIAL VESSEL DISCHARGES REFORM

Sec. 701. Short title.

Sec. 702. Discharges from commercial vessels.

Sec. 703. Discharges incidental to the normal operation of a covered vessel.

Sec. 704. Conforming and technical amendments.

Sec. 705. Regulation of ballast water and incidental discharges from a commercial vessel.

Sec. 706. Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

Sec. 707. Special consideration for vessels of historical significance.

TITLE VIII—PIRACY

Sec. 801. Short title.

Sec. 802. Report on actions taken to protect foreign-flagged vessels from piracy.

Sec. 803. Training program for use of force against piracy.

Sec. 804. Security of Government impelled cargo.

Sec. 805. GAO study.

1 **TITLE I—AUTHORIZATION**

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

3 Funds are authorized to be appropriated for each of
4 the fiscal years 2012, 2013, and 2014 for necessary ex-
5 penses of the Coast Guard as follows:

6 (1) For the operation and maintenance of the
7 Coast Guard—

8 (A) \$6,819,505,000 for fiscal year 2012;

9 (B) \$6,922,645,000 for fiscal year 2013;

10 and

11 (C) \$7,018,499,000 for fiscal year 2014;

12 of which \$24,500,000 is authorized for each of the
13 fiscal years 2012, 2013, and 2014 to be derived
14 from the Oil Spill Liability Trust Fund to carry out
15 the purposes of section 1012(a)(5) of the Oil Pollu-
16 tion Act of 1990 (33 U.S.C. 2712(a)(5)).

17 (2) For the acquisition, construction, rebuild-
18 ing, and improvement of aids to navigation, shore
19 and offshore facilities, vessels, and aircraft, includ-
20 ing related equipment thereto—

21 (A) \$1,503,980,000 for fiscal year 2012;

22 (B) \$1,505,312,000 for fiscal year 2013;

23 and

24 (C) \$1,506,549,000 for fiscal year 2014;

1 to remain available until expended, of which
2 \$20,000,000 for each of the fiscal years 2012, 2013,
3 and 2014 shall be derived from the Oil Spill Liabil-
4 ity Trust Fund to carry out the purposes of section
5 1012(a)(5) of the Oil Pollution Act of 1990.

6 (3) For the Coast Guard Reserve program, in-
7 cluding personnel and training costs, equipment, and
8 services—

9 (A) \$136,778,000 for fiscal year 2012;

10 (B) \$138,111,000 for fiscal year 2013; and

11 (C) \$139,311,000 for fiscal year 2014.

12 (4) For environmental compliance and restora-
13 tion of Coast Guard vessels, aircraft, and facilities
14 (other than parts and equipment associated with op-
15 eration and maintenance)—

16 (A) \$16,699,000 for fiscal year 2012;

17 (B) \$16,699,000 for fiscal year 2013; and

18 (C) \$16,700,000 for fiscal year 2014;

19 to remain available until expended.

20 (5) To the Commandant of the Coast Guard for
21 research, development, test, and evaluation of tech-
22 nologies, materials, and human factors directly re-
23 lated to improving the performance of the Coast
24 Guard's mission in search and rescue, aids to navi-
25 gation, marine safety, marine environmental protec-

1 tion, enforcement of laws and treaties, ice oper-
2 ations, oceanographic research, and defense readi-
3 ness—

4 (A) \$19,779,000 for fiscal year 2012;

5 (B) \$19,848,000 for fiscal year 2013; and

6 (C) \$19,913,000 for fiscal year 2014;

7 of which \$650,000 for each of the fiscal years 2012,
8 2013, and 2014 shall be derived from the Oil Spill
9 Liability Trust Fund to carry out the purposes of
10 section 1012(a)(5) of the Oil Pollution Act of 1990.

11 **SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH**
12 **AND TRAINING.**

13 (a) **ACTIVE DUTY STRENGTH.**—The Coast Guard is
14 authorized an end-of-year strength for active duty per-
15 sonnel of 47,000 for each of the fiscal years 2012 through
16 fiscal year 2014.

17 (b) **MILITARY TRAINING STUDENT LOADS.**—The
18 Coast Guard is authorized average military training stu-
19 dent loads for the each of the fiscal years 2012 through
20 fiscal year 2014 as follows:

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

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

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

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

2 **TITLE II—COAST GUARD AND**
3 **SERVICEMEMBER PARITY**

4 **SEC. 201. ACADEMY EMOLUMENTS.**

5 Section 195 of title 14, United States Code, is
6 amended—

7 (1) in subsection (c)—

8 (A) in the first sentence—

9 (i) by striking “person” and inserting
10 “foreign national”; and

11 (ii) by striking “pay and allowances,”
12 and inserting “pay, allowances, and emolu-
13 ments,”; and

14 (B) in the second sentence—

15 (i) by striking “A person” and insert-
16 ing “A foreign national”; and

17 (ii) by striking “pay and allowances,”
18 and inserting “pay, allowances, and emolu-
19 ments,”; and

20 (2) in subsection (d), by striking “A person”
21 and inserting “A foreign national”.

1 **SEC. 202. POLICY ON SEXUAL HARASSMENT AND SEXUAL**
2 **VIOLENCE.**

3 (a) POLICY REQUIREMENT.—Chapter 9 of title 14,
4 United States Code, is amended by adding at the end the
5 following:

6 **“§ 200. Policy on sexual harassment and sexual vio-**
7 **lence**

8 “(a) REQUIRED POLICY.—The Commandant shall di-
9 rect the Superintendent of the Coast Guard Academy to
10 prescribe a policy on sexual harassment and sexual vio-
11 lence applicable to the cadets and other personnel of the
12 Coast Guard Academy.

13 “(b) MATTERS TO BE SPECIFIED IN POLICY.—The
14 policy on sexual harassment and sexual violence prescribed
15 under this section shall include specification of the fol-
16 lowing:

17 “(1) Programs to promote awareness of the in-
18 cidence of rape, acquaintance rape, and other sexual
19 offenses of a criminal nature that involve cadets or
20 other Academy personnel.

21 “(2) Procedures that a cadet should follow in
22 the case of an occurrence of sexual harassment or
23 sexual violence, including—

24 “(A) if the cadet chooses to report an oc-
25 currence of sexual harassment or sexual vio-
26 lence, a specification of the person or persons to

1 whom the alleged offense should be reported
2 and the options for confidential reporting;

3 “(B) a specification of any other person
4 whom the victim should contact; and

5 “(C) procedures on the preservation of evi-
6 dence potentially necessary for proof of criminal
7 sexual assault.

8 “(3) Procedures for disciplinary action in cases
9 of alleged criminal sexual assault involving a cadet
10 or other Academy personnel.

11 “(4) Any other sanction authorized to be im-
12 posed in a substantiated case of sexual harassment
13 or sexual violence involving a cadet or other Acad-
14 emy personnel in rape, acquaintance rape, or any
15 other criminal sexual offense, whether forcible or
16 nonforcible.

17 “(5) Required training on the policy for all ca-
18 dets and other Academy personnel, including the
19 specific training required for personnel who process
20 allegations of sexual harassment or sexual violence
21 involving Academy personnel.

22 “(c) ANNUAL ASSESSMENT.—

23 “(1) The Commandant shall direct the Super-
24 intendent of the Academy to conduct at the Acad-
25 emy during each Academy program year an assess-

1 ment to determine the effectiveness of the policies,
2 training, and procedures of the Academy with re-
3 spect to sexual harassment and sexual violence in-
4 volving Academy personnel.

5 “(2) For the assessment at the Academy under
6 paragraph (1) with respect to an Academy program
7 year that begins in an odd-numbered calendar year,
8 the Superintendent shall conduct a survey of Acad-
9 emy personnel—

10 “(A) to measure—

11 “(i) the incidence, during that pro-
12 gram year, of sexual harassment and sex-
13 ual violence events, on or off the Academy
14 reservation, that have been reported to of-
15 ficials of the Academy; and

16 “(ii) the incidence, during that pro-
17 gram year, of sexual harassment and sex-
18 ual violence events, on or off the Academy
19 reservation, that have not been reported to
20 officials of the Academy; and

21 “(B) to assess the perceptions of Academy
22 personnel of—

23 “(i) the policies, training, and proce-
24 dures on sexual harassment and sexual vio-
25 lence involving Academy personnel;

1 “(ii) the enforcement of such policies;

2 “(iii) the incidence of sexual harass-
3 ment and sexual violence involving Acad-
4 emy personnel; and

5 “(iv) any other issues relating to sex-
6 ual harassment and sexual violence involv-
7 ing Academy personnel.

8 “(d) ANNUAL REPORT.—

9 “(1) The Commandant shall direct the Super-
10 intendent of the Academy to submit to the Com-
11 mandant a report on sexual harassment and sexual
12 violence involving cadets or other personnel at the
13 Academy for each Academy program year.

14 “(2) Each report under paragraph (1) shall in-
15 clude, for the Academy program year covered by the
16 report, the following:

17 “(A) The number of sexual assaults, rapes,
18 and other sexual offenses involving cadets or
19 other Academy personnel that have been re-
20 ported to Academy officials during the program
21 year and, of those reported cases, the number
22 that have been substantiated.

23 “(B) The policies, procedures, and proc-
24 esses implemented by the Commandant and the
25 leadership of the Academy in response to sexual

1 harassment and sexual violence involving cadets
2 or other Academy personnel during the pro-
3 gram year.

4 “(C) A plan for the actions that are to be
5 taken in the following Academy program year
6 regarding prevention of and response to sexual
7 harassment and sexual violence involving cadets
8 or other Academy personnel.

9 “(3) Each report under paragraph (1) for an
10 Academy program year that begins in an odd-num-
11 bered calendar year shall include the results of the
12 survey conducted in that program year under sub-
13 section (c)(2).

14 “(4)(A) The Commandant shall transmit to the
15 Board of Visitors of the Academy each report re-
16 ceived by the Commandant under this subsection, to-
17 gether with the Commandant’s comments on the re-
18 port.

19 “(B) The Commandant shall transmit each
20 such report, together with the Commandant’s com-
21 ments on the report, to the Committee on Com-
22 merce, Science, and Transportation of the Senate
23 and the Committee on Transportation and Infra-
24 structure of the House of Representatives.”.

1 (b) CONFORMING REPEAL.—Section 217 of the Coast
2 Guard Authorization Act of 2010 (14 U.S.C. 93 note),
3 and the item relating to such section in the table of con-
4 tents in section 1(b) of such Act, are repealed.

5 (c) TECHNICAL AND CLERICAL AMENDMENTS.—The
6 analysis at the beginning of such chapter is amended by
7 adding at the end the following:

“200. Policy on sexual harassment and sexual violence.”.

8 **SEC. 203. APPOINTMENTS OF PERMANENT COMMISSIONED**
9 **OFFICERS.**

10 Section 211 of title 14, United States Code, is
11 amended by adding at the end the following:

12 “(d) For the purposes of this section, the term ‘origi-
13 nal’, with respect to the appointment of a member of the
14 Coast Guard refers to that member’s most recent appoint-
15 ment in the Coast Guard that is neither a promotion nor
16 a demotion.”.

17 **SEC. 204. MINOR CONSTRUCTION.**

18 (a) IN GENERAL.—Section 656 of title 14, United
19 States Code, is amended by adding at the end the fol-
20 lowing:

21 “(d) MINOR CONSTRUCTION AND IMPROVEMENT.—

22 “(1) Subject to the reporting requirements set
23 forth in paragraph (2), the Secretary may expend
24 not more than \$1,500,000 from amounts available
25 for the operating expenses of the Coast Guard for

1 minor construction and improvement projects at any
2 location.

3 “(2) No later than 90 days after the end of
4 each fiscal year, the Secretary shall submit, to the
5 Committee on Commerce, Science, and Transpor-
6 tation of the Senate and the Committee on Trans-
7 portation and Infrastructure of the House of Rep-
8 resentatives, a report on each project undertaken
9 during the course of the preceding fiscal year, for
10 which the amount expended under paragraph (1) ex-
11 ceeded \$500,000.”.

12 (b) CLERICAL AMENDMENT.—

13 (1) Section 656 of title 14, United States Code,
14 is further amended in the heading by adding at the
15 end the following: “; **use of moneys appro-**
16 **riated for operating expenses for minor**
17 **construction and improvement”.**

18 (2) The analysis at the beginning of chapter 17
19 of such title is amended in the item relating to sec-
20 tion 656 by striking “waters.” and inserting
21 “waters; use of moneys appropriated for operating
22 expenses for minor construction and improvement.”.

1 **SEC. 205. TREATMENT OF REPORTS OF AIRCRAFT ACCI-**
2 **DENT INVESTIGATIONS.**

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

6 **“§ 678. Treatment of reports of aircraft accident in-**
7 **vestigations**

8 “(a) IN GENERAL.—Whenever the Commandant con-
9 ducts an accident investigation of an accident involving an
10 aircraft under the jurisdiction of the Commandant, the
11 records and report of the investigation shall be treated in
12 accordance with this section.

13 “(b) PUBLIC DISCLOSURE OF CERTAIN ACCIDENT
14 INVESTIGATION INFORMATION.—

15 “(1) Subject to paragraph (2), the Com-
16 mandant, upon request, shall publicly disclose un-
17 classified tapes, scientific reports, and other factual
18 information pertinent to an aircraft accident inves-
19 tigation.

20 “(2) The Commandant shall not disclose the in-
21 formation requested in paragraph (1) unless the
22 Commandant determines—

23 “(A) that such tapes, reports, or other in-
24 formation would be included within and releas-
25 able with the final accident investigation report;
26 and

1 “(B) that release of such tapes, reports, or
2 other information—

3 “(i) would not undermine the ability
4 of accident or safety investigators to con-
5 tinue to conduct the investigation; and

6 “(ii) would not compromise national
7 security.

8 “(3) A disclosure under paragraph (1) may not
9 be made by or through officials with responsibility
10 for, or who are conducting, a safety investigation
11 with respect to the accident.

12 “(c) OPINIONS REGARDING CAUSATION OF ACCI-
13 DENT.—Following an aircraft accident referred to in sub-
14 section (a)—

15 “(1) if the evidence surrounding the accident is
16 sufficient for the investigators who conduct the acci-
17 dent investigation to come to an opinion as to the
18 cause or causes of the accident, the final report of
19 the accident investigation shall set forth the opinion
20 of the investigators as to the cause or causes of the
21 accident; and

22 “(2) if the evidence surrounding the accident is
23 not sufficient for the investigators to come to an
24 opinion as to the cause or causes of the accident, the
25 final report of the accident investigation shall in-

1 clude a description of those factors, if any, that, in
2 the opinion of the investigators, substantially con-
3 tributed to or caused the accident.

4 “(d) USE OF INFORMATION IN CIVIL PRO-
5 CEEDINGS.—For purposes of any civil or criminal pro-
6 ceeding arising from an aircraft accident referred to in
7 subsection (a), any opinion of the accident investigators
8 as to the cause of, or the factors contributing to, the acci-
9 dent set forth in the accident investigation report may not
10 be considered as evidence in such proceeding, nor may
11 such report be considered an admission of liability by the
12 United States or by any person referred to in such report.

13 “(e) REGULATIONS.—The Commandant shall pre-
14 scribe regulations to carry out this section.

15 “(f) DEFINITIONS.—For purposes of this section—

16 “(1) the term ‘accident investigation’ means
17 any form of investigation by Coast Guard personnel
18 of an aircraft accident referred to in subsection (a),
19 other than a safety investigation; and

20 “(2) the term ‘safety investigation’ means an
21 investigation by Coast Guard personnel of an air-
22 craft accident referred to in subsection (a), that is
23 conducted solely to determine the cause of the acci-
24 dent and to obtain information that may prevent the
25 occurrence of similar accidents.”.

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

“678. Treatment of reports of aircraft accident investigations.”.

4 **SEC. 206. ACQUISITION WORKFORCE EXPEDITED HIRING**
5 **AUTHORITY.**

6 Section 404 of the Coast Guard Authorization Act
7 of 2010 (Public Law 111–281; 124 Stat. 2950) is amend-
8 ed—

9 (1) in subsection (a)(1), by striking “as short-
10 age category positions;” and inserting “as positions
11 for which there exists a shortage of candidates or
12 there is a critical hiring need;”; and

13 (2) in subsection (b)—

14 (A) by striking “paragraph” and inserting
15 “section”; and

16 (B) by striking “2012.” and inserting
17 “2015.”.

18 **SEC. 207. COAST GUARD HOUSING REPORT.**

19 In conjunction with the transmittal by the President
20 of the budget of the United States for fiscal year 2013,
21 the Commandant of the Coast Guard shall submit to the
22 Committee on Commerce, Science, and Transportation of
23 the Senate and the Committee on Transportation and In-
24 frastructure of the House of Representatives a report on

1 the status of Coast Guard servicemember housing, includ-
2 ing—

3 (1) a statement of the Coast Guard’s housing
4 needs requirements;

5 (2) an assessment of the condition of the Coast
6 Guard’s current housing inventory, including both
7 leased and owned property;

8 (3) an assessment of housing available for
9 Coast Guard use from surrounding communities and
10 other government agencies for all duty stations;

11 (4) a list of housing capacity shortfalls and ex-
12 cess; and

13 (5) a revised prioritized list of housing mainte-
14 nance and recapitalization projects.

15 **SEC. 208. ADVANCE PROCUREMENT FUNDING.**

16 (a) IN GENERAL.—Subchapter II of chapter 15 of
17 title 14, United States Code, is amended by adding at the
18 end the following:

19 **“§ 577. Advance procurement funding**

20 “(a) IN GENERAL.—With respect to any Coast Guard
21 vessel for which amounts are appropriated or otherwise
22 made available for vessels for the Coast Guard in any fis-
23 cal year, the Commandant, subject to section 569a(a) for
24 the sixth national security cutter and section 569a for the
25 seventh national security cutter, may enter into a contract

1 or place an order, in advance of a contract or order for
2 construction of a vessel, for—

3 “(1) materials, parts, components, and labor for
4 the vessel;

5 “(2) the advance construction of parts or com-
6 ponents for the vessel;

7 “(3) protection and storage of materials, parts,
8 or components for the vessel; and

9 “(4) production planning, design, and other re-
10 lated support services that reduce the overall pro-
11 curement lead time of the vessel.

12 “(b) USE OF MATERIALS, PARTS, AND COMPONENTS
13 MANUFACTURED IN THE UNITED STATES.—In entering
14 into contracts and placing orders under subsection (a), the
15 Commandant shall give priority to persons that manufac-
16 ture materials, parts, and components in the United
17 States.”.

18 (b) CLERICAL AMENDMENT.—The analysis at the be-
19 ginning of such chapter is amended by adding at the end
20 of the items relating to such subchapter the following:

“577. Advance procurement funding.”.

1 **TITLE III—COAST GUARD**
2 **REFORM**

3 **SEC. 301. REPEALS.**

4 (a) **DISTRICT OMBUDSMAN.**—Section 55 of title 14,
5 United States Code, and the item relating to such section
6 in the analysis for chapter 3 of such title, are repealed.

7 (b) **FAA AIR AIDS TO NAVIGATION.**—Section 82 of
8 title 14, United States Code, and the item relating to such
9 section in the analysis for chapter 5 of such title, are re-
10 pealed.

11 (c) **OCEAN STATIONS.**—Section 90 of title 14, United
12 States Code, and the item relating to such section in the
13 analysis for chapter 5 of such title, are repealed.

14 (d) **DETAIL OF MEMBERS TO ASSIST FOREIGN GOV-**
15 **ERNMENTS.**—Section 149(a) of title 14, United States
16 Code, is amended by striking the second and third sen-
17 tences.

18 (e) **ADVISORY COMMITTEE.**—Section 193 of title 14,
19 United States Code, and the item relating to such section
20 in the analysis for chapter 9 of such title, are repealed.

21 (f) **HISTORY FELLOWSHIPS.**—Section 198 of title 14,
22 United States Code, and the item relating to such section
23 in the analysis for chapter 9 of such title, are repealed.

1 (g) ACQUISITION AWARDS.—Section 563 of title 14,
2 United States Code, and the item relating to such section
3 in the analysis for chapter 15 of such title, are repealed.

4 **SEC. 302. INTERFERENCE WITH COAST GUARD TRANS-**
5 **MISSIONS.**

6 Section 88 of title 14, United States Code, is amend-
7 ed by adding the following:

8 “(e) An individual who knowingly and willfully oper-
9 ates a device that interferes with the broadcast or recep-
10 tion of a radio, microwave, or other signal (including a
11 signal from a global positioning system) transmitted, re-
12 transmitted, or augmented by the Coast Guard for the
13 purpose of maritime safety is—

14 “(1) guilty of a class E felony; and

15 “(2) subject to civil penalty of not more than
16 \$1,000 per day for each violation.”

17 **SEC. 303. NATIONAL SECURITY CUTTERS.**

18 (a) IN GENERAL.—Subchapter I of chapter 15 of title
19 14, United States Code is amended by adding at the end
20 the following new section:

21 **“§ 569a. National security cutters**

22 “(a) SIXTH NATIONAL SECURITY CUTTER.—The
23 Commandant may not begin production of a sixth national
24 security cutter on any date before which the Com-
25 mandant—

1 “(1) has acquired a sufficient number of Long
2 Range Interceptor II and Cutter Boat Over the Ho-
3 rizon IV small boats for each of the first three na-
4 tional security cutters and has submitted to the
5 Committee on Commerce, Science, and Transpor-
6 tation of the Senate and the Committee on Trans-
7 portation and Infrastructure of the House of Rep-
8 resentatives a plan to provide such boats upon the
9 date of delivery of each subsequent national security
10 cutter;

11 “(2) has achieved the goal of 225 days away
12 from homeport for each of the first two national se-
13 curity cutters; and

14 “(3) has submitted to the Committee on Com-
15 merce, Science, and Transportation of the Senate
16 and the Committee on Transportation and Infra-
17 structure of the House of Representatives a program
18 execution plan detailing increased aerial coverage to
19 support national security cutter operations.

20 “(b) SEVENTH NATIONAL SECURITY CUTTER.—The
21 Commandant may not begin production of a seventh na-
22 tional security cutter on any date before which the Com-
23 mandant has selected an offshore patrol cutter that meets
24 at least the minimum operational requirements set out in
25 the Operational Requirements Document approved by the

1 department in which the Coast Guard is operating on Oc-
2 tober 20, 2010.”.

3 (b) CLERICAL AMENDMENT.—The analysis at the be-
4 ginning of such chapter is amended by adding at the end
5 of the items relating to such subchapter the following:

“569a. National security cutters.”.

6 **SEC. 304. MAJOR ACQUISITIONS REPORT.**

7 (a) IN GENERAL.—Subchapter I of chapter 15 of title
8 14, United States Code, is further amended by adding at
9 the end the following:

10 **“§ 569b. Major acquisitions report**

11 “(a) MAJOR ACQUISITION PROGRAMS IMPLEMENTA-
12 TION REPORT.—In conjunction with the transmittal by
13 the President of the budget of the United States for fiscal
14 year 2013 and every two fiscal years thereafter, the Sec-
15 retary shall submit to the Committee on Commerce,
16 Science, and Transportation of the Senate and the Com-
17 mittee on Transportation and Infrastructure of the House
18 of Representatives a report on the status of all major ac-
19 quisition programs.

20 “(b) INFORMATION TO BE INCLUDED.—The report
21 shall include for each major acquisition program—

22 “(1) a statement of Coast Guard’s mission
23 needs and performance goals for such program, in-
24 cluding a justification for any change to those needs

1 and goals from any report previously submitted
2 under this subsection;

3 “(2) a justification for how the projected num-
4 ber and capabilities of each planned acquisition pro-
5 gram asset meets those mission needs and perform-
6 ance goals;

7 “(3) an identification of any and all mission
8 hour gaps, accompanied by an explanation on how
9 and when the Coast Guard will close those gaps;

10 “(4) an identification of any changes to such
11 program, including—

12 “(A) any changes to the timeline for the
13 acquisition of each new asset and the phase out
14 of legacy assets; and

15 “(B) any changes to the costs of new as-
16 sets and legacy assets for that fiscal year, fu-
17 ture fiscal years, or the total acquisition cost;

18 “(5) a justification for how any change to such
19 program fulfills the mission needs and performance
20 goals of the Coast Guard;

21 “(6) a description of how the Coast Guard is
22 planning for the integration of each new asset ac-
23 quired under such program into the Coast Guard,
24 including needs related to shore-based infrastructure
25 and human resources;

1 “(7) an identification of how funds in that fis-
2 cal year’s budget request will be allocated, including
3 information on the purchase of specific assets;

4 “(8) a projection of the remaining operational
5 lifespan and lifecycle cost of each legacy asset that
6 also identifies any anticipated resource gaps;

7 “(9) a detailed explanation of how the costs of
8 the legacy assets are being accounted for within such
9 program;

10 “(10) an annual performance comparison of
11 new assets to legacy assets; and

12 “(11) an identification of the scope of the an-
13 ticipated acquisitions workload for the next fiscal
14 year; the number of officers, members, and employ-
15 ees of the Coast Guard currently assigned to posi-
16 tions in the acquisition workforce; and a determina-
17 tion on the adequacy of the current acquisition
18 workforce to meet that anticipated workload, includ-
19 ing the specific positions that are or will be under-
20 staffed, and actions that will be taken to correct
21 such understaffing.

22 “(c) CUTTERS NOT MAINTAINED IN CLASS.—Each
23 report under subsection (a) shall identify which, if any,
24 Coast Guard cutters that have been issued a certificate
25 of classification by the American Bureau of Shipping have

1 not been maintained in class with an explanation detailing
 2 the reasons why they have not been maintained in class.

3 “(d) DEFINITION.—For the purposes of this section,
 4 the term ‘major acquisition program’ means an ongoing
 5 acquisition undertaken by the Coast Guard with a life-
 6 cycle cost estimate greater than or equal to
 7 \$300,000,000.”.

8 (b) CLERICAL AMENDMENT.—The analysis at the be-
 9 ginning of such chapter is further amended by adding at
 10 the end of the items relating to such subchapter the fol-
 11 lowing:

“569b. Major acquisitions report.”.

12 (c) REPEAL.—

13 (1) Section 408 of the Coast Guard and Mari-
 14 time Transportation Act of 2006 (120 Stat. 537) is
 15 amended by striking subsection (a).

16 (2) Title 14, United States Code, is amended—

17 (A) in section 562, by striking subsection
 18 (e) and redesignating subsections (f) and (g) as
 19 subsections (e) and (f), respectively; and

20 (B) in section 573(c)(3), by striking sub-
 21 paragraph (B).

22 **SEC. 305. ENVIRONMENTAL COMPLIANCE AND RESTORA-**
 23 **TION BACKLOG.**

24 (a) IN GENERAL.—Section 693 of title 14, United
 25 States Code, is amended to read as follows:

1 **“§ 693. Annual report to Congress**

2 “The Commandant of the Coast Guard shall submit
3 to the Committee on Transportation and Infrastructure
4 of the House of Representatives and the Committee on
5 Commerce, Science, and Transportation of the Senate the
6 prioritized list of projects eligible for environmental com-
7 pliance and restoration funding for each fiscal year con-
8 current with the President’s budget submission for that
9 fiscal year.”.

10 (b) CLERICAL AMENDMENT.—The analysis for chap-
11 ter 19 of such title is amended by striking the item for
12 such section and inserting the following:

“693. Annual report to Congress.”.

13 **SEC. 306. COAST GUARD AUXILIARIST ENROLLMENT ELIGI-**
14 **BILITY.**

15 Section 823 of title 14, United States Code, is
16 amended by striking “citizens of the United States and
17 its territories and possessions,” and inserting “nationals
18 of the United States (as such term is defined in section
19 101(a)(22) of the Immigration and Nationality Act (8
20 U.S.C. 1101(a)(22)) and aliens lawfully admitted for per-
21 manent residence (as such term is defined in section
22 101(a)(20) of such Act (8 U.S.C. 1101 (a)(20))),”.

23 **SEC. 307. DECOMMISSIONINGS.**

24 (a) POLAR SEA.—Not later than 6 months after the
25 date of enactment of this Act, the Commandant of the

1 Coast Guard shall decommission the USCGC POLAR
2 SEA (WAGB 11).

3 (b) POLAR STAR.—Not later than 3 years after the
4 date of enactment of this Act, the Commandant of the
5 Coast Guard shall decommission the USCGC POLAR
6 STAR (WAGB 10).

7 **SEC. 308. ASSESSMENT OF NEEDS FOR ADDITIONAL COAST**
8 **GUARD PRESENCE IN HIGH LATITUDE RE-**
9 **GIONS.**

10 Not later than 60 days after the date of enactment
11 of this Act, the Secretary of the department in which the
12 Coast Guard is operating shall submit a report to the
13 Committee on Commerce, Science, and Transportation of
14 the Senate and the Committee on Transportation and In-
15 frastructure of the House of Representatives assessing the
16 need for additional Coast Guard prevention and response
17 capability in the high latitude regions. The assessment
18 shall address needs for all Coast Guard mission areas, in-
19 cluding search and rescue, marine pollution response and
20 prevention, fisheries enforcement, and maritime com-
21 merce. The Secretary shall include in the report—

22 (1) an assessment of the high latitude operating
23 capabilities of all current Coast Guard assets other
24 than icebreakers, including assets acquired under
25 the Deepwater program;

1 (2) an assessment of projected needs for Coast
2 Guard operations in the high latitude regions; and

3 (3) an assessment of shore infrastructure, per-
4 sonnel, logistics, communications, and resources re-
5 quirements to support Coast Guard operations in the
6 high latitude regions, including forward operating
7 bases and existing infrastructure in the furthest
8 north locations that are ice free, or nearly ice free,
9 year round.

10 **SEC. 309. LIMITATION ON EXPENDITURES.**

11 Section 149(d) of title 14, United States Code, is
12 amended by adding at the end the following:

13 “(3) The amount of funds used under this sub-
14 section may not exceed \$100,000 in any fiscal
15 year.”.

16 **SEC. 310. RESTRICTION ON THE USE OF AIRCRAFT.**

17 (a) RESTRICTION.—Except as provided in subsection
18 (b), the Secretary of the department in which the Coast
19 Guard is operating and the Commandant of the Coast
20 Guard may not travel aboard any Coast Guard owned or
21 operated fixed-wing aircraft if the Secretary has not pro-
22 vided the Committee on Transportation and Infrastruc-
23 ture of the House of Representatives and the Committee
24 on Commerce, Science, and Transportation of the Senate
25 all of the following:

1 (1) A cost-constrained Fleet Mix Analysis.

2 (2) The study of Coast Guard current and
3 planned cutters conducted by the Office of Program
4 Analysis and Evaluation of the Department of
5 Homeland Security at the request of the Office of
6 Management and Budget.

7 (b) EXCEPTION.—The Secretary and the Com-
8 mandant may travel aboard a Coast Guard owned and op-
9 erated fixed-wing aircraft—

10 (1) to respond to a major disaster or emergency
11 declared under section 401 of the Robert T. Stafford
12 Disaster Relief and Emergency Assistance Act (42
13 U.S.C. 5170);

14 (2) to respond to a discharge classified as a
15 spill of national significance under part 300.323 of
16 title 40, Code of Federal Regulations; or

17 (3) for evacuation purposes including for a
18 medical emergency.

19 **TITLE IV—SHIPPING AND** 20 **NAVIGATION**

21 **SEC. 401. COMMITTEE ON THE MARINE TRANSPORTATION** 22 **SYSTEM.**

23 (a) IN GENERAL.—Chapter 555 of title 46, United
24 States Code, is amended by adding at the end the fol-
25 lowing:

1 **“§ 55502. Committee on the Marine Transportation**
2 **System**

3 “(a) ESTABLISHMENT.—There is established a Com-
4 mittee on the Marine Transportation System (in this sec-
5 tion referred to as the ‘Committee’).

6 “(b) PURPOSE.—The Committee shall—

7 “(1) assess the adequacy of the marine trans-
8 portation system (including ports, waterways, chan-
9 nels, and their intermodal connections);

10 “(2) develop and implement policies to promote
11 an efficient marine transportation system;

12 “(3) coordinate policies among Federal agencies
13 to promote an efficient marine transportation sys-
14 tem; and

15 “(4) coordinate with local businesses to promote
16 an efficient marine transportation system.

17 “(c) MEMBERSHIP.—

18 “(1) IN GENERAL.—The Committee shall con-
19 sist of the Secretary of Transportation, the Sec-
20 retary of Defense, the Secretary of Homeland Secu-
21 rity, the Secretary of Commerce, the Secretary of
22 the Treasury, the Secretary of State, the Secretary
23 of the Interior, the Secretary of Agriculture, the At-
24 torney General, the Secretary of Labor, the Sec-
25 retary of Energy, the Administrator of the Environ-
26 mental Protection Agency, the Chairman of the Fed-

1 eral Maritime Commission, and the head of any
2 other Federal agency that the Committee Chair,
3 with the approval of a majority of the voting mem-
4 bers of the Committee, determines can further the
5 purpose and activities of the Committee.

6 “(2) EX-OFFICIO MEMBERS.—The Committee
7 may also consist of so many nonvoting members as
8 the Committee Chair, with the approval of a major-
9 ity of the voting members of the Committee, deter-
10 mines is appropriate to further the purpose and ac-
11 tivities of the Committee.

12 “(3) CHAIRMAN.—The Chair of the Committee
13 shall rotate each year among the Secretary of Trans-
14 portation, the Secretary of Defense, the Secretary of
15 Homeland Security, and the Secretary of Commerce.
16 The order of rotation shall be determined with the
17 approval of a majority of the voting members of the
18 Committee.

19 “(d) SUPPORT.—

20 “(1) COORDINATING BOARD.—Each member of
21 the Committee may select a senior level representa-
22 tive to serve on a coordinating board which shall as-
23 sist the Committee in carrying out its purpose and
24 activities.

1 “(2) EXECUTIVE DIRECTOR.—The Secretary of
2 Transportation, in consultation with the Secretary of
3 Defense, the Secretary of Homeland Security, and
4 the Secretary of Commerce, shall select an executive
5 director to assist the Committee in carrying out its
6 purpose and activities.

7 “(e) MARINE TRANSPORTATION SYSTEM ASSESS-
8 MENT AND STRATEGY.—Not later than one year after the
9 date of enactment of this Act and every 5 years thereafter,
10 the Committee shall provide a report to Congress which
11 includes—

12 “(1) steps taken to implement actions rec-
13 ommended in the July 2008 ‘National Strategy for
14 the Marine Transportation System: A Framework
15 for Action’;

16 “(2) an assessment of the condition of the ma-
17 rine transportation system;

18 “(3) a discussion of the challenges the system
19 faces in meeting user demand;

20 “(4) a plan with recommended actions for im-
21 proving the marine transportation system to meet
22 current and future challenges; and

23 “(5) steps taken to implement actions rec-
24 ommended in previous reports required under this
25 subsection.

1 “(f) CONSULTATION.—In carrying out its purpose
2 and activities, the Committee may consult with the Marine
3 Transportation System National Advisory Council, inter-
4 ested parties, and the public.”.

5 (b) CLERICAL AMENDMENT.—The table of sections
6 at the beginning of such chapter is amended by inserting
7 after the item relating to section 55501 the following:

“55502. Committee on the Marine Transportation System.”.

8 **SEC. 402. REPORT ON DETERMINATIONS.**

9 Not later than 180 days after the date of enactment
10 of this Act, the Secretary of the department in which the
11 Coast Guard is operating shall provide to the Committee
12 on Transportation and Infrastructure of the House of
13 Representatives and the Committee on Commerce,
14 Science, and Transportation of the Senate a report on—

15 (1) the loss of United States shipyard jobs and
16 industrial base expertise as a result of rebuild, con-
17 version, and double-hull work on United States-flag
18 vessels eligible to engage in the coastwise trade
19 being performed in foreign shipyards;

20 (2) enforcement of the Coast Guard’s foreign
21 rebuild determination regulations; and

22 (3) recommendations for improving the trans-
23 parency in the Coast Guard’s foreign rebuild deter-
24 mination process.

1 **SEC. 403. DOCKSIDE EXAMINATIONS.**

2 (a) IN GENERAL.—Section 4502(f) of title 46, United
3 states Code, is amended—

4 (1) in paragraph (2) by striking “at least once
5 every 2 years” and inserting “at least once every 5
6 years”;

7 (2) by striking “and” after the semicolon at the
8 end of paragraph (1);

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

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

12 “(3) shall complete the first examination of a
13 dockside vessel under this section no later than Oc-
14 tober 15, 2015.”.

15 (b) DATABASE.—Section 4502(g)(4) of title 46,
16 United States Code, is amended by striking “a publicly
17 accessible” and inserting “an”.

18 **SEC. 404. RECOURSE FOR NONCITIZENS.**

19 Section 30104 of title 46, United States Code, is
20 amended—

21 (1) by inserting “(a) IN GENERAL.—” before
22 the first sentence; and

23 (2) by adding at the end the following new sub-
24 section:

25 “(b) RESTRICTION ON RECOVERY FOR NON-
26 RESIDENT ALIENS EMPLOYED ON FOREIGN PASSENGER

1 VESSELS.—A claim for damages or expenses relating to
2 personal injury, illness, or death of a seaman who is a
3 citizen of a foreign nation, arising during or from the en-
4 gagement of the seaman by or for a passenger vessel duly
5 registered under the laws of a foreign nation, may not be
6 brought under the laws of the United States if—

7 “(1) such seaman was not a permanent resident
8 alien of the United States at the time the claim
9 arose;

10 “(2) the injury, illness, or death arose outside
11 the territorial waters of the United States; and

12 “(3) the seaman or the seaman’s personal rep-
13 resentative has or had a right to seek compensation
14 for the injury, illness, or death in, or under the laws
15 of—

16 “(A) the nation in which the vessel was
17 registered at the time the claim arose; or

18 “(B) the nation in which the seaman main-
19 tained citizenship or residency at the time the
20 claim arose.”.

21 **SEC. 405. MARITIME LIENS ON FISHING PERMITS.**

22 (a) IN GENERAL.—Subchapter I of chapter 313 of
23 title 46, United States Code, is amended by adding at the
24 end the following:

1 **“§ 31310. Limitation on maritime liens on fishing per-**
2 **mit and permit description**

3 “(a) IN GENERAL.—This chapter—

4 “(1) does not establish a maritime lien on a
5 permit that—

6 “(A) authorizes a person or use of a vessel
7 to engage in fishing; and

8 “(B) is issued under State or Federal law;
9 and

10 “(2) does not authorize any civil action to en-
11 force a maritime lien on such a permit.

12 “(b) FISHING PERMIT DESCRIBED.—A fishing per-
13 mit—

14 “(1) is governed solely by the State or Federal
15 law under which it was issued; and

16 “(2) is not included in the whole of a vessel or
17 as an appurtenance or intangible of a vessel for any
18 purpose.

19 “(c) LIMITATION ON STATUTORY CONSTRUCTION.—

20 Nothing in subsections (a) and (b) shall be construed as
21 imposing any limitation upon the authority of the Sec-
22 retary of Commerce to modify, suspend, revoke, or sanc-
23 tion any Federal fishery permit issued by the Secretary
24 of Commerce or to bring a civil action to enforce such
25 modification, suspension, revocation, or sanction.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of such chapter is amended by inserting
3 after the item relating to section 31309 the following:

“31310. Limitation on maritime liens on fishing permit and permit description.”.

4 **SEC. 406. SHORT SEA TRANSPORTATION.**

5 (a) PURPOSE OF PROGRAM AND PROJECTS; REAU-
6 THORIZATION; TERMINATION.—Section 55601 of title 46,
7 United States Code, is amended—

8 (1) in subsection (a), by striking “landside con-
9 gestion.” and inserting “landside congestion and to
10 promote increased use of the navigable waters of the
11 United States for transportation of passengers or
12 freight (or both).”;

13 (2) in subsection (c), by inserting “and to pro-
14 mote waterborne transportation between ports with-
15 in the United States” after “coastal corridors”;

16 (3) in subsection (d), by striking “that the
17 project may—” and all that follows through the end
18 of the subsection and inserting “that the project
19 uses documented vessels and—

20 “(1) mitigates landside congestion; or

21 “(2) promotes waterborne transportation be-
22 tween ports of the United States.”;

23 (4) by striking subsection (f) and redesignating
24 subsection (g) as subsection (f);

1 (5) in subsection (f), as so redesignated, by
2 adding at the end the following:

3 “(4) AUTHORIZATION OF APPROPRIATIONS.—
4 There is authorized to be appropriated not more
5 than \$5,000,000 for each of the fiscal years 2012
6 through fiscal year 2017 for grants under this sub-
7 section.”; and

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

9 “(g) TERMINATION OF AUTHORITY.—Authority
10 granted to the Secretary under this section shall terminate
11 September 30, 2017.”.

12 (b) SHORT SEA TRANSPORTATION DEFINITION.—
13 Section 55605 of title 46, United States Code, is amended
14 by striking “means the carriage by vessel of cargo—” and
15 inserting “means the carriage of passengers or freight (or
16 both) by a vessel documented under the laws of the United
17 States—”.

18 **SEC. 407. MISSION OF THE MARITIME ADMINISTRATION.**

19 Section 109(a) of title 49, United States Code, is
20 amended—

21 (1) in the subsection heading by striking “OR-
22 GANIZATION” and inserting “ORGANIZATION AND
23 MISSION”; and

24 (2) by inserting at the end the following: “The
25 mission of the Maritime Administration is to foster,

1 promote, and develop the domestic merchant mari-
2 time industry of the United States.”.

3 **SEC. 408. LIMITATION ON LIABILITY FOR NON-FEDERAL**
4 **VESSEL TRAFFIC SERVICE OPERATORS.**

5 (a) IN GENERAL.—Section 2307 of title 46, United
6 States Code, is amended—

7 (1) by inserting “(a) COAST GUARD VESSEL
8 TRAFFIC SERVICE PILOTS” before “Any pilot”; and

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

10 “(b) NON-FEDERAL VESSEL TRAFFIC SERVICE OP-
11 ERATORS.—An entity operating a non-Federal vessel traf-
12 fic information service or advisory service pursuant to a
13 duly executed written agreement with the Coast Guard,
14 and any person acting in accordance with operational pro-
15 cedures approved by the Coast Guard at such a non-Fed-
16 eral service, shall not be liable for damages caused by or
17 related to information, advice, or communication assist-
18 ance provided by such entity or person while so operating
19 or acting unless the acts or omissions of such entity or
20 person constitute gross negligence or willful misconduct.”.

21 (b) CLERICAL AMENDMENT.—The analysis at the be-
22 ginning of chapter 23 of such title is amended by striking
23 the item relating to section 2307 and inserting the fol-
24 lowing:

“2307. Limitation on liability for Coast Guard Vessel Traffic Service pilots and
non-Federal vessel traffic service operators.”.

1 **SEC. 409. AUTHORITY TO EXTEND THE DURATION OF MED-**
2 **ICAL CERTIFICATES.**

3 (a) IN GENERAL.—Chapter 75 of title 46, United
4 States Code, is amended by adding at the end the fol-
5 lowing:

6 **“§ 7508. Authority to extend the duration of medical**
7 **certificates**

8 “(a) GRANTING OF EXTENSIONS.—Notwithstanding
9 any other provision of law, the Secretary may extend for
10 not more than one year a medical certificate issued to an
11 individual holding a license, merchant mariner’s docu-
12 ment, or certificate of registry if the Secretary determines
13 that the extension is required to enable the Coast Guard
14 to eliminate a backlog in processing applications for med-
15 ical certificates or in response to a national emergency or
16 natural disaster.

17 “(b) MANNER OF EXTENSION.—An extension under
18 this section may be granted to individual seamen or a spe-
19 cifically identified group of seamen.”.

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

“7508. Authority to extend the duration of medical certificates.”.

1 **SEC. 410. IDENTIFICATION OF ACTIONS TO ENABLE QUALI-**
2 **FIED UNITED STATES FLAG CAPACITY TO**
3 **MEET NATIONAL DEFENSE REQUIREMENTS.**

4 (a) IDENTIFICATION OF ACTIONS.—Section 501(b) of
5 title 46, United States Code, is amended—

6 (1) by inserting “(1)” before “When the head”;

7 and

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

9 “(2) The Administrator of the Maritime Administra-
10 tion shall—

11 “(A) in each determination referred to in para-
12 graph (1), identify any actions that could be taken
13 to enable qualified United States flag capacity to
14 meet national defense requirements;

15 “(B) provide each such determination to the
16 Secretary of Transportation and the head of the
17 agency referred to in paragraph (1) for which the
18 determination is made; and

19 “(C) publish each such determination on the
20 Internet site of the Department of Transportation
21 within 48 hours after it is provided to the Secretary
22 of Transportation.

23 “(3)(A) The Administrator of the Maritime Adminis-
24 tration shall notify the Committees on Appropriations and
25 Transportation and Infrastructure of the House of Rep-

1 representatives and the Committees on Appropriations and
2 Commerce, Science, and Transportation of the Senate—

3 “(i) of any request for a waiver of the naviga-
4 tion or vessel-inspection laws under this section not
5 later than 48 hours after receiving the request; and

6 “(ii) of the issuance of any waiver of compli-
7 ance of such a law not later than 48 hours after
8 such issuance.

9 “(B) The Administrator shall include in each notifi-
10 cation under subparagraph (A)(ii) an explanation of—

11 “(i) the reasons the waiver is necessary; and

12 “(ii) the reasons actions referred to in para-
13 graph (2)(A) are not feasible.”.

14 **SEC. 411. CLASSIFICATION SOCIETIES.**

15 Section 3316 of title 46, United States Code, is
16 amended—

17 (1) in subsection (b)(2)—

18 (A) by striking “and” at the end of sub-
19 paragraph (A);

20 (B) by striking the period at the end of
21 subparagraph (B) and inserting “; and”; and

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

23 “(C) if the Secretary of State determines that
24 the foreign classification society does not provide

1 comparable services in or for a state sponsor of ter-
2 rorism.”;

3 (2) in subsection (d)(2)—

4 (A) by striking “and” at the end of sub-
5 paragraph (A);

6 (B) by striking the period at the end of
7 subparagraph (B) and inserting “; and”; and

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

9 “(C) if the Secretary of State determines that
10 the foreign classification society does not provide
11 comparable services in or for a state sponsor of ter-
12 rorism.”; and

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

14 “(e) The Secretary shall revoke an existing delegation
15 made to a foreign classification society under subsection
16 (b) or (d) if the Secretary of State determines that the
17 foreign classification society provides comparable services
18 in or for a state sponsor of terrorism.

19 “(f) In this section, the term ‘state sponsor of ter-
20 rorism’ means any country the government of which the
21 Secretary of State has determined has repeatedly provided
22 support for acts of international terrorism pursuant to
23 section 6(j) of the Export Administration Act of 1979 (as
24 continued in effect under the International Emergency
25 Economic Powers Act), section 620A of the Foreign As-

1 sistance Act of 1961, section 40 of the Arms Export Con-
 2 trol Act, or any other provision of law.”.

3 **TITLE V—FEDERAL MARITIME** 4 **COMMISSION**

5 **SEC. 501. AUTHORIZATION OF APPROPRIATIONS.**

6 Section 501 of the Coast Guard and Maritime Trans-
 7 portation Act of 2004 (Public Law 108–293; 118 Stat.
 8 1049) is amended by striking “Commission—” and all
 9 that follows through the period at the end of the section
 10 and inserting “Commission for each of the fiscal years
 11 2012 through 2015, \$24,000,000.”.

12 **TITLE VI—MISCELLANEOUS**

13 **SEC. 601. TECHNICAL CORRECTIONS.**

14 (a) TITLE 14.—Title 14, United States Code, is
 15 amended—

16 (1) in section 564, by striking subsection (d);

17 and

18 (2) in section 569(a), by striking “and annually
 19 thereafter,”.

20 (b) STUDY OF BRIDGES.—Section 905 of the Coast
 21 Guard Authorization Act of 2010 (Public Law 111–281;
 22 124 Stat. 3012) is amended to read as follows:

23 **“SEC. 905. STUDY OF BRIDGES OVER NAVIGABLE WATERS.**

24 “The Commandant of the Coast Guard shall submit
 25 to the Committee on Commerce, Science, and Transpor-

1 tation of the Senate and the Committee on Transportation
2 and Infrastructure of the House of Representatives a com-
3 prehensive study on the construction or alteration of any
4 bridge, drawbridge, or causeway over the navigable waters
5 of the United States with a channel depth of 25 feet or
6 greater that may impede or obstruct future navigation to
7 or from port facilities, for which a permit under the Act
8 of March 23, 1906 (chapter 1130; 33 U.S.C. 491 et seq.),
9 popularly known as the Bridge Act of 1906, was requested
10 on or after January 1, 2006, and on or before August
11 3, 2011.”.

12 **SEC. 602. REPORT ON COAST GUARD MERCHANT MARINER**
13 **MEDICAL EVALUATION PROGRAM.**

14 (a) **IN GENERAL.**—Not later than 180 days after the
15 date of enactment of this Act, the Commandant of the
16 Coast Guard shall submit to the Committee on Transpor-
17 tation and Infrastructure of the House of Representatives
18 and the Committee on Commerce, Science, and Transpor-
19 tation of the Senate a report on the Coast Guard National
20 Maritime Center’s merchant mariner medical evaluation
21 program and alternatives to the program.

22 (b) **CONTENTS.**—The report required under sub-
23 section (a) shall include the following:

1 (1) An overview of the adequacy of the program
2 for making medical certification determinations for
3 issuance of merchant mariners' documents.

4 (2) An analysis of how a system similar to the
5 Federal Motor Carrier Safety Administration's Na-
6 tional Registry of Certified Medical Examiners pro-
7 gram, and the Federal Aviation Administration's
8 Designated Aviation Medical Examiners program,
9 could be applied by the Coast Guard to make med-
10 ical fitness determinations for issuance of merchant
11 mariners' documents.

12 (3) An explanation of how the amendments to
13 the International Convention on Standards of Train-
14 ing, Certification and Watchkeeping for Seafarers,
15 1978, that enter into force on January 1, 2012, will
16 require changes to the Coast Guard's merchant mar-
17 iner medical evaluation program.

18 **SEC. 603. NOTICE OF ARRIVAL.**

19 The regulations required under section 109(a) of
20 Public Law 109-347 (33 U.S.C. 1223 note) on notice of
21 arrival for foreign vessels on the Outer Continental Shelf
22 shall not apply to a vessel documented under section
23 12105 of title 46, United States Code, unless such vessel
24 arrives from a foreign port or place.

1 **SEC. 604. TECHNICAL CORRECTIONS TO TITLE 14.**

2 Chapter 1 of title 14, United States Code, is amended
3 to read as follows:

4 **“CHAPTER 1—ESTABLISHMENT AND**
5 **DUTIES**

“Sec.

“1. Establishment of Coast Guard.

“2. Primary duties.

“3. Department in which the Coast Guard operates.

“4. Secretary defined.

6 **“§ 1. Establishment of Coast Guard**

7 “The Coast Guard shall be a military service and a
8 branch of the armed forces of the United States at all
9 times.

10 **“§ 2. Primary duties**

11 “The Coast Guard shall—

12 “(1) enforce or assist in the enforcement of all
13 applicable Federal laws on, under, and over the high
14 seas and waters subject to the jurisdiction of the
15 United States;

16 “(2) engage in maritime air surveillance or
17 interdiction to enforce or assist in the enforcement
18 of the laws of the United States;

19 “(3) administer laws and promulgate and en-
20 force regulations for the promotion of safety of life
21 and property on and under the high seas and waters
22 subject to the jurisdiction of the United States cov-

1 ering all matters not specifically delegated by law to
2 some other executive department;

3 “(4) develop, establish, maintain, and operate,
4 with due regard to the requirements of national de-
5 fense, aids to maritime navigation, ice-breaking fa-
6 cilities, and rescue facilities for the promotion of
7 safety on, under, and over the high seas and waters
8 subject to the jurisdiction of the United States;

9 “(5) pursuant to international agreements, de-
10 velop, establish, maintain, and operate icebreaking
11 facilities on, under, and over waters other than the
12 high seas and waters subject to the jurisdiction of
13 the United States;

14 “(6) engage in oceanographic research of the
15 high seas and in waters subject to the jurisdiction of
16 the United States; and

17 “(7) maintain a state of readiness to function
18 as a specialized service in the Navy in time of war,
19 including the fulfillment of Maritime Defense Zone
20 command responsibilities.

21 **“§ 3. Department in which the Coast Guard operates**

22 “(a) The Coast Guard shall be a service in the De-
23 partment of Homeland Security, except when operating as
24 a service in the Navy.

1 “(b) Upon the declaration of war if Congress so di-
2 rects in the declaration or when the President directs, the
3 Coast Guard shall operate as a service in the Navy, and
4 shall so continue until the President, by Executive order,
5 transfers the Coast Guard back to the Department of
6 Homeland Security. While operating as a service in the
7 Navy, the Coast Guard shall be subject to the orders of
8 the Secretary of the Navy, who may order changes in
9 Coast Guard operations to render them uniform, to the
10 extent such Secretary deems advisable, with Navy oper-
11 ations.

12 “(c) Whenever the Coast Guard operates as a service
13 in the Navy:

14 “(1) applicable appropriations of the Navy De-
15 partment shall be available for the expense of the
16 Coast Guard;

17 “(2) applicable appropriations of the Coast
18 Guard shall be available for transfer to the Navy
19 Department;

20 “(3) precedence between commissioned officers
21 of corresponding grades in the Coast Guard and the
22 Navy shall be determined by the date of rank stated
23 by their commissions in those grades;

24 “(4) personnel of the Coast Guard shall be eli-
25 gible to receive gratuities, medals, and other insignia

1 of honor on the same basis as personnel in the naval
2 service or serving in any capacity with the Navy; and

3 “(5) the Secretary may place on furlough any
4 officer of the Coast Guard and officers on furlough
5 shall receive one half of the pay to which they would
6 be entitled if on leave of absence, but officers of the
7 Coast Guard Reserve shall not be so placed on fur-
8 lough.

9 **“§ 4. Secretary defined**

10 “In this title, the term ‘Secretary’ means the Sec-
11 retary of the respective department in which the Coast
12 Guard is operating.”.

13 **SEC. 605. DISTANT WATER TUNA FLEET.**

14 Section 421 of the Coast Guard and Maritime Trans-
15 portation Act of 2006 (Public Law 109–241; 120 Stat.
16 548) is amended—

17 (1) by striking subsection (b) and inserting the
18 following:

19 “(b) LICENSING RESTRICTIONS.—

20 “(1) IN GENERAL.—Subsection (a)(1) only ap-
21 plies to a foreign citizen that holds a credential that
22 is equivalent to the credential issued by the Coast
23 Guard to a United States citizen for the position,
24 with respect to requirements for experience, training,
25 and other qualifications.

1 “(2) TREATMENT OF LICENSE.—An equivalent
2 credential under paragraph (1) shall be considered
3 as meeting the requirements of section 8304 of title
4 46, United States Code, but only while a person
5 holding the credential is in the service of the vessel
6 to which this section applies.”;

7 (2) in subsection (c) by inserting “or Guam”
8 before the period at the end; and

9 (3) in subsection (d) by striking “on December
10 31, 2012” and inserting “on the date the Treaty on
11 Fisheries Between the Governments of Certain Pa-
12 cific Island States and the Government of the
13 United States of America ceases to have effect for
14 any party under Article 12.6 or 12.7 of such treaty,
15 as in effect on the date of enactment of the Coast
16 Guard and Maritime Transportation Act of 2011”.

17 **SEC. 606. WAIVERS.**

18 (a) IN GENERAL.—Notwithstanding sections 12112
19 and 12132 and chapter 551 of title 46, United States
20 Code, the Secretary of the department in which the Coast
21 Guard is operating may issue a certificate of documenta-
22 tion with a coastwise endorsement for each of the following
23 vessels:

24 (1) M/V GEYSIR (United States official num-
25 ber 622178).

1 (2) MACY-RENEE (United States official
2 number 1107319)

3 (3) OCEAN VERITAS (IMO number
4 7366805).

5 (4) LUNA (United States official number
6 280133).

7 (5) IL MORO DI VENEZIA IV (United States
8 official number 1028654)

9 (b) DOCUMENTATION OF LNG TANKERS.—

10 (1) IN GENERAL.—Notwithstanding sections
11 12112 and 12132 and chapter 551 of title 46,
12 United States Code, the Secretary of the department
13 in which the Coast Guard is operating may issue a
14 certificate of documentation with a coastwise en-
15 dorsement for each of the following vessels:

16 (A) LNG GEMINI (United States official
17 number 595752).

18 (B) LNG LEO (United States official
19 number 595753).

20 (C) LNG VIRGO (United States official
21 number 595755).

22 (2) LIMITATION ON OPERATION.—Coastwise
23 trade authorized under paragraph (1) shall be lim-
24 ited to carriage of natural gas, as that term is de-

1 fined in section 3(13) of the Deepwater Port Act of
2 1974 (33 U.S.C. 1502(13)).

3 (3) TERMINATION OF EFFECTIVENESS OF EN-
4 DORSEMENTS.—The coastwise endorsement issued
5 under paragraph (1) for a vessel shall expire on the
6 date of the sale of the vessel by the owner of the ves-
7 sel on the date of enactment of this Act to a person
8 who is not related by ownership or control to such
9 owner.

10 (c) OPERATION OF A DRY DOCK.—A vessel trans-
11 ported in Dry Dock #2 (State of Alaska registration
12 AIDEA FDD–2) is not merchandise for purposes of sec-
13 tion 55102 of title 46, United States Code, if, during such
14 transportation, Dry Dock #2 remains connected by a util-
15 ity or other connecting line to pierside moorage.

16 **SEC. 607. REPORT ON OPTIONS TO IMPROVE INTEGRATION**
17 **OF U.S. COAST GUARD AND CANADIAN COAST**
18 **GUARD GREAT LAKES ICEBREAKING OPER-**
19 **ATIONAL INFORMATION.**

20 Within 180 days after the date of enactment of this
21 Act, the Commandant of the Coast Guard shall report to
22 the Committee on Commerce, Science, and Transportation
23 of the Senate and the Committee on Transportation and
24 Infrastructure of the House of Representatives on options
25 to improve the integration of the Great Lakes icebreaking

1 operational information of the United States Coast Guard
2 and Canadian Coast Guard to improve the safety, eco-
3 nomic security, and efficiency of Great Lakes icebreaking
4 activities of both services.

5 **SEC. 608. STANDBY VESSELS.**

6 (a) IN GENERAL.—Subtitle VIII of title 46, United
7 States Code, is amended by adding at the end thereof the
8 following new chapter:

9 **“CHAPTER 807—STANDBY VESSELS**

“Sec.
“80701. Standby vessels.

10 **“§ 80701. Standby vessels**

11 “(a) IN GENERAL.—The owner or operator of a
12 manned facility, installation, unit, or vessel shall locate a
13 standby vessel—

14 “(1) not more than 3 nautical miles from such
15 manned facility, installation, unit, or vessel while it
16 is performing drilling, plugging, abandoning, or
17 workover operations; and

18 “(2) not more than 12 nautical miles from such
19 manned facility, installation, unit, or vessel while it
20 is performing operations other than drilling, plug-
21 ging, abandoning, or workover operations.

22 “(b) IMPROVED STANDBY VESSEL RESPONSE
23 TIME.—

1 “(1) IN GENERAL.—A Coast Guard District
2 Commander may reduce the distances prescribed in
3 subsection (a) for the area of command of the Dis-
4 trict Commander if the District Commander deter-
5 mines the reduction is necessary to address delays in
6 standby vessel response times caused by inclement
7 weather, high seas, or other conditions that prolong
8 standby vessel response time or lessen the time sur-
9 vivors of an accident can remain in the water.

10 “(2) APPROXIMATION OF NORMAL RESPONSE
11 TIME.—Any reduction under paragraph (1) shall be
12 made to a distance that, in weather conditions ne-
13 cessitating the reduction, ensures that a standby
14 vessel’s response time approximates that of a stand-
15 by vessel covering the distance prescribed in sub-
16 section (a) during normal weather conditions.

17 “(3) PREVENTION OF HYPOTHERMIA.—Any re-
18 duction under paragraph (1) made due to water
19 temperature or other factors that reduce the time
20 survivors of an accident can remain in the water
21 shall be made to a distance at which a standby ves-
22 sel can be assumed to reach the survivor before the
23 onset of hypothermia.

24 “(4) NOTICE TO OWNERS AND OPERATORS.—
25 Before exercising the authority in paragraph (1), a

1 District Commander shall provide 72 hours notice to
 2 the owners and operators of standby vessels and
 3 owners and operators of manned facilities, installa-
 4 tions, units, and vessels operating in the District
 5 Commander’s area of command.

6 “(c) MULTIPLE PLATFORMS AND USES.—Nothing in
 7 this section shall be construed to prohibit—

8 “(1) use of one standby vessel for more than
 9 one manned facility, installation, unit, or vessel; or

10 “(2) use of a standby vessel for other pur-
 11 poses.”.

12 (b) CLERICAL AMENDMENT.—The table of chapters
 13 at the beginning of such subtitle is amended by adding
 14 at the end the following:

“807. Standby vessels80701”.

15 (c) EFFECTIVE DATE.—The amendments made by
 16 this section shall take effect one year after the date of
 17 enactment of this Act.

18 (d) REGULATIONS.—

19 (1) IN GENERAL.—The Secretary of the depart-
 20 ment in which the Coast Guard is operating may
 21 promulgate regulations to implement the amend-
 22 ments made by this section.

23 (2) EXISTING REGULATIONS.—Until such time
 24 as the Secretary promulgates regulations to imple-
 25 ment the amendments made by this section, the re-

1 requirements of subpart E of part 143 of title 33,
2 Code of Federal Regulations, as in effect on the date
3 of enactment of this Act, including the requirements
4 that must be met by a standby vessel, shall apply to
5 standby vessels required under the amendments.

6 **SEC. 609. CAP ON PENALTY WAGES.**

7 (a) FOREIGN AND INTERCOASTAL VOYAGES.—Sec-
8 tion 10313(g) of title 46, United States Code, is amend-
9 ed—

10 (1) in paragraph (2)—

11 (A) by striking “all claims in a class action
12 suit by seamen” and inserting “each claim by
13 a seaman”; and

14 (B) by striking “the seamen” and inserting
15 “the seaman”; and

16 (2) in paragraph (3), by striking “class action”.

17 (b) COASTWISE VOYAGES.—Section 10504(c) of such
18 title is amended—

19 (1) in paragraph (2)—

20 (A) by striking “all claims in a class action
21 suit by seamen” and inserting “each claim by
22 a seaman”; and

23 (B) by striking “the seamen” and inserting
24 “the seaman”; and

25 (2) in paragraph (3), by striking “class action”.

1 **SEC. 610. REPORT ON IMPEDIMENTS TO THE U.S.-FLAG**
2 **REGISTRY.**

3 (a) REPORT.—Not later than 180 days after the date
4 of enactment of this Act, the Commandant of the Coast
5 Guard shall submit to the Committee on Transportation
6 and Infrastructure of the House of Representatives and
7 the Committee on Commerce, Science, and Transportation
8 of the Senate a report on factors under the authority of
9 the Coast Guard that impact the ability of vessels docu-
10 mented in the United States to effectively compete in
11 international transportation markets.

12 (b) CONTENT.—The report shall include—

13 (1) a review of differences in Coast Guard poli-
14 cies and regulations governing the inspection of ves-
15 sels documented in the United States and the poli-
16 cies and regulations of the International Maritime
17 Organization governing the inspection of vessels not
18 documented in the United States;

19 (2) a statement on the impact such differences
20 have on operating costs for vessels documented in
21 the United States; and

22 (3) recommendations on whether to harmonize
23 any differences in the policies and regulations gov-
24 erning inspection of vessels by the Coast Guard and
25 the International Maritime Organization.

1 (c) CONSULTATION.—In preparing the report, the
2 Commandant may consider the views of representatives of
3 the owners or operators of vessels documented in the
4 United States and the organizations representing the em-
5 ployees employed on such vessels.

6 **SEC. 611. REPORT ON DRUG INTERDICTION IN THE CARIB-**
7 **BEAN BASIN.**

8 (a) REPORT.—Not later than 180 days after the date
9 of enactment of this Act, the Commandant of the Coast
10 Guard shall submit to the Committee on Transportation
11 and Infrastructure of the House of Representatives and
12 the Committee on Commerce, Science, and Transportation
13 of the Senate a report on drug interdiction in the Carib-
14 bean basin.

15 (b) CONTENT.—The report shall include—

16 (1) a statement of the Coast Guard mission re-
17 quirements for drug interdiction in the Caribbean
18 basin;

19 (2) the number of maritime surveillance hours
20 and Coast Guard assets used in each of fiscal years
21 2009 through 2011 to counter the illicit trafficking
22 of drugs and other related threats throughout the
23 Caribbean basin; and

1 (3) a determination of whether such hours and
2 assets satisfied the Coast Guard mission require-
3 ments for drug interdiction in the Caribbean basin.

4 **SEC. 612. REPORT ON SURVIVAL CRAFT.**

5 (a) REPORT.—Not later than 180 days after the date
6 of enactment of this Act, the Commandant of the Coast
7 Guard shall submit to the Committee on Transportation
8 and Infrastructure of the House of Representatives and
9 the Committee on Commerce, Science, and Transportation
10 of the Senate a report on the carriage of survival craft
11 that ensures no part of an individual is immersed in water.

12 (b) CONTENT.—The report shall include information
13 on—

14 (1) the number of casualties as the result of im-
15 mersion in water by vessel type and area of oper-
16 ation reported to the Coast Guard for each of fiscal
17 years 1991 through 2011;

18 (2) the effect the carriage of such survival craft
19 has on vessel safety, including stability and safe
20 navigation;

21 (3) the efficacy of alternative safety systems,
22 devices, or measures; and

23 (4) the cost and cost-effectiveness of requiring
24 the carriage of such survival craft on vessels.

1 **SEC. 613. CONSIDERATION OF INFORMATION RELATING TO**
2 **EMPLOYMENT WHEN AWARDING CONTRACTS.**

3 (a) IN GENERAL.—Subchapter I of chapter 15 of title
4 14, United States Code, is further amended by adding at
5 the end the following:

6 **“§ 569c. Consideration of information relating to em-**
7 **ployment when awarding contracts**

8 “(a) JOBS IMPACT STATEMENTS.—The Secretary, in
9 issuing a solicitation for competitive proposals with re-
10 spect to a Coast Guard contracting opportunity, shall
11 state in the solicitation that the Secretary may consider
12 information (in this section referred to as a ‘jobs impact
13 statement’)—

14 “(1) that the offeror may include in its offer;
15 and

16 “(2) that relates to the effect of the contract on
17 employment in the United States if the contract is
18 awarded to the offeror.

19 “(b) CONTENTS.—The information that may be in-
20 cluded in a jobs impact statement may include the fol-
21 lowing:

22 “(1) The number of jobs expected to be created
23 in the United States, or the number of jobs to be
24 retained in the United States that otherwise would
25 be lost, if the contract is awarded to the offeror.

1 “(2) The number of jobs expected to be created
2 or retained in the United States by the subcontractors
3 expected to be used by the offeror in the performance
4 of the contract.

5 “(3) A guarantee from the offeror that jobs created
6 or retained in the United States as a result of the contract
7 being awarded to the offeror will not be moved outside
8 the United States after award of the contract.

9 “(c) USE IN EVALUATION.—The Secretary may consider
10 information in a jobs impact statement in the evaluation
11 of an offer relating to a Coast Guard contracting opportunity
12 and may request further information from the offeror in order
13 to verify the accuracy of any such information submitted.

14 “(d) ASSESSMENT.—With respect to a contract awarded
15 to an offeror that submitted a jobs impact statement, the
16 Secretary shall track the number of jobs created or retained
17 in the United States as a result of the contract. If the number
18 of jobs estimated to be created or retained in the jobs impact
19 statement significantly exceeds the number of jobs created or
20 retained as a result of the contract, the Secretary may evaluate
21 whether the contractor should be proposed for debarment.

1 “(e) REPORTS.—Not later than 1 year after the date
2 of enactment of this section, and annually thereafter, the
3 Secretary shall submit to Congress a report describing the
4 use by the Secretary of jobs impact statements in evalu-
5 ating offers relating to Coast Guard contracting opportu-
6 nities.”.

7 (b) CLERICAL AMENDMENT.—The analysis at the be-
8 ginning of such chapter is further amended by adding at
9 the end of the items relating to such subchapter the fol-
10 lowing:

“569e. Consideration of information relating to employment when awarding con-
tracts.”.

11 **SEC. 614. REQUIREMENT OF CORPS.**

12 The Secretary of the Army, acting through the Chief
13 of the Corps of Engineers, shall continue to study the
14 project related to the Jacksonville Port Authority in Jack-
15 sonville, Florida, without applying any additional peer re-
16 views described by section 2034 of the Water Resources
17 Development Act of 2007 (33 U.S.C. 2343).

18 **SEC. 615. CONVEYANCE OF DECOMMISSIONED COAST**
19 **GUARD CUTTER STORIS.**

20 (a) IN GENERAL.—The Commandant of the Coast
21 Guard shall convey, without consideration, all right, title,
22 and interest of the United States in and to the decommis-
23 sioned Coast Guard Cutter STORIS (in this section re-
24 ferred to as the “vessel”) to the Storis Museum, a non-

1 profit entity of Juneau, Alaska, if the Storis Museum
2 agrees—

3 (1) to use the vessel as a historic memorial,
4 make the vessel available to the public as a museum,
5 and work cooperatively with other museums to pro-
6 vide education on and memorialize the maritime her-
7 itage of the vessel and other maritime activities in
8 Alaska, the Pacific Northwest, the Arctic Ocean, and
9 adjacent oceans and seas;

10 (2) not to use the vessel for commercial trans-
11 portation purposes;

12 (3) to make the vessel available to the United
13 States Government if needed for use by the Com-
14 mandant in time of war or a national emergency or
15 based on the critical needs of the Coast Guard;

16 (4) to hold the Government harmless for any
17 claims arising from exposure to hazardous materials,
18 including asbestos and polychlorinated biphenyls
19 (PCBs), except for claims arising from the use of
20 the vessel by the Government;

21 (5) to bear all costs of transportation and deliv-
22 ery of the vessel;

23 (6) to bear all costs of vessel disposal in accord-
24 ance with Federal law when the vessel is no longer
25 used as a museum; and

1 (7) to any other conditions the Commandant
2 considers appropriate.

3 (b) MAINTENANCE AND DELIVERY OF VESSEL.—Be-
4 fore conveyance of the vessel under this section, the Com-
5 mandant shall make, to the extent practical and subject
6 to other Coast Guard mission requirements, every effort
7 to maintain the integrity of the vessel and its equipment
8 until the time of delivery.

9 (c) OTHER EXCESS EQUIPMENT.—The Commandant
10 may convey to the recipient of the vessel under this section
11 any excess equipment or parts from other decommissioned
12 Coast Guard vessels for use to enhance the vessel’s oper-
13 ability and function for purposes of a public museum and
14 historical display.

15 **SEC. 616. TRANSPORTATION OF PASSENGERS BETWEEN**
16 **PORTS IN PUERTO RICO.**

17 Notwithstanding chapter 551 of title 46, United
18 States Code, a vessel of 100 gross tons or more not quali-
19 fied to engage in the coastwise trade may transport pas-
20 sengers between ports in Puerto Rico.

21 **TITLE VII—COMMERCIAL**
22 **VESSEL DISCHARGES REFORM**

23 **SEC. 701. SHORT TITLE.**

24 This title may be cited as the “Commercial Vessel
25 Discharges Reform Act of 2011”.

1 **SEC. 702. DISCHARGES FROM COMMERCIAL VESSELS.**

2 Title III of the Federal Water Pollution Control Act
3 (33 U.S.C. 1311 et seq.) is amended by adding at the end
4 the following:

5 **“SEC. 321. DISCHARGES FROM COMMERCIAL VESSELS.**

6 “(a) DEFINITIONS.—In this section, the following
7 definitions apply:

8 “(1) AQUATIC NUISANCE SPECIES.—The term
9 ‘aquatic nuisance species’ means a nonindigenous
10 species (including a pathogen) that threatens the di-
11 versity or abundance of native species or the ecologi-
12 cal stability of navigable waters or commercial, agri-
13 cultural, aquacultural, or recreational activities de-
14 pendent on such waters.

15 “(2) BALLAST WATER.—

16 “(A) IN GENERAL.—The term ‘ballast
17 water’ means any water (including any sedi-
18 ment suspended in such water) taken aboard a
19 commercial vessel—

20 “(i) to control trim, list, draught, sta-
21 bility, or stresses of the vessel; or

22 “(ii) during the cleaning, mainte-
23 nance, or other operation of a ballast water
24 treatment system of the vessel.

25 “(B) EXCLUSION.—The term ‘ballast
26 water’ does not include any pollutant that is

1 added to water described in subparagraph (A)
2 that is not directly related to the operation of
3 a properly functioning ballast water treatment
4 technology certified under subsection (e).

5 “(3) BALLAST WATER PERFORMANCE STAND-
6 ARD.—The term ‘ballast water performance stand-
7 ard’ or ‘performance standard’ means a numerical
8 ballast water performance standard specified under
9 subsection (c) or established under subsection (d).

10 “(4) BALLAST WATER TREATMENT SYSTEM.—
11 The term ‘ballast water treatment system’ means
12 any equipment on board a commercial vessel (includ-
13 ing all compartments, piping, spaces, tanks, and
14 multi-use compartments, piping, spaces, and tanks)
15 that is—

16 “(A) designed for loading, carrying, treat-
17 ing, or discharging ballast water; and

18 “(B) installed and operated to meet a bal-
19 last water performance standard.

20 “(5) BALLAST WATER TREATMENT TECH-
21 NOLOGY.—The term ‘ballast water treatment tech-
22 nology’ or ‘treatment technology’ means any me-
23 chanical, physical, chemical, or biological process
24 used, either singularly or in combination, to remove,

1 render harmless, or avoid the uptake or discharge of
2 aquatic nuisance species within ballast water.

3 “(6) BIOCIDE.—The term ‘biocide’ means a
4 substance or organism, including a virus or fungus,
5 that is introduced into, or produced by, a ballast
6 water treatment technology to reduce or eliminate
7 aquatic invasive species as part of the process used
8 to comply with a ballast water performance standard
9 under this section.

10 “(7) COMMERCIAL VESSEL.—The term ‘com-
11 mercial vessel’ means every description of
12 watercraft, or other artificial contrivance used or ca-
13 pable of being used as a means of transportation on
14 water—

15 “(A) that is engaged in commercial service
16 (as defined under section 2101 of title 46,
17 United States Code); or

18 “(B) that is owned or operated by the
19 United States, other than a vessel of the Armed
20 Forces (as defined under section 312 of this
21 Act).

22 “(8) CONSTRUCTED.—The term ‘constructed’
23 means a state of construction of a commercial vessel
24 at which—

25 “(A) the keel is laid;

1 “(B) construction identifiable with the spe-
2 cific vessel begins;

3 “(C) assembly of the vessel has begun
4 comprising at least 50 tons or 1 percent of the
5 estimated mass of all structural material of the
6 vessel, whichever is less; or

7 “(D) the vessel commences a major conver-
8 sion.

9 “(9) DISCHARGE INCIDENTAL TO THE NORMAL
10 OPERATION OF A COMMERCIAL VESSEL.—

11 “(A) IN GENERAL.—The term ‘discharge
12 incidental to the normal operation of a commer-
13 cial vessel’ means—

14 “(i) a discharge into navigable waters
15 from a commercial vessel of—

16 “(I)(aa) graywater (except
17 graywater referred to in section
18 312(a)(6)), bilge water, cooling water,
19 oil water separator effluent, anti-foul-
20 ing hull coating leachate, boiler or
21 economizer blowdown, byproducts
22 from cathodic protection, controllable
23 pitch propeller and thruster hydraulic
24 fluid, distillation and reverse osmosis
25 brine, elevator pit effluent, firemain

1 system effluent, freshwater layup ef-
2 fluent, gas turbine wash water, motor
3 gasoline and compensating effluent,
4 refrigeration and air condensate efflu-
5 ent, seawater pumping biofouling pre-
6 vention substances, boat engine wet
7 exhaust, sonar dome effluent, exhaust
8 gas scrubber washwater, or stern tube
9 packing gland effluent; or

10 “(bb) any other pollutant associ-
11 ated with the operation of a marine
12 propulsion system, shipboard maneu-
13 vering system, habitability system, or
14 installed major equipment, or from a
15 protective, preservative, or absorptive
16 application to the hull of a commercial
17 vessel;

18 “(II) weather deck runoff, deck
19 wash, aqueous film forming foam ef-
20 fluent, chain locker effluent, non-oily
21 machinery wastewater, underwater
22 ship husbandry effluent, welldeck ef-
23 fluent, or fish hold and fish hold
24 cleaning effluent; or

1 “(III) any effluent from a prop-
2 erly functioning marine engine; or

3 “(ii) a discharge of a pollutant into
4 navigable waters in connection with the
5 testing, maintenance, and repair of a sys-
6 tem, equipment, or engine described in
7 subclause (I)(bb) or (III) of clause (i)
8 whenever the commercial vessel is water-
9 borne.

10 “(B) EXCLUSION.—The term ‘discharge
11 incidental to the normal operation of a commer-
12 cial vessel’ does not include—

13 “(i) a discharge into navigable waters
14 from a commercial vessel of—

15 “(I) ballast water;

16 “(II) rubbish, trash, garbage, in-
17 cinerator ash, or other such material
18 discharged overboard;

19 “(III) oil or a hazardous sub-
20 stance within the meaning of section
21 311; or

22 “(IV) sewage within the meaning
23 of section 312;

24 “(ii) an emission of an air pollutant
25 resulting from the operation onboard a

1 commercial vessel of a vessel propulsion
2 system, motor driven equipment, or incin-
3 erator; or

4 “(iii) a discharge into navigable
5 waters from a commercial vessel when the
6 commercial vessel is operating in a capac-
7 ity other than as a means of transportation
8 on water.

9 “(10) EXISTING COMMERCIAL VESSEL.—The
10 term ‘existing commercial vessel’ means a commer-
11 cial vessel constructed prior to January 1, 2012.

12 “(11) GEOGRAPHICALLY LIMITED AREA.—The
13 term ‘geographically limited area’ means an area—

14 “(A) with a physical limitation that pre-
15 vents a commercial vessel from operating out-
16 side the area, as determined by the Secretary;
17 or

18 “(B) that is ecologically homogeneous, as
19 determined by the Administrator, in consulta-
20 tion with the Secretary.

21 “(12) MAJOR CONVERSION.—The term ‘major
22 conversion’ means a conversion of a commercial ves-
23 sel that—

24 “(A) changes its ballast water capacity by
25 15 percent or more; or

1 “(B) prolongs the life of the commercial
2 vessel by 10 years or more, as determined by
3 the Secretary.

4 “(13) MANUFACTURER.—The term ‘manufac-
5 turer’ means a person engaged in the manufac-
6 turing, assembling, or importation of a ballast water
7 treatment technology.

8 “(14) NAVIGABLE WATERS.—The term ‘navi-
9 gable waters’ includes the exclusive economic zone,
10 as defined in section 107 of title 46, United States
11 Code.

12 “(15) NONINDIGENOUS SPECIES.—The term
13 ‘nonindigenous species’ means a species or other via-
14 ble biological material that enters an ecosystem be-
15 yond its historic range.

16 “(16) OWNER OR OPERATOR.—The term ‘owner
17 or operator’ means a person owning, operating, or
18 chartering by demise a commercial vessel.

19 “(17) SECRETARY.—The term ‘Secretary’
20 means the Secretary of the department in which the
21 Coast Guard is operating.

22 “(18) VESSEL GENERAL PERMIT.—The term
23 ‘Vessel General Permit’ means the Vessel General
24 Permit for Discharges Incidental to the Normal Op-
25 eration of Vessels issued by the Administrator under

1 section 402 for ballast water and other discharges
2 incidental to the normal operation of vessels, as in
3 effect on February 6, 2009.

4 “(b) GENERAL PROVISIONS.—

5 “(1) BALLAST WATER DISCHARGE REQUIRE-
6 MENTS FOR COMMERCIAL VESSELS.—An owner or
7 operator may discharge ballast water from a com-
8 mercial vessel into navigable waters only if—

9 “(A) the discharge—

10 “(i) meets the ballast water perform-
11 ance standard;

12 “(ii) is made pursuant to the safety
13 exemption established by subsection (c)(2);

14 “(iii) meets the requirements of an al-
15 ternative method of compliance established
16 for the commercial vessel under subsection
17 (f); or

18 “(iv) is made pursuant to a deter-
19 mination that the commercial vessel meets
20 the requirements relating to geographically
21 limited areas under subsection (g); and

22 “(B) the owner or operator discharges the
23 ballast water in accordance with a ballast water
24 management plan approved under subsection
25 (i).

1 “(2) APPLICABILITY.—

2 “(A) COVERED VESSELS.—Paragraph (1)
3 shall apply to the owner or operator of a com-
4 mercial vessel that is designed, constructed, or
5 adapted to carry ballast water if the commercial
6 vessel is—

7 “(i) documented under the laws of the
8 United States; or

9 “(ii) operating in navigable waters on
10 a voyage to or from a port or place in the
11 United States.

12 “(B) EXEMPTED VESSELS.—Paragraph
13 (1) shall not apply to the owner or operator
14 of—

15 “(i) a commercial vessel that carries
16 all of its ballast water in sealed tanks that
17 are not subject to discharge;

18 “(ii) a commercial vessel that continu-
19 ously takes on and discharges ballast water
20 in a flow-through system, if such system
21 does not introduce aquatic nuisance species
22 into navigable waters, as determined by the
23 Secretary in consultation with the Admin-
24 istrator;

1 “(iii) any vessel in the National De-
2 fense Reserve Fleet that is scheduled to be
3 disposed of through scrapping or sinking;

4 “(iv) a commercial vessel that dis-
5 charges ballast water consisting solely of
6 water—

7 “(I) taken aboard from a munic-
8 ipal or commercial source; and

9 “(II) that, at the time the water
10 is taken aboard, meets the applicable
11 regulations or permit requirements for
12 such source under the Safe Drinking
13 Water Act (42 U.S.C. 300f et seq.)
14 and section 402 of this Act; or

15 “(v) a commercial vessel that is 3
16 years or fewer from the end of its useful
17 life, as determined by the Secretary, on the
18 date on which the regulations issued under
19 paragraph (3) become effective for the ves-
20 sel pursuant to the implementation sched-
21 ule issued under paragraph (3)(B).

22 “(C) LIMITATION.—An exemption under
23 subparagraph (B)(v) shall cease to be effective
24 on the date that is 3 years after the date on
25 which the regulations under paragraph (3) be-

1 come effective for the commercial vessel pursu-
2 ant to the implementation schedule issued
3 under paragraph (3)(B).

4 “(3) ISSUANCE OF REGULATIONS.—

5 “(A) IN GENERAL.—Not later than 180
6 days after the date of enactment of this section,
7 the Secretary, in consultation with the Adminis-
8 trator, shall issue final regulations to imple-
9 ment the requirements of this section.

10 “(B) PROPOSED RULE.—For the purposes
11 of chapter 5 of title 5, United States Code, the
12 proposed rulemaking published by the Coast
13 Guard on August 28, 2009 (74 Fed. Reg.
14 44632; relating to standards for living orga-
15 nisms in ships’ ballast water discharged in U.S.
16 waters), shall serve as a proposed rule for the
17 purposes of issuing regulations under this sec-
18 tion.

19 “(4) COMPLIANCE SCHEDULES.—

20 “(A) INITIAL PERFORMANCE STANDARD
21 COMPLIANCE DEADLINES.—

22 “(i) IN GENERAL.—An owner or oper-
23 ator shall comply with the performance
24 standard established under subsection (c)
25 on or before the deadline that applies to

1 the commercial vessel of the owner or oper-
2 ator, as specified in clause (ii).

3 “(ii) DEADLINES.—The deadlines for
4 compliance with the performance standard
5 established under subsection (c) are as fol-
6 lows:

7 “(I) For a commercial vessel con-
8 structed on or after January 1, 2012,
9 the date of delivery of the vessel.

10 “(II) For an existing commercial
11 vessel with a ballast water capacity of
12 less than 1,500 cubic meters, the date
13 of the first drydocking of the vessel
14 after January 1, 2016.

15 “(III) For an existing commer-
16 cial vessel with a ballast water capaci-
17 ty of at least 1,500 cubic meters but
18 not more than 5,000 cubic meters, the
19 date of the first drydocking of the ves-
20 sel after January 1, 2014.

21 “(IV) For an existing commercial
22 vessel with a ballast water capacity of
23 greater than 5,000 cubic meters, the
24 date of the first drydocking of the ves-
25 sel after January 1, 2016.

1 “(iii) REGULATIONS.—In issuing reg-
2 ulations under paragraph (3), the Sec-
3 retary shall include a compliance schedule
4 that sets forth the deadlines specified in
5 clause (ii).

6 “(B) REVISED PERFORMANCE STANDARD
7 COMPLIANCE DEADLINES.—

8 “(i) IN GENERAL.—Upon revision of a
9 performance standard under subsection
10 (d), the Secretary, in consultation with the
11 Administrator, shall issue a compliance
12 schedule that establishes deadlines for an
13 owner or operator to comply with the re-
14 vised performance standard.

15 “(ii) FACTORS.—In issuing a compli-
16 ance schedule under this subparagraph,
17 the Secretary—

18 “(I) shall consider the factors
19 identified in subparagraph (C)(iv);
20 and

21 “(II) may establish different
22 compliance deadlines based on vessel
23 class, type, or size.

24 “(iii) VESSELS CONSTRUCTED AFTER
25 ISSUANCE OF REVISED PERFORMANCE

1 STANDARDS.—A compliance schedule
2 issued under this subparagraph with re-
3 spect to a revised performance standard
4 shall require, at a minimum, the owner or
5 operator of a commercial vessel that com-
6 mences a major conversion or is con-
7 structed on or after the date of issuance of
8 the revised performance standard to com-
9 ply with the revised performance standard.

10 “(C) EXTENSION OF COMPLIANCE DEAD-
11 LINES.—

12 “(i) IN GENERAL.—The Secretary
13 may extend a compliance deadline estab-
14 lished under subparagraph (A) or (B) on
15 the Secretary’s own initiative or in re-
16 sponse to a petition submitted by an owner
17 or operator.

18 “(ii) PROCESSES FOR GRANTING EX-
19 TENSIONS.—In issuing regulations under
20 paragraph (3), the Secretary shall estab-
21 lish—

22 “(I) a process for the Secretary,
23 in consultation with the Adminis-
24 trator, to issue an extension of a com-
25 pliance deadline established under

1 subparagraph (A) or (B) for a com-
2 mercial vessel (or class, type, or size
3 of vessel); and

4 “(II) a process for an owner or
5 operator to submit a petition to the
6 Secretary for an extension of a com-
7 pliance deadline established under
8 subparagraph (A) or (B) with respect
9 to the commercial vessel of the owner
10 or operator.

11 “(iii) PERIOD OF EXTENSIONS.—An
12 extension issued under clause (ii)(II)
13 shall—

14 “(I) apply for a period of not to
15 exceed 18 months; and

16 “(II) be renewable for an addi-
17 tional period of not to exceed 18
18 months.

19 “(iv) FACTORS.—In issuing an exten-
20 sion or reviewing a petition under this sub-
21 paragraph, the Secretary shall consider,
22 with respect to the ability of an owner or
23 operator to meet a compliance deadline,
24 the following factors:

1 “(I) Whether the treatment tech-
2 nology to be installed is available in
3 sufficient quantities to meet the com-
4 pliance deadline.

5 “(II) Whether there is sufficient
6 shipyard or other installation facility
7 capacity.

8 “(III) Whether there is sufficient
9 availability of engineering and design
10 resources.

11 “(IV) Vessel characteristics, such
12 as engine room size, layout, or a lack
13 of installed piping.

14 “(V) Electric power generating
15 capacity aboard the vessel.

16 “(VI) Safety of the vessel and
17 crew.

18 “(v) CONSIDERATION OF PETI-
19 TIONS.—

20 “(I) DETERMINATIONS.—The
21 Secretary shall approve or deny a pe-
22 tition for an extension of a compliance
23 deadline submitted by an owner or op-
24 erator under this subparagraph.

1 “(II) DEADLINE.—If the Sec-
2 retary does not approve or deny a pe-
3 tition referred to in subclause (I) on
4 or before the last day of the 90-day
5 period beginning on the date of sub-
6 mission of the petition, the petition
7 shall be deemed approved.

8 “(c) BALLAST WATER PERFORMANCE STANDARD
9 FOR COMMERCIAL VESSELS.—

10 “(1) IN GENERAL.—To meet the ballast water
11 performance standard, an owner or operator shall—

12 “(A) conduct ballast water treatment be-
13 fore discharging ballast water from a commer-
14 cial vessel into navigable waters using a ballast
15 water treatment technology certified for the ves-
16 sel (or class, type, or size of vessel) under sub-
17 section (e); and

18 “(B) ensure that any ballast water so dis-
19 charged meets, at a minimum, the numerical
20 ballast water performance standard set forth in
21 the International Convention for the Control
22 and Management of Ships’ Ballast Water and
23 Sediments, as adopted on February 13, 2004,
24 or a revised numerical ballast water perform-
25 ance standard established under subsection (d).

1 “(2) SAFETY EXEMPTION.—Notwithstanding
2 paragraph (1), an owner or operator may discharge
3 ballast water without regard to a ballast water per-
4 formance standard if—

5 “(A) the discharge is done solely to ensure
6 the safety of life at sea;

7 “(B) the discharge is accidental and the
8 result of damage to the commercial vessel or its
9 equipment and—

10 “(i) all reasonable precautions to pre-
11 vent or minimize the discharge have been
12 taken; and

13 “(ii) the owner or operator did not
14 willfully or recklessly cause such damage;
15 or

16 “(C) the discharge is solely for the purpose
17 of avoiding or minimizing discharge from the
18 vessel of pollution that would otherwise violate
19 an applicable Federal or State law.

20 “(d) REVIEW OF PERFORMANCE STANDARD.—

21 “(1) IN GENERAL.—Not later than January 1,
22 2016, and every 10 years thereafter, the Adminis-
23 trator, in consultation with the Secretary, shall com-
24 plete a review to determine whether revising the bal-
25 last water performance standard would result in a

1 scientifically demonstrable and substantial reduction
2 in the risk of the introduction or establishment of
3 aquatic nuisance species.

4 “(2) CONSIDERATIONS.—In conducting the re-
5 view, the Administrator shall consider—

6 “(A) improvements in the scientific under-
7 standing of biological and ecological processes
8 that lead to the introduction or establishment of
9 aquatic nuisance species;

10 “(B) improvements in ballast water treat-
11 ment technology, including—

12 “(i) the capability of such technology
13 to achieve a revised ballast water perform-
14 ance standard;

15 “(ii) the effectiveness and reliability of
16 such technology in the shipboard environ-
17 ment;

18 “(iii) the compatibility of such tech-
19 nology with the design and operation of
20 commercial vessels by class, type, and size;

21 “(iv) the commercial availability of
22 such technology; and

23 “(v) the safety of such technology;

24 “(C) improvements in the capabilities to
25 detect, quantify, and assess the viability of

1 aquatic nuisance species at the concentrations
2 under consideration;

3 “(D) the impact of ballast water treatment
4 technology on water quality; and

5 “(E) the costs, cost-effectiveness, and im-
6 pacts of—

7 “(i) a revised ballast water perform-
8 ance standard, including the potential im-
9 pacts on shipping, trade, and other uses of
10 the aquatic environment; and

11 “(ii) maintaining the existing ballast
12 water performance standard, including the
13 potential impacts on water-related infra-
14 structure, recreation, the propagation of
15 native fish, shellfish, and wildlife, and
16 other uses of navigable waters.

17 “(3) REVISION OF PERFORMANCE STANDARD.—

18 “(A) RULEMAKING.—If, pursuant to a re-
19 view conducted under paragraph (1), the Ad-
20 ministrator, in consultation with the Secretary,
21 determines that revising the ballast water per-
22 formance standard would result in a scientif-
23 ically demonstrable and substantial reduction in
24 the risk of the introduction or establishment of
25 aquatic nuisance species, the Administrator

1 shall undertake a rulemaking to revise the per-
2 formance standard.

3 “(B) SPECIAL RULE.—The Administrator
4 may not issue a revised performance standard
5 pursuant to this paragraph that applies to a
6 commercial vessel constructed prior to the date
7 on which the revised performance standard is
8 issued unless the revised performance standard
9 is at least 2 orders of magnitude more stringent
10 than the performance standard in effect on the
11 date that the review is completed.

12 “(4) STATE PETITION FOR REVIEW OF PER-
13 FORMANCE STANDARDS.—

14 “(A) IN GENERAL.—The Governor of a
15 State may submit a petition requesting that the
16 Administrator review a ballast water perform-
17 ance standard if there is significant new infor-
18 mation that could reasonably indicate the per-
19 formance standard could be revised to result in
20 a scientifically demonstrable and substantial re-
21 duction in the risk of the introduction or estab-
22 lishment of aquatic nuisance species.

23 “(B) TIMING.—A Governor may not sub-
24 mit a petition under subparagraph (A) during

1 the 1-year period following the date of comple-
2 tion of a review under paragraph (1).

3 “(C) REQUIRED INFORMATION.—A peti-
4 tion submitted to the Administrator under sub-
5 paragraph (A) shall include the scientific and
6 technical information on which the petition is
7 based.

8 “(D) REVIEW AND REPORTING.—Upon re-
9 ceipt of a petition from a Governor under sub-
10 paragraph (A), the Administrator shall make
11 publicly available a copy of the petition, includ-
12 ing the scientific and technical information pro-
13 vided by the Governor under subparagraph (C).

14 “(E) REVIEW AND REVISION OF PERFORM-
15 ANCE STANDARDS.—

16 “(i) IN GENERAL.—If, after receiving
17 a petition submitted by a Governor under
18 subparagraph (A) for review of a perform-
19 ance standard, the Administrator, in con-
20 sultation with the Secretary, determines
21 that the petition warrants additional ac-
22 tion, the Administrator may—

23 “(I) in consultation with the Sec-
24 retary, initiate a review of the per-

1 performance standard under paragraph
2 (1); and

3 “(II) in consultation with the
4 Secretary, revise the performance
5 standard through a rulemaking under
6 paragraph (3)(A), subject to the limi-
7 tation in paragraph (3)(B).

8 “(ii) TREATMENT OF MORE THAN
9 ONE PETITION AS A SINGLE PETITION.—
10 The Administrator may treat more than
11 one petition as a single petition for review.

12 “(e) TREATMENT TECHNOLOGY CERTIFICATION.—

13 “(1) CERTIFICATION REQUIRED.—

14 “(A) CERTIFICATION PROCESS.—

15 “(i) EVALUATION.—Upon application
16 of a manufacturer, the Secretary shall
17 evaluate a ballast water treatment tech-
18 nology with respect to—

19 “(I) whether the treatment tech-
20 nology meets the ballast water per-
21 formance standard when installed on
22 a commercial vessel (or a class, type,
23 or size of commercial vessel);

1 “(II) the effect of the treatment
2 technology on commercial vessel safe-
3 ty; and

4 “(III) any other criteria the Sec-
5 retary considers appropriate.

6 “(ii) CERTIFICATION.—If, after con-
7 ducting the evaluation required by clause
8 (i), the Secretary determines the treatment
9 technology meets the criteria established
10 under such clause, the Secretary may cer-
11 tify the treatment technology for use on a
12 commercial vessel (or a class, type, or size
13 of commercial vessel).

14 “(iii) SUSPENSION AND REVOCATION
15 OF CERTIFICATION.—The Secretary shall,
16 by regulation, establish a process to sus-
17 pend or revoke a certification issued under
18 this subparagraph.

19 “(B) CERTIFICATES OF TYPE APPROVAL.—

20 “(i) ISSUANCE OF CERTIFICATES TO
21 MANUFACTURER.—If the Secretary cer-
22 tifies a ballast water treatment technology
23 under subparagraph (A), the Secretary
24 shall issue to the manufacturer of the
25 treatment technology, in such form and

1 manner as the Secretary determines appro-
2 priate, a certificate of type approval for the
3 treatment technology.

4 “(ii) CONDITIONS TO BE INCLUDED IN
5 CERTIFICATES.—A certificate of type ap-
6 proval issued under clause (i) shall include
7 any conditions that are imposed by the
8 Secretary under paragraph (2).

9 “(iii) ISSUANCE OF COPIES OF CER-
10 TIFICATES TO OWNERS AND OPERATORS.—
11 A manufacturer that receives a certificate
12 of type approval under clause (i) for a bal-
13 last water treatment technology shall fur-
14 nish a copy of the certificate to any owner
15 or operator of a commercial vessel on
16 which the treatment technology is in-
17 stalled.

18 “(iv) INSPECTIONS.—An owner or op-
19 erator who receives a copy of a certificate
20 under clause (iii) for a ballast water treat-
21 ment technology installed on a commercial
22 vessel shall retain a copy of the certificate
23 onboard the commercial vessel and make
24 the copy of the certificate available for in-
25 spection at all times that such owner or

1 operator is utilizing the treatment tech-
2 nology.

3 “(C) TREATMENT TECHNOLOGIES THAT
4 USE OR GENERATE BIOCIDES.—The Secretary
5 may not certify a ballast water treatment tech-
6 nology that—

7 “(i) uses a biocide or generates a
8 biocide that is a ‘pesticide’, as defined in
9 section 2 of the Federal Insecticide, Fun-
10 gicide, and Rodenticide Act (7 U.S.C.
11 136), unless the biocide is registered under
12 such Act or the Administrator has ap-
13 proved the use of such biocide in such
14 treatment technology; or

15 “(ii) uses or generates a biocide the
16 discharge of which causes or contributes to
17 a violation of a water quality standard
18 under section 303 of this Act.

19 “(D) PROHIBITION.—

20 “(i) IN GENERAL.—Except as pro-
21 vided by clause (ii), an owner or operator
22 may not use a ballast water treatment
23 technology to comply with the require-
24 ments of this section unless the Secretary

1 has certified the treatment technology
2 under subparagraph (A).

3 “(ii) EXCEPTIONS.—

4 “(I) COAST GUARD SHIPBOARD
5 TECHNOLOGY EVALUATION PRO-
6 GRAM.—An owner or operator may
7 use a ballast water treatment tech-
8 nology that has not been certified by
9 the Secretary to comply with the re-
10 quirements of this section if the tech-
11 nology is being evaluated under the
12 Coast Guard Shipboard Technology
13 Evaluation Program.

14 “(II) BALLAST WATER TREAT-
15 MENT TECHNOLOGIES CERTIFIED BY
16 FOREIGN ENTITIES.—An owner or op-
17 erator may use a ballast water treat-
18 ment technology that has not been
19 certified by the Secretary to comply
20 with the requirements of this section
21 if the technology has been certified by
22 a foreign entity and the certification
23 demonstrates performance and safety
24 of the treatment technology equivalent

1 to the requirements of this subsection,
2 as determined by the Secretary.

3 “(2) CERTIFICATION CONDITIONS.—

4 “(A) IMPOSITION OF CONDITIONS.—In cer-
5 tifying a ballast water treatment technology
6 under this subsection, the Secretary, in con-
7 sultation with the Administrator, may impose
8 any condition on the subsequent installation,
9 use, or maintenance of the treatment tech-
10 nology onboard a commercial vessel as is nec-
11 essary for—

12 “(i) the safety of the vessel, the crew
13 of the vessel, and any passengers aboard
14 the vessel;

15 “(ii) the protection of the environ-
16 ment; and

17 “(iii) the effective operation of the
18 treatment technology.

19 “(B) FAILURE TO COMPLY.—The failure of
20 an owner or operator to comply with a condi-
21 tion imposed under subparagraph (A) is a viola-
22 tion of this section.

23 “(3) USE OF BALLAST WATER TREATMENT
24 TECHNOLOGIES ONCE INSTALLED.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (B), an owner or operator who installs a
3 ballast water treatment technology that the
4 Secretary has certified under paragraph (1)
5 may use the treatment technology, notwith-
6 standing any revisions to a ballast water per-
7 formance standard occurring after the installa-
8 tion so long as the owner or operator—

9 “(i) maintains the treatment tech-
10 nology in proper working condition; and

11 “(ii) maintains and uses the treat-
12 ment technology in accordance with—

13 “(I) the manufacturer’s specifica-
14 tions; and

15 “(II) any conditions imposed by
16 the Secretary under paragraph (2).

17 “(B) LIMITATION.—Subparagraph (A)
18 shall cease to apply with respect to a commer-
19 cial vessel after the first to occur of the fol-
20 lowing:

21 “(i) The expiration of the service life
22 of the ballast water treatment technology
23 of the vessel, as determined by the Sec-
24 retary.

1 “(ii) The expiration of service life of
2 the vessel, as determined by the Secretary.

3 “(iii) The completion of a major con-
4 version of the vessel.

5 “(4) TESTING PROTOCOLS.—Not later than 180
6 days after the date of enactment of this section, the
7 Administrator, in consultation with the Secretary,
8 shall issue requirements for land-based and ship-
9 board testing protocols or criteria for—

10 “(A) certifying the performance of ballast
11 water treatment technologies under this sub-
12 section; and

13 “(B) certifying laboratories to evaluate
14 such treatment technologies.

15 “(5) PROHIBITION.—Following the date on
16 which the requirements of subsection (b)(1) apply
17 with respect to a commercial vessel pursuant to the
18 implementation schedule issued under subsection
19 (b)(3)(B), no manufacturer of a ballast water treat-
20 ment technology shall sell, offer for sale, or intro-
21 duce or deliver for introduction into interstate com-
22 merce, or import into the United States for sale or
23 resale, a ballast water treatment technology for the
24 commercial vessel unless the technology has been
25 certified under this subsection.

1 “(f) ALTERNATIVE METHODS OF COMPLIANCE.—

2 “(1) ESTABLISHMENT.—Not later than 180
3 days after the date of enactment of this section, the
4 Secretary, in consultation with the Administrator,
5 shall establish an alternative method of compliance
6 with this section for—

7 “(A) a commercial vessel having a max-
8 imum ballast water capacity of less than 8
9 cubic meters; and

10 “(B) a commercial vessel that is 3 years or
11 fewer from the end of its useful life, as deter-
12 mined by the Secretary pursuant to subsection
13 (b)(2)(B)(v).

14 “(2) FACTORS FOR CONSIDERATION.—In estab-
15 lishing an alternative method of compliance under
16 paragraph (1), the Secretary shall consider—

17 “(A) the effectiveness of the alternative
18 method in reducing the risk of the introduction
19 or establishment of aquatic nuisance species rel-
20 ative to the performance standard; and

21 “(B) any other factor the Secretary con-
22 siders appropriate.

23 “(3) BEST MANAGEMENT PRACTICES.—The
24 Secretary may establish as an alternative method of
25 compliance appropriate ballast water best manage-

1 ment practices to minimize the introduction or es-
2 tablishment of aquatic nuisance species.

3 “(g) GEOGRAPHICALLY LIMITED AREAS.—

4 “(1) IN GENERAL.—Subsection (c) shall not
5 apply to a commercial vessel that—

6 “(A) operates exclusively within a geo-
7 graphically limited area; or

8 “(B) operates pursuant to a geographic re-
9 striction issued for the commercial vessel under
10 section 3309 of title 46, United States Code, or
11 an equivalent restriction, as determined by the
12 Secretary, issued by the country of registration
13 of the commercial vessel.

14 “(2) PETITION FOR DETERMINATION BY THE
15 SECRETARY.—

16 “(A) SUBMISSION OF PETITIONS.—Fol-
17 lowing the date of issuance of final regulations
18 under subsection (b), an owner or operator may
19 petition the Secretary for a determination
20 under paragraph (1).

21 “(B) DETERMINATIONS.—The Secretary
22 shall approve or deny a petition submitted by
23 an owner or operator under subparagraph (A).

24 “(C) DEADLINE.—If the Secretary does
25 not approve or deny a petition submitted by an

1 owner or operator under subparagraph (A) on
2 or before the last day of the 90-day period be-
3 ginning on the date of submission of the peti-
4 tion, the petition shall be deemed approved.

5 “(3) NOTIFICATION.—The Secretary shall no-
6 tify the Administrator and the Governor of each
7 State the waters of which could be affected by the
8 discharge of ballast water from a commercial vessel
9 for which a petition has been granted under para-
10 graph (2) of the granting of any such petition.

11 “(4) BEST MANAGEMENT PRACTICES.—For a
12 commercial vessel for which a petition is granted
13 under paragraph (2), the Secretary shall require the
14 owner or operator to implement appropriate ballast
15 water best management practices to minimize the in-
16 troduction or establishment of aquatic nuisance spe-
17 cies.

18 “(h) RECEPTION FACILITIES.—

19 “(1) IN GENERAL.—An owner or operator shall
20 discharge ballast water in compliance with sub-
21 section (e) or (f) unless discharging ballast water
22 into—

23 “(A) an onshore facility for the reception
24 of ballast water that meets standards issued by

1 the Administrator, in consultation with the Sec-
2 retary; or

3 “(B) an offshore facility for the reception
4 of ballast water that meets standards issued by
5 the Secretary, in consultation with the Adminis-
6 trator.

7 “(2) ISSUANCE OF STANDARDS.—Not later
8 than 2 years after the date of enactment of this sec-
9 tion—

10 “(A) the Administrator, in consultation
11 with the Secretary, shall issue the standards re-
12 ferred to in paragraph (1)(A); and

13 “(B) the Secretary, in consultation with
14 the Administrator, shall issue the standards re-
15 ferred to in paragraph (1)(B).

16 “(3) SOLE METHOD OF DISCHARGE.—The Sec-
17 retary, in consultation with the Administrator, and
18 upon petition by an owner or operator, may issue to
19 an owner or operator a certificate stating that a
20 commercial vessel is in compliance with the require-
21 ments of subsection (b)(1)(A) if discharging ballast
22 water into a facility meeting the standards issued
23 under this subsection is the sole method by which
24 the owner or operator discharges ballast water from
25 the commercial vessel.

1 “(4) BALLAST WATER MANAGEMENT PLANS.—

2 An owner or operator discharging ballast water
3 under this subsection shall discharge such water in
4 accordance with a ballast water management plan
5 approved under subsection (i).

6 “(i) COMMERCIAL VESSEL BALLAST WATER MAN-
7 AGEMENT PLAN.—

8 “(1) IN GENERAL.—An owner or operator shall
9 discharge ballast water in accordance with a ballast
10 water management plan that—

11 “(A) meets requirements prescribed by the
12 Secretary; and

13 “(B) is approved by the Secretary.

14 “(2) FOREIGN COMMERCIAL VESSELS.—The
15 Secretary may approve a ballast water management
16 plan for a foreign commercial vessel on the basis of
17 a certificate of compliance issued by the country of
18 registration of the commercial vessel if the require-
19 ments of the government of that country for a bal-
20 last water management plan are substantially equiv-
21 alent to regulations issued by the Secretary.

22 “(3) RECORDKEEPING.—

23 “(A) IN GENERAL.—Except as provided by
24 subparagraph (B), an owner or operator shall
25 maintain in English and have available for in-

1 specification by the Secretary a ballast water record
2 book in which each operation of the commercial
3 vessel involving a ballast water discharge is re-
4 corded in accordance with regulations issued by
5 the Secretary.

6 “(B) ALTERNATIVE MEANS OF RECORD-
7 KEEPING.—The Secretary may provide for al-
8 ternative methods of recordkeeping, including
9 electronic recordkeeping, to comply with the re-
10 quirements of this paragraph.

11 “(j) REGULATION OF BALLAST WATER DIS-
12 CHARGES.—Effective on and after the date of enactment
13 of this section—

14 “(1) the Administrator (or a State in the case
15 of a permit program approved under section 402)
16 shall not require any new permit or permit condition
17 under section 402 for any discharge of ballast water
18 from a commercial vessel into navigable waters; and

19 “(2) except as provided by subsection (k), a
20 State or political subdivision thereof shall not adopt
21 or enforce any law or regulation of the State or po-
22 litical subdivision with respect to such a discharge.

23 “(k) STATE AUTHORITY.—

24 “(1) STATE PROGRAMS.—The Governor of a
25 State desiring to administer its own inspection and

1 enforcement authority for ballast water discharges
2 within its jurisdiction may submit to the Secretary
3 a complete description of the program the Governor
4 proposes to establish and administer under State
5 law. In addition, the Governor shall submit a state-
6 ment from the State attorney general that the laws
7 of the State provide adequate authority to carry out
8 the described program.

9 “(2) APPROVAL.—The Secretary, with the con-
10 currence of the Administrator, may approve a pro-
11 gram of a State submitted under paragraph (1) pro-
12 viding for the State’s own inspection and enforce-
13 ment authority for ballast water discharges within
14 its jurisdiction, if the Secretary determines that the
15 State possesses adequate resources to—

16 “(A) inspect, monitor, and board a com-
17 mercial vessel at any time, including the taking
18 and testing of ballast water samples, to ensure
19 the commercial vessel’s compliance with this
20 section;

21 “(B) ensure that any ballast water dis-
22 charged within the waters subject to the juris-
23 diction of the State meets the requirements of
24 this section;

1 “(C) establish adequate procedures for re-
2 porting violations of this section;

3 “(D) investigate and abate violations of
4 this section, including the imposition of civil
5 and criminal penalties consistent with sub-
6 section (o); and

7 “(E) ensure that the Secretary and the
8 Administrator receive notice of each violation of
9 this section in an expeditious manner.

10 “(3) COMPLIANCE.—Any State program ap-
11 proved under paragraph (2) shall at all times be
12 conducted in accordance with this subsection.

13 “(4) WITHDRAWAL OF APPROVAL.—Whenever
14 the Secretary, in consultation with the Adminis-
15 trator, determines, after providing notice and the op-
16 portunity for a public hearing, that a State is not
17 administering a program in accordance with the
18 terms of the program as approved under paragraph
19 (2), the Secretary shall notify the State, and, if ap-
20 propriate corrective action is not taken within a pe-
21 riod of time not to exceed 90 days, the Secretary,
22 with the concurrence of the Administrator, shall
23 withdraw approval of the program. The Secretary
24 shall not withdraw approval of a program unless the

1 Secretary has first notified the State and made pub-
2 lic, in writing, the reasons for the withdrawal.

3 “(5) LIMITATION ON STATUTORY CONSTRUC-
4 TION.—Nothing in this subsection shall limit the au-
5 thority of the Administrator or the Secretary to
6 carry out inspections of any commercial vessel under
7 subsection (n).

8 “(6) STATE LAWS.—Notwithstanding any other
9 provision of this section, a State may enact such
10 laws as are necessary to provide for the implementa-
11 tion of the State ballast water inspection and en-
12 forcement program provided under this subsection.
13 The requirements for a ballast water inspection and
14 enforcement program contained in such State law
15 shall be substantively and procedurally equivalent to
16 those required in this section, and any requirements
17 relating to recordkeeping, reporting, and sampling or
18 analysis contained in such State law shall be sub-
19 stantively and procedurally equivalent to the require-
20 ments of this section and its implementing regula-
21 tions and guidance.

22 “(1) DISCHARGES INCIDENTAL TO THE NORMAL OP-
23 ERATIONS OF A COMMERCIAL VESSEL.—

24 “(1) EVALUATION OF INCIDENTAL DIS-
25 CHARGES.—

1 “(A) IN GENERAL.—Not later than 3 years
2 after the date of enactment of this section, the
3 Administrator, in consultation with the Sec-
4 retary, shall complete an evaluation of dis-
5 charges incidental to the normal operation of a
6 commercial vessel.

7 “(B) FACTORS.—In carrying out the eval-
8 uation, the Administrator shall analyze—

9 “(i) the characterization of the var-
10 ious types and composition of discharges
11 incidental to the normal operation of a
12 commercial vessel by different classes,
13 types, and sizes of commercial vessels;

14 “(ii) the volume of such discharges for
15 representative individual commercial ves-
16 sels and by classes, types, and sizes of
17 commercial vessels in the aggregate;

18 “(iii) the availability and feasibility of
19 implementing technologies or best manage-
20 ment practices for the control of such dis-
21 charges;

22 “(iv) the characteristics of the receiv-
23 ing waters of such discharges;

1 “(v) the nature and extent of poten-
2 tial effects of such discharges on human
3 health, welfare, and the environment;

4 “(vi) the extent to which such dis-
5 charges are currently subject to and ad-
6 dressed by regulations under existing Fed-
7 eral laws or binding international obliga-
8 tions of the United States; and

9 “(vii) any additional factor that the
10 Administrator considers appropriate.

11 “(2) REGULATION OF INCIDENTAL DIS-
12 CHARGES.—Effective on and after the date of enact-
13 ment of this section—

14 “(A) the Administrator (or a State in the
15 case of a permit program approved under sec-
16 tion 402) shall not require any new permit or
17 permit conditions under section 402 for any dis-
18 charge incidental to the normal operation of a
19 commercial vessel; and

20 “(B) a State or political subdivision there-
21 of shall not adopt or enforce any law or regula-
22 tion of the State or political subdivision with re-
23 spect to such a discharge.

24 “(m) EFFECT ON VESSEL GENERAL PERMIT.—

1 “(1) EXPIRATION.—Notwithstanding the expi-
2 ration date set forth in the Vessel General Permit,
3 the Vessel General Permit shall expire as follows:

4 “(A) The terms and conditions of section
5 6 of such permit or any law of a State regu-
6 lating the discharge of ballast water or any dis-
7 charge incidental to the normal operation of a
8 commercial vessel, upon the date of enactment
9 of this section.

10 “(B) For each commercial vessel, the
11 terms and conditions of such permit (except the
12 terms and conditions referred to in subpara-
13 graph (A)) applicable to a discharge of ballast
14 water—

15 “(i) on the date on which—

16 “(I) a ballast water treatment
17 technology certified under subsection
18 (e) is installed on the commercial ves-
19 sel;

20 “(II) an alternative method of
21 compliance established for the com-
22 mercial vessel under subsection (f) is
23 implemented for the commercial ves-
24 sel;

1 “(III) a petition is granted for
2 the commercial vessel under sub-
3 section (g); or

4 “(IV) a certificate is issued for
5 the commercial vessel under sub-
6 section (h); or

7 “(ii) in any case not described in
8 clause (i), on December 18, 2013.

9 “(2) DISCHARGES INCIDENTAL TO THE NOR-
10 MAL OPERATION OF COMMERCIAL VESSELS.—Not-
11 withstanding the expiration date set forth in the
12 Vessel General Permit, the terms and conditions of
13 such permit (except the terms and conditions re-
14 ferred to in paragraph (1)(A)) applicable to dis-
15 charges incidental to the normal operation of a com-
16 mercial vessel shall remain in effect.

17 “(n) INSPECTIONS AND ENFORCEMENT.—

18 “(1) IN GENERAL.—

19 “(A) COAST GUARD ENFORCEMENT.—The
20 Secretary shall enforce the requirements of this
21 section and may utilize by agreement, with or
22 without reimbursement, law enforcement offi-
23 cers or other personnel and facilities of the Ad-
24 ministrators, other Federal agencies, and the
25 States.

1 “(B) ENVIRONMENTAL PROTECTION AGEN-
2 CY ACTIONS.—Notwithstanding any enforce-
3 ment decisions of the Secretary under subpara-
4 graph (A), the Administrator may use the au-
5 thorities provided in sections 308, 309, 312,
6 and 504 whenever required to carry out this
7 section.

8 “(2) COAST GUARD INSPECTIONS.—The Sec-
9 retary may carry out inspections of any commercial
10 vessel at any time, including the taking of ballast
11 water samples, to ensure compliance with this sec-
12 tion. The Secretary shall use all appropriate and
13 practical measures of detection and environmental
14 monitoring of such commercial vessels and shall es-
15 tablish adequate procedures for reporting violations
16 of this section and accumulating evidence regarding
17 such violations.

18 “(o) COMPLIANCE.—

19 “(1) DETENTION OF COMMERCIAL VESSEL.—
20 The Secretary, by notice to the owner or operator,
21 may detain the commercial vessel if the Secretary
22 has reasonable cause to believe that the commercial
23 vessel does not comply with a requirement of this
24 section or is being operated in violation of such a re-
25 quirement.

1 “(2) SANCTIONS.—

2 “(A) CIVIL PENALTIES.—

3 “(i) IN GENERAL.—Any person who
4 violates this section shall be liable for a
5 civil penalty in an amount determined
6 under clause (ii). Each day of a continuing
7 violation constitutes a separate violation. A
8 commercial vessel operated in violation of
9 this section is liable in rem for any civil
10 penalty assessed for that violation.

11 “(ii) PENALTY AMOUNTS.—The
12 amount of a civil penalty assessed under
13 clause (i) shall be determined as follows:

14 “(I) For vessels with a ballast
15 water capacity less than 1500 cubic
16 meters, not to exceed \$25,000 for
17 each violation.

18 “(II) For vessels with a ballast
19 water capacity of 1500 cubic meters
20 but not more than 5,000 cubic me-
21 ters, not to exceed \$28,750 for each
22 violation.

23 “(III) For vessels with a ballast
24 water capacity greater than 5,000

1 cubic meters, not to exceed \$32,500
2 for each violation.

3 “(B) CRIMINAL PENALTIES.—Any person
4 who knowingly violates this section shall be
5 punished by a fine of not less than \$5,000 nor
6 more than \$50,000 per day of violation, or by
7 imprisonment for not more than 3 years, or
8 both. If a conviction of a person is for a viola-
9 tion committed after a first conviction of such
10 person under this paragraph, punishment shall
11 be by a fine of not more than \$100,000 per day
12 of violation, or imprisonment of not more than
13 6 years, or both.

14 “(C) REVOCATION OF CLEARANCE.—Upon
15 request of the Secretary, the Secretary of
16 Homeland Security shall withhold or revoke the
17 clearance of a commercial vessel required by
18 section 60105 of title 46, United States Code,
19 if the owner or operator is in violation of this
20 section.

21 “(3) ENFORCEMENT ACTIONS.—

22 “(A) ADMINISTRATIVE ACTIONS.—If the
23 Secretary finds that a person has violated this
24 section, the Secretary may assess a civil penalty
25 for the violation. In determining the amount of

1 the civil penalty, the Secretary shall take into
2 account the nature, circumstances, extent, and
3 gravity of the prohibited acts committed and,
4 with respect to the violator, the degree of culpa-
5 bility, any history of prior violations, and such
6 other matters as justice may require.

7 “(B) CIVIL ACTIONS.—At the request of
8 the Secretary, the Attorney General may bring
9 a civil action in an appropriate district court of
10 the United States to enforce this section. Any
11 court before which such an action is brought
12 may award appropriate relief, including tem-
13 porary or permanent injunctions and civil pen-
14 alties.

15 “(4) EXCLUSION.—No person shall be found in
16 violation of this section whose commission of prohib-
17 ited acts is found by the Secretary to have been in
18 the interest of ensuring the safety of life at sea.

19 “(p) REGULATION UNDER OTHER SECTIONS OF
20 THIS ACT.—This section shall not affect the regulation
21 of discharges from a commercial vessel pursuant to section
22 311 or 312.”.

1 **SEC. 703. DISCHARGES INCIDENTAL TO THE NORMAL OP-**
2 **ERATION OF A COVERED VESSEL.**

3 (a) DISCHARGES INCIDENTAL TO THE NORMAL OP-
4 ERATION OF A COVERED VESSEL.—

5 (1) NO PERMIT REQUIRED.—Section 402 of the
6 Federal Water Pollution Control Act (33 U.S.C.
7 1342) is amended by adding at the end the fol-
8 lowing:

9 “(s) DISCHARGES INCIDENTAL TO THE NORMAL OP-
10 ERATION OF A COVERED VESSEL.—No permit shall be re-
11 quired under this Act by the Administrator (or a State,
12 in the case of a permit program approved under subsection
13 (b)) for a discharge incidental to the normal operation of
14 a covered vessel (as defined in section 312(p)).”.

15 (2) BEST MANAGEMENT PRACTICES FOR COV-
16 ERED VESSELS.—Section 312 of the Federal Water
17 Pollution Control Act (33 U.S.C. 1342) is amended
18 by adding at the end the following:

19 “(p) BEST MANAGEMENT PRACTICES FOR COVERED
20 VESSELS.—

21 “(1) DEFINITIONS.—In this subsection, the fol-
22 lowing definitions apply:

23 “(A) COVERED VESSEL.—The term ‘cov-
24 ered vessel’ means every description of
25 watercraft, or other artificial contrivance used
26 or capable of being used as a means of trans-

1 portation on water, that is engaged in commer-
2 cial service (as defined under section 2101 of
3 title 46, United States Code), and—

4 “(i) is less than 79 feet in length; or

5 “(ii) is a fishing vessel (as defined in
6 section 2101 of title 46, United States
7 Code), regardless of length of the vessel.

8 “(B) DISCHARGE INCIDENTAL TO THE
9 NORMAL OPERATION OF A COVERED VESSEL.—

10 The term ‘discharge incidental to the normal
11 operation of a covered vessel’ means a discharge
12 incidental to the normal operation of a commer-
13 cial vessel (as defined in section 321), insofar
14 as the commercial vessel is a covered vessel.

15 “(2) DETERMINATION OF DISCHARGES SUB-
16 JECT TO BEST MANAGEMENT PRACTICES.—

17 “(A) DETERMINATION.—

18 “(i) IN GENERAL.—The Adminis-
19 trator, in consultation with the Secretary
20 of the department in which the Coast
21 Guard is operating, shall determine the
22 discharges incidental to the normal oper-
23 ation of a covered vessel for which it is
24 reasonable and practicable to develop best
25 management practices to mitigate the ad-

1 verse impacts of such discharges on the
2 waters of the United States.

3 “(ii) PROMULGATION.—The Adminis-
4 trator shall promulgate the determinations
5 under clause (i) in accordance with section
6 553 of title 5, United States Code.

7 “(B) CONSIDERATIONS.—In making a de-
8 termination under subparagraph (A), the Ad-
9 ministrators shall consider—

10 “(i) the nature of the discharge;

11 “(ii) the environmental effects of the
12 discharge, including characteristics of the
13 receiving waters;

14 “(iii) the effectiveness of the best
15 management practice in reducing adverse
16 impacts of the discharge on water quality;

17 “(iv) the practicability of developing
18 and using a best management practice;

19 “(v) the effect that the use of a best
20 management practice would have on the
21 operation, operational capability, or safety
22 of the vessel;

23 “(vi) applicable Federal and State
24 law;

1 “(vii) applicable international stand-
2 ards; and

3 “(viii) the economic costs of the use of
4 the best management practice.

5 “(C) TIMING.—The Administrator shall—

6 “(i) make initial determinations under
7 subparagraph (A) not later than 1 year
8 after the date of enactment of this sub-
9 section; and

10 “(ii) every 5 years thereafter—

11 “(I) review the determinations;
12 and

13 “(II) if necessary, revise the de-
14 terminations based on any new infor-
15 mation available to the Administrator.

16 “(3) REGULATIONS FOR THE USE OF BEST
17 MANAGEMENT PRACTICES.—

18 “(A) IN GENERAL.—The Secretary of the
19 department in which the Coast Guard is oper-
20 ating, in consultation with the Administrator,
21 shall promulgate regulations on the use of best
22 management practices for discharges incidental
23 to the normal operation of a covered vessel that
24 the Administrator determines are reasonable
25 and practicable to develop under paragraph (2).

1 “(B) REGULATIONS.—

2 “(i) IN GENERAL.—The Secretary
3 shall promulgate the regulations under this
4 paragraph as soon as practicable after the
5 Administrator makes determinations pur-
6 suant to paragraph (2).

7 “(ii) CONSIDERATIONS.—In promul-
8 gating regulations under this paragraph,
9 the Secretary may—

10 “(I) distinguish among classes,
11 types, and sizes of vessels;

12 “(II) distinguish between new
13 and existing vessels; and

14 “(III) provide for a waiver of the
15 applicability of the standards as nec-
16 essary or appropriate to a particular
17 class, type, age, or size of vessel.

18 “(4) EFFECT OF OTHER LAWS.—This sub-
19 section shall not affect the application of section 311
20 to a covered vessel.

21 “(5) PROHIBITION RELATING TO COVERED VES-
22 SELS.—After the effective date of the regulations
23 promulgated by the Secretary of the department in
24 which the Coast Guard is operating under paragraph
25 (3), the owner or operator of a covered vessel shall

1 neither operate in, nor discharge any discharge inci-
2 dental to the normal operation of the vessel into
3 navigable waters, if the owner or operator of the ves-
4 sel is not using any applicable best management
5 practice meeting standards established under this
6 subsection.”.

7 **SEC. 704. CONFORMING AND TECHNICAL AMENDMENTS.**

8 (a) **EFFLUENT LIMITATIONS.**—Section 301(a) of the
9 Federal Water Pollution Control Act (33 U.S.C. 1311(a))
10 is amended by inserting “312, 321,” after “318,”.

11 (b) **REVIEW OF ADMINISTRATOR’S ACTIONS.**—The
12 first sentence of section 509(b)(1) of such Act (33 U.S.C.
13 1369(b)(1)) is amended—

14 (1) by striking “and (G)” and inserting “(G)”;

15 and

16 (2) by inserting after “section 304(l),” the fol-
17 lowing: “and (H) in issuing any regulation or other-
18 wise taking final agency action under section 312 or
19 321,”.

20 **SEC. 705. REGULATION OF BALLAST WATER AND INCI-**
21 **DENTAL DISCHARGES FROM A COMMERCIAL**
22 **VESSEL.**

23 (a) **IN GENERAL.**—Effective on the date of enact-
24 ment of this Act, the following discharges shall not be reg-
25 ulated in any manner other than as specified in section

1 312 or 321 of the Federal Water Pollution Control Act
2 (as added by this title):

3 (1) A discharge incidental to the normal oper-
4 ation of a commercial vessel.

5 (2) A discharge of ballast water from a com-
6 mercial vessel.

7 (b) DEFINITIONS.—In this section, the terms “ballast
8 water”, “commercial vessel”, and “discharge incidental to
9 the normal operation of a commercial vessel” have the
10 meanings given those terms in section 321(a) of the Fed-
11 eral Water Pollution Control Act (as added by this title).

12 **SEC. 706. NONINDIGENOUS AQUATIC NUISANCE PREVEN-**
13 **TION AND CONTROL ACT OF 1990.**

14 (a) AQUATIC NUISANCE SPECIES IN WATERS OF THE
15 UNITED STATES.—Effective on the date of issuance of
16 final regulations under section 321(b) of the Federal
17 Water Pollution Control Act (as added by this title), sec-
18 tion 1101 of the Nonindigenous Aquatic Nuisance Preven-
19 tion and Control Act of 1990 (16 U.S.C. 4711) is re-
20 pealed.

21 (b) RELATIONSHIP TO OTHER LAWS.—Effective on
22 the date of enactment of this Act, section 1205 of the
23 Nonindigenous Aquatic Nuisance Prevention and Control
24 Act of 1990 (16 U.S.C. 4725) is repealed.

1 **SEC. 707. SPECIAL CONSIDERATION FOR VESSELS OF HIS-**
2 **TORICAL SIGNIFICANCE.**

3 (a) **IN GENERAL.**—Notwithstanding any other provi-
4 sion of this title or the amendments made by this title,
5 a qualified vessel shall operate for the life of the vessel
6 under the terms and conditions of the Vessel General Per-
7 mit, as in effect on November 1, 2011, without regard to
8 any expiration dates in such permit.

9 (b) **DEFINITIONS.**—In this section:

10 (1) **QUALIFIED VESSEL.**—A vessel is a qualified
11 vessel for purposes of subsection (a) if the vessel is,
12 as of November 1, 2011—

13 (A) on, or nominated for inclusion on, the
14 list of National Historic Landmarks; and

15 (B) subject to part 5.3 of the Vessel Gen-
16 eral Permit.

17 (2) **VESSEL GENERAL PERMIT.**—The term
18 “Vessel General Permit” has the definition given
19 such term in section 321(a) of the Federal Water
20 Pollution Control Act, as added by section 702.

21 **TITLE VIII—PIRACY**

22 **SEC. 801. SHORT TITLE.**

23 This title may be cited as the “Piracy Suppression
24 Act of 2011”.

1 **SEC. 802. REPORT ON ACTIONS TAKEN TO PROTECT FOR-**
2 **EIGN-FLAGGED VESSELS FROM PIRACY.**

3 Not later than 180 days after the date of enactment
4 of this Act, the Secretary of Defense, in consultation with
5 the Secretary of the department in which the Coast Guard
6 is operating, shall provide to the Committee on Armed
7 Services and the Committee on Transportation and Infra-
8 structure of the House of Representatives and the Com-
9 mittee on Armed Service and the Committee on Com-
10 merce, Science, and Transportation of the Senate a report
11 on actions taken by the Secretary of Defense to protect
12 foreign-flagged vessels from acts of piracy on the high
13 seas. The report shall include—

14 (1) the total number of incidents for each of the
15 fiscal years 2008 through 2011 in which a member
16 of the armed services or an asset under the control
17 of the Secretary of Defense was used to interdict or
18 defend against an act of piracy directed against any
19 vessel not documented under the laws of the United
20 States; and

21 (2) the total cost for each of the fiscal years
22 2008 through 2011 for such incidents.

1 **SEC. 803. TRAINING PROGRAM FOR USE OF FORCE**
2 **AGAINST PIRACY.**

3 (a) IN GENERAL.—Chapter 517 of title 46, United
4 States Code, is amended by adding at the end the fol-
5 lowing new section:

6 **“§ 51705. Training program for use of force against**
7 **piracy**

8 “The Secretary of Transportation shall establish a
9 training program for United States mariners on the use
10 of force against pirates. The program shall include—

11 “(1) information on waters designated as high-
12 risk waters by the Commandant of the Coast Guard;

13 “(2) information on current threats and pat-
14 terns of attack by pirates;

15 “(3) tactics for defense of a vessel, including in-
16 struction on the types, use, and limitations of secu-
17 rity equipment;

18 “(4) standard rules for the use of force for self
19 defense as developed by the Secretary of the depart-
20 ment in which the Coast Guard is operating under
21 section 912(c) of the Coast Guard Authorization Act
22 of 2010 (Public Law 111–281; 46 U.S.C. 8107
23 note), including instruction on firearm safety for
24 crewmembers of vessels carrying cargo under section
25 55305 of this title; and

1 “(5) procedures to follow to improve crew-
2 member survivability if captured and taken hostage
3 by pirates.”.

4 (b) DEADLINE.—The Secretary of Transportation
5 shall establish the program required under the amendment
6 made by subsection (a) by no later than 180 days after
7 the date of enactment of this Act.

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

 “51705. Training program for use of force against piracy.”.

11 **SEC. 804. SECURITY OF GOVERNMENT IMPELLED CARGO.**

12 Section 55305 of title 46, United States Code, is
13 amended by adding at the end the following new sub-
14 section:

15 “(e) SECURITY OF GOVERNMENT IMPELLED
16 CARGO.—

17 “(1) In order to assure the safety of vessels and
18 crewmembers transporting equipment, materials, or
19 commodities under this section, the Secretary of
20 Transportation shall direct each department or
21 agency (except the Department of Defense) respon-
22 sible for the carriage of such equipment, materials,
23 or commodities to provide armed personnel aboard
24 vessels of the United States carrying such equip-

1 ment, materials, or commodities while transiting
2 high-risk waters.

3 “(2) The Secretary of Transportation shall di-
4 rect each such department or agency to reimburse,
5 subject to the availability or appropriations, the
6 owners or operators of such vessels for the cost of
7 providing armed personnel.

8 “(3) For the purposes of this subsection, the
9 term ‘high-risk waters’ means waters so designated
10 by the Commandant of the Coast Guard in the Port
11 Security Advisory in effect on the date on which the
12 voyage begins.”.

13 **SEC. 805. GAO STUDY.**

14 Not later than 1 year after the date of enactment
15 of this Act, the Comptroller General of the United States
16 shall report to the Committee on Transportation and In-
17 frastructure of the House of Representatives and the Com-
18 mittee on Commerce, Science, and Transportation of the
19 Senate on efforts to track ransom payments paid to pi-
20 rates operating in the waters off Somalia and improve the
21 prosecution of such pirates. The report shall include—

22 (1) the status of Working Group 5 of the Con-
23 tact Group on Piracy Off the Somali Coast, any ef-
24 forts undertaken by the Working Group, and rec-

1 ommendations for improving the Working Group’s
2 effectiveness;

3 (2) efforts undertaken by the United States
4 Government to implement and enforce Executive
5 Order 13536, including recommendations on how to
6 better implement that order to suppress piracy;

7 (3) efforts undertaken by the United States
8 Government to track ransom payments made to pi-
9 rates operating off the coast of Somalia, the effec-
10 tiveness of those efforts, any operational actions
11 taken based off those efforts, and recommendations
12 on how to improve such tracking;

13 (4) actions taken by the United States Govern-
14 ment to improve the international prosecution of pi-
15 rates captured off the coast of Somalia; and

16 (5) an update on the United States Govern-
17 ment’s efforts to implement the recommendation
18 contained in General Accountability Office report
19 GAO–10–856, entitled “Maritime Security: Actions
20 Needed to Assess and Update Plan and Enhance
21 Collaboration among Partners Involved in Coun-
22 tering Piracy off the Horn of Africa”, that metrics

1 should be established for measuring the effectiveness
2 of counter piracy efforts.

Passed the House of Representatives November 15,
2011.

Attest:

KAREN L. HAAS,

Clerk.