

## **RULES COMMITTEE PRINT OF H.R. 2838**

**OCTOBER 28, 2011**

**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.

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.

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.

**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;

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

2 and

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

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

9 (2) For the acquisition, construction, rebuild-  
10 ing, and improvement of aids to navigation, shore  
11 and offshore facilities, vessels, and aircraft, includ-  
12 ing related equipment thereto—

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

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

15 and

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

17 to remain available until expended, of which  
18 \$20,000,000 for each of the fiscal years 2012, 2013,  
19 and 2014 shall be derived from the Oil Spill Liabil-  
20 ity Trust Fund to carry out the purposes of section  
21 1012(a)(5) of the Oil Pollution Act of 1990.

22 (3) For the Coast Guard Reserve program, in-  
23 cluding personnel and training costs, equipment, and  
24 services—

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

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

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

3 (4) For environmental compliance and restora-  
4 tion of Coast Guard vessels, aircraft, and facilities  
5 (other than parts and equipment associated with op-  
6 eration and maintenance)—

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

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

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

10 to remain available until expended.

11 (5) To the Commandant of the Coast Guard for  
12 research, development, test, and evaluation of tech-  
13 nologies, materials, and human factors directly re-  
14 lated to improving the performance of the Coast  
15 Guard's mission in search and rescue, aids to navi-  
16 gation, marine safety, marine environmental protec-  
17 tion, enforcement of laws and treaties, ice oper-  
18 ations, oceanographic research, and defense readi-  
19 ness—

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

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

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

23 of which \$650,000 for each of the fiscal years 2012,  
24 2013, and 2014 shall be derived from the Oil Spill

1 Liability Trust Fund to carry out the purposes of  
2 section 1012(a)(5) of the Oil Pollution Act of 1990.

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

5 (a) ACTIVE DUTY STRENGTH.—The Coast Guard is  
6 authorized an end-of-year strength for active duty per-  
7 sonnel of 47,000 for each of the fiscal years 2012 through  
8 fiscal year 2014.

9 (b) MILITARY TRAINING STUDENT LOADS.—The  
10 Coast Guard is authorized average military training stu-  
11 dent loads for the each of the fiscal years 2012 through  
12 fiscal year 2014 as follows:

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

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

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

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

19 **TITLE II—COAST GUARD AND**  
20 **SERVICEMEMBER PARITY**

21 **SEC. 201. ACADEMY EMOLUMENTS.**

22 Section 195 of title 14, United States Code, is  
23 amended—

24 (1) in subsection (c)—

25 (A) in the first sentence—

1 (i) by striking “person” and inserting  
2 “foreign national”; and

3 (ii) by striking “pay and allowances,”  
4 and inserting “pay, allowances, and emolu-  
5 ments,”; and

6 (B) in the second sentence—

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

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

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

14 **SEC. 202. POLICY ON SEXUAL HARASSMENT AND SEXUAL**  
15 **VIOLENCE.**

16 (a) **POLICY REQUIREMENT.**—Chapter 9 of title 14,  
17 United States Code, is amended by adding at the end the  
18 following:

19 **“§ 200. Policy on sexual harassment and sexual vio-**  
20 **lence**

21 **“(a) REQUIRED POLICY.**—The Commandant shall di-  
22 rect the Superintendent of the Coast Guard Academy to  
23 prescribe a policy on sexual harassment and sexual vio-  
24 lence applicable to the cadets and other personnel of the  
25 Coast Guard Academy.

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

5           “(1) Programs to promote awareness of the in-  
6 cidence of rape, acquaintance rape, and other sexual  
7 offenses of a criminal nature that involve cadets or  
8 other Academy personnel.

9           “(2) Procedures that a cadet should follow in  
10 the case of an occurrence of sexual harassment or  
11 sexual violence, including—

12           “(A) if the cadet chooses to report an oc-  
13 currence of sexual harassment or sexual vio-  
14 lence, a specification of the person or persons to  
15 whom the alleged offense should be reported  
16 and the options for confidential reporting;

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

19           “(C) procedures on the preservation of evi-  
20 dence potentially necessary for proof of criminal  
21 sexual assault.

22           “(3) Procedures for disciplinary action in cases  
23 of alleged criminal sexual assault involving a cadet  
24 or other Academy personnel.

1           “(4) Any other sanction authorized to be im-  
2           posed in a substantiated case of sexual harassment  
3           or sexual violence involving a cadet or other Acad-  
4           emy personnel in rape, acquaintance rape, or any  
5           other criminal sexual offense, whether forcible or  
6           nonforcible.

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

12          “(c) ANNUAL ASSESSMENT.—

13                 “(1) The Commandant shall direct the Super-  
14                 intendent of the Academy to conduct at the Acad-  
15                 emy during each Academy program year an assess-  
16                 ment to determine the effectiveness of the policies,  
17                 training, and procedures of the Academy with re-  
18                 spect to sexual harassment and sexual violence in-  
19                 volving Academy personnel.

20                 “(2) For the assessment at the Academy under  
21                 paragraph (1) with respect to an Academy program  
22                 year that begins in an odd-numbered calendar year,  
23                 the Superintendent shall conduct a survey of Acad-  
24                 emy personnel—

25                         “(A) to measure—



1           “(i) the incidence, during that pro-  
2           gram year, of sexual harassment and sex-  
3           ual violence events, on or off the Academy  
4           reservation, that have been reported to of-  
5           ficials of the Academy; and

6           “(ii) the incidence, during that pro-  
7           gram year, of sexual harassment and sex-  
8           ual violence events, on or off the Academy  
9           reservation, that have not been reported to  
10          officials of the Academy; and

11          “(B) to assess the perceptions of Academy  
12          personnel of—

13               “(i) the policies, training, and proce-  
14               dures on sexual harassment and sexual vio-  
15               lence involving Academy personnel;

16               “(ii) the enforcement of such policies;

17               “(iii) the incidence of sexual harass-  
18               ment and sexual violence involving Acad-  
19               emy personnel; and

20               “(iv) any other issues relating to sex-  
21               ual harassment and sexual violence involv-  
22               ing Academy personnel.

23          “(d) ANNUAL REPORT.—

24               “(1) The Commandant shall direct the Super-  
25          intendent of the Academy to submit to the Com-

1 mandant a report on sexual harassment and sexual  
2 violence involving cadets or other personnel at the  
3 Academy for each Academy program year.

4 “(2) Each report under paragraph (1) shall in-  
5 clude, for the Academy program year covered by the  
6 report, the following:

7 “(A) The number of sexual assaults, rapes,  
8 and other sexual offenses involving cadets or  
9 other Academy personnel that have been re-  
10 ported to Academy officials during the program  
11 year and, of those reported cases, the number  
12 that have been substantiated.

13 “(B) The policies, procedures, and proc-  
14 esses implemented by the Commandant and the  
15 leadership of the Academy in response to sexual  
16 harassment and sexual violence involving cadets  
17 or other Academy personnel during the pro-  
18 gram year.

19 “(C) A plan for the actions that are to be  
20 taken in the following Academy program year  
21 regarding prevention of and response to sexual  
22 harassment and sexual violence involving cadets  
23 or other Academy personnel.

24 “(3) Each report under paragraph (1) for an  
25 Academy program year that begins in an odd-num-

1 bered calendar year shall include the results of the  
2 survey conducted in that program year under sub-  
3 section (c)(2).

4 “(4)(A) The Commandant shall transmit to the  
5 Board of Visitors of the Academy each report re-  
6 ceived by the Commandant under this subsection, to-  
7 gether with the Commandant’s comments on the re-  
8 port.

9 “(B) The Commandant shall transmit each  
10 such report, together with the Commandant’s com-  
11 ments on the report, to the Committee on Com-  
12 merce, Science, and Transportation of the Senate  
13 and the Committee on Transportation and Infra-  
14 structure of the House of Representatives.”.

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

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

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

22 **SEC. 203. APPOINTMENTS OF PERMANENT COMMISSIONED**  
23 **OFFICERS.**

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

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

6       **SEC. 204. MINOR CONSTRUCTION.**

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

10       “(d) MINOR CONSTRUCTION AND IMPROVEMENT.—

11               “(1) Subject to the reporting requirements set  
12       forth in paragraph (2), the Secretary may expend  
13       not more than \$1,500,000 from amounts available  
14       for the operating expenses of the Coast Guard for  
15       minor construction and improvement projects at any  
16       location.

17               “(2) No later than 90 days after the end of  
18       each fiscal year, the Secretary shall submit, to the  
19       Committee on Commerce, Science, and Transpor-  
20       tation of the Senate and the Committee on Trans-  
21       portation and Infrastructure of the House of Rep-  
22       resentatives, a report on each project undertaken  
23       during the course of the preceding fiscal year, for  
24       which the amount expended under paragraph (1) ex-  
25       ceeded \$500,000.”.

1 (b) CLERICAL AMENDMENT.—

2 (1) Section 656 of title 14, United States Code,  
3 is further amended in the heading by adding at the  
4 end the following: “; **use of moneys appro-**  
5 **propriated for operating expenses for minor**  
6 **construction and improvement”.**

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

12 **SEC. 205. TREATMENT OF REPORTS OF AIRCRAFT ACCI-**  
13 **DENT INVESTIGATIONS.**

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

17 **“§ 678. Treatment of reports of aircraft accident in-**  
18 **vestigations**

19 “(a) IN GENERAL.—Whenever the Commandant con-  
20 ducts an accident investigation of an accident involving an  
21 aircraft under the jurisdiction of the Commandant, the  
22 records and report of the investigation shall be treated in  
23 accordance with this section.

24 “(b) PUBLIC DISCLOSURE OF CERTAIN ACCIDENT  
25 INVESTIGATION INFORMATION.—

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

6           “(2) The Commandant shall not disclose the in-  
7           formation requested in paragraph (1) unless the  
8           Commandant determines—

9                   “(A) that such tapes, reports, or other in-  
10                  formation would be included within and releas-  
11                  able with the final accident investigation report;  
12                  and

13                   “(B) that release of such tapes, reports, or  
14                  other information—

15                           “(i) would not undermine the ability  
16                           of accident or safety investigators to con-  
17                           tinue to conduct the investigation; and

18                           “(ii) would not compromise national  
19                           security.

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

1           “(c) OPINIONS REGARDING CAUSATION OF ACCI-  
2 DENT.—Following an aircraft accident referred to in sub-  
3 section (a)—

4           “(1) if the evidence surrounding the accident is  
5 sufficient for the investigators who conduct the acci-  
6 dent investigation to come to an opinion as to the  
7 cause or causes of the accident, the final report of  
8 the accident investigation shall set forth the opinion  
9 of the investigators as to the cause or causes of the  
10 accident; and

11           “(2) if the evidence surrounding the accident is  
12 not sufficient for the investigators to come to an  
13 opinion as to the cause or causes of the accident, the  
14 final report of the accident investigation shall in-  
15 clude a description of those factors, if any, that, in  
16 the opinion of the investigators, substantially con-  
17 tributed to or caused the accident.

18           “(d) USE OF INFORMATION IN CIVIL PRO-  
19 CEEDINGS.—For purposes of any civil or criminal pro-  
20 ceeding arising from an aircraft accident referred to in  
21 subsection (a), any opinion of the accident investigators  
22 as to the cause of, or the factors contributing to, the acci-  
23 dent set forth in the accident investigation report may not  
24 be considered as evidence in such proceeding, nor may

1 such report be considered an admission of liability by the  
2 United States or by any person referred to in such report.

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

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

6 “(1) the term ‘accident investigation’ means  
7 any form of investigation by Coast Guard personnel  
8 of an aircraft accident referred to in subsection (a),  
9 other than a safety investigation; and

10 “(2) the term ‘safety investigation’ means an  
11 investigation by Coast Guard personnel of an air-  
12 craft accident referred to in subsection (a), that is  
13 conducted solely to determine the cause of the acci-  
14 dent and to obtain information that may prevent the  
15 occurrence of similar accidents.”.

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

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

19 **SEC. 206. ACQUISITION WORKFORCE EXPEDITED HIRING**  
20 **AUTHORITY.**

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

24 (1) in subsection (a)(1), by striking “as short-  
25 age category positions;” and inserting “as positions



1 for which there exists a shortage of candidates or  
2 there is a critical hiring need;” and

3 (2) in subsection (b)—

4 (A) by striking “paragraph” and inserting  
5 “section”; and

6 (B) by striking “2012.” and inserting  
7 “2015.”.

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

9 In conjunction with the transmittal by the President  
10 of the budget of the United States for fiscal year 2013,  
11 the Commandant of the Coast Guard shall submit to the  
12 Committee on Commerce, Science, and Transportation of  
13 the Senate and the Committee on Transportation and In-  
14 frastructure of the House of Representatives a report on  
15 the status of Coast Guard servicemember housing, includ-  
16 ing—

17 (1) a statement of the Coast Guard’s housing  
18 needs requirements;

19 (2) an assessment of the condition of the Coast  
20 Guard’s current housing inventory, including both  
21 leased and owned property;

22 (3) an assessment of housing available for  
23 Coast Guard use from surrounding communities and  
24 other government agencies for all duty stations;

1           (4) a list of housing capacity shortfalls and ex-  
2           cess; and

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

5 **SEC. 208. ADVANCE PROCUREMENT FUNDING.**

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

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

10           “With respect to any Coast Guard vessel for which  
11 amounts are appropriated or otherwise made available for  
12 vessels for the Coast Guard in any fiscal year, the Com-  
13 mandant, subject to section 569a, may enter into a con-  
14 tract or place an order, in advance of a contract or order  
15 for construction of a vessel, for—

16           “(1) materials, parts, components, and labor for  
17 the vessel;

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

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

22           “(4) production planning, design, and other re-  
23 lated support services that reduce the overall pro-  
24 curement lead time of the vessel.”.

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

“577. Advance procurement funding.”.

4 **TITLE III—COAST GUARD**  
5 **REFORM**

6 **SEC. 301. REPEALS.**

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

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

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

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

21 (e) ADVISORY COMMITTEE.—Section 193 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 (f) HISTORY FELLOWSHIPS.—Section 198 of title 14,  
2 United States Code, and the item relating to such section  
3 in the analysis for chapter 9 of such title, are repealed.

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

7 **SEC. 302. INTERFERENCE WITH COAST GUARD TRANS-**  
8 **MISSIONS.**

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

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

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

18 “(2) subject to civil penalty of not more than  
19 \$1,000 per day for each violation.”.

20 **SEC. 303. NATIONAL SECURITY CUTTERS.**

21 (a) IN GENERAL.—Subchapter I of chapter 15 of title  
22 14, United States Code is amended by adding at the end  
23 the following new section:

1 **“§ 569a. National security cutters**

2 “(a) SIXTH NATIONAL SECURITY CUTTER.—The  
3 Commandant may not begin production of a sixth national  
4 security cutter on any date before which the Com-  
5 mandant—

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

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

19 “(3) has submitted to the Committee on Com-  
20 merce, Science, and Transportation of the Senate  
21 and the Committee on Transportation and Infra-  
22 structure of the House of Representatives a program  
23 execution plan detailing increased aerial coverage to  
24 support national security cutter operations.

25 “(b) SEVENTH NATIONAL SECURITY CUTTER.—The  
26 Commandant may not begin production of a seventh na-

1 tional security cutter on any date before which the Com-  
2 mandant has selected an offshore patrol cutter that meets  
3 at least the minimum operational requirements set out in  
4 the Operational Requirements Document approved by the  
5 department in which the Coast Guard is operating on Oc-  
6 tober 20, 2010.”.

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

“569a. National security cutters.”.

10 **SEC. 304. MAJOR ACQUISITIONS REPORT.**

11 (a) IN GENERAL.—Subchapter I of chapter 15 of title  
12 14, United States Code, is further amended by adding at  
13 the end the following:

14 **“§ 569b. Major acquisitions report**

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

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

1           “(1) a statement of Coast Guard’s mission  
2 needs and performance goals for such program, in-  
3 cluding a justification for any change to those needs  
4 and goals from any report previously submitted  
5 under this subsection;

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

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

13           “(4) an identification of any changes to such  
14 program, including—

15           “(A) any changes to the timeline for the  
16 acquisition of each new asset and the phase out  
17 of legacy assets; and

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

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

24           “(6) a description of how the Coast Guard is  
25 planning for the integration of each new asset ac-

1       quired under such program into the Coast Guard,  
2       including needs related to shore-based infrastructure  
3       and human resources;

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

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

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

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

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



1       “(c) CUTTERS NOT MAINTAINED IN CLASS.—Each  
2 report under subsection (a) shall identify which, if any,  
3 Coast Guard cutters that have been issued a certificate  
4 of classification by the American Bureau of Shipping have  
5 not been maintained in class with an explanation detailing  
6 the reasons why they have not been maintained in class.

7       “(d) DEFINITION.—For the purposes of this section,  
8 the term ‘major acquisition program’ means an ongoing  
9 acquisition undertaken by the Coast Guard with a life-  
10 cycle cost estimate greater than or equal to  
11 \$300,000,000.”.

12       (b) CLERICAL AMENDMENT.—The analysis at the be-  
13 ginning of such chapter is further amended by adding at  
14 the end of the items relating to such subchapter the fol-  
15 lowing:

“569b. Major acquisitions report.”.

16       (c) REPEAL.—

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

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

21               (A) in section 562, by striking subsection  
22               (e) and redesignating subsections (f) and (g) as  
23               subsections (e) and (f), respectively; and

24               (B) in section 573(c)(3), by striking sub-  
25               paragraph (B).



1 manent residence (as such term is defined in section  
2 101(a)(20) of such Act (8 U.S.C. 1101 (a)(20))),”.

3 **SEC. 307. DECOMMISSIONINGS.**

4 (a) POLAR SEA.—Not later than 6 months after the  
5 date of enactment of this Act, the Commandant of the  
6 Coast Guard shall decommission the USCGC POLAR  
7 SEA (WAGB 11).

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

12 **SEC. 308. ASSESSMENT OF NEEDS FOR ADDITIONAL COAST**  
13 **GUARD PRESENCE IN HIGH LATITUDE RE-**  
14 **GIONS.**

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

1 prevention, fisheries enforcement, and maritime com-  
2 merce. The Secretary shall include in the report—

3 (1) an assessment of the high latitude operating  
4 capabilities of all current Coast Guard assets other  
5 than icebreakers, including assets acquired under  
6 the Deepwater program;

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

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

16 **SEC. 309. LIMITATION ON EXPENDITURES.**

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

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

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

23 (a) RESTRICTION.—Except as provided in subsection  
24 (b), the Secretary of the department in which the Coast  
25 Guard is operating and the Commandant of the Coast

1 Guard may not travel aboard any Coast Guard owned or  
2 operated fixed-wing aircraft if the Secretary has not pro-  
3 vided the Committee on Transportation and Infrastruc-  
4 ture of the House of Representatives and the Committee  
5 on Commerce, Science, and Transportation of the Senate  
6 all of the following:

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

8 (2) The study of Coast Guard current and  
9 planned cutters conducted by the Office of Program  
10 Analysis and Evaluation of the Department of  
11 Homeland Security at the request of the Office of  
12 Management and Budget.

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

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

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

23 (3) for evacuation purposes including for a  
24 medical emergency.

1                   **TITLE IV—SHIPPING AND**  
2                                   **NAVIGATION**

3   **SEC. 401. COMMITTEE ON THE MARINE TRANSPORTATION**  
4                                   **SYSTEM.**

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

8   **“§ 55502. Committee on the Marine Transportation**  
9                                   **System**

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

13           “(b) PURPOSE.—The Committee shall—

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

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

19                   “(3) coordinate policies among Federal agencies  
20 to promote an efficient marine transportation sys-  
21 tem.

22           “(c) MEMBERSHIP.—

23                   “(1) IN GENERAL.—The Committee shall con-  
24 sist of the Secretary of Transportation, the Sec-  
25 retary of Defense, the Secretary of Homeland Secu-

1 rity, the Secretary of Commerce, the Secretary of  
2 the Treasury, the Secretary of State, the Secretary  
3 of the Interior, the Secretary of Agriculture, the At-  
4 torney General, the Secretary of Labor, the Sec-  
5 retary of Energy, the Administrator of the Environ-  
6 mental Protection Agency, the Chairman of the Fed-  
7 eral Maritime Commission, and the head of any  
8 other Federal agency that the Committee Chair,  
9 with the approval of a majority of the voting mem-  
10 bers of the Committee, determines can further the  
11 purpose and activities of the Committee.

12 “(2) EX-OFFICIO MEMBERS.—The Committee  
13 may also consist of so many nonvoting members as  
14 the Committee Chair, with the approval of a major-  
15 ity of the voting members of the Committee, deter-  
16 mines is appropriate to further the purpose and ac-  
17 tivities of the Committee.

18 “(3) CHAIRMAN.—The Chair of the Committee  
19 shall rotate each year among the Secretary of Trans-  
20 portation, the Secretary of Defense, the Secretary of  
21 Homeland Security, and the Secretary of Commerce.  
22 The order of rotation shall be determined with the  
23 approval of a majority of the voting members of the  
24 Committee.

25 “(d) SUPPORT.—

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

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

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

17                 “(1) steps taken to implement actions rec-  
18                 ommended in the July 2008 ‘National Strategy for  
19                 the Marine Transportation System: A Framework  
20                 for Action’;

21                 “(2) an assessment of the condition of the ma-  
22                 rine transportation system;

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



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

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

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

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

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

14          **SEC. 402. REPORT ON DETERMINATIONS.**

15          Not later than 180 days after the date of enactment  
16          of this Act, the Secretary of the department in which the  
17          Coast Guard is operating shall provide to the Committee  
18          on Transportation and Infrastructure of the House of  
19          Representatives and the Committee on Commerce,  
20          Science, and Transportation of the Senate a report on—

21                 (1) the loss of United States shipyard jobs and  
22                 industrial base expertise as a result of rebuild, con-  
23                 version, and double-hull work on United States-flag  
24                 vessels eligible to engage in the coastwise trade  
25                 being performed in foreign shipyards;

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

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

6 **SEC. 403. DOCKSIDE EXAMINATIONS.**

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

9           (1) in paragraph (2) by striking “at least once  
10 every 2 years” and inserting “at least once every 5  
11 years”;

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

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

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

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

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

23 **SEC. 404. RECOURSE FOR NONCITIZENS.**

24           Section 30104 of title 46, United States Code, is  
25 amended—

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

3           (2) by adding at the end the following new sub-  
4           section:

5           “(b) RESTRICTION ON RECOVERY FOR NON-  
6 RESIDENT ALIENS EMPLOYED ON FOREIGN PASSENGER  
7 VESSELS.—A claim for damages or expenses relating to  
8 personal injury, illness, or death of a seaman who is a  
9 citizen of a foreign nation, arising during or from the en-  
10 gagement of the seaman by or for a passenger vessel duly  
11 registered under the laws of a foreign nation, may not be  
12 brought under the laws of the United States if—

13           “(1) such seaman was not a permanent resident  
14 alien of the United States at the time the claim  
15 arose;

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

18           “(3) the seaman or the seaman’s personal rep-  
19 resentative has or had a right to seek compensation  
20 for the injury, illness, or death in, or under the laws  
21 of—

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



1           “(c) **LIMITATION ON STATUTORY CONSTRUCTION.**—  
2 Nothing in subsections (a) and (b) shall be construed as  
3 imposing any limitation upon the authority of the Sec-  
4 retary of Commerce to modify, suspend, revoke, or sanc-  
5 tion any Federal fishery permit issued by the Secretary  
6 of Commerce or to bring a civil action to enforce such  
7 modification, suspension, revocation, or sanction.”.

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

“31310. Limitation on maritime liens on fishing permit and permit descrip-  
tion.”.

11 **SEC. 406. SHORT SEA TRANSPORTATION.**

12           (a) **PURPOSE OF PROGRAM AND PROJECTS; REAU-**  
13 **THORIZATION; TERMINATION.**—Section 55601 of title 46,  
14 United States Code, is amended—

15                 (1) in subsection (a), by striking “landside con-  
16 gestion.” and inserting “landside congestion and to  
17 promote increased use of the navigable waters of the  
18 United States for transportation of passengers or  
19 freight (or both).”;

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

23                 (3) in subsection (d), by striking “that the  
24 project may—” and all that follows through the end

1 of the subsection and inserting “that the project  
2 uses documented vessels and—

3 “(1) mitigates landside congestion; or

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

6 (4) by striking subsection (f) and redesignating  
7 subsection (g) as subsection (f);

8 (5) in subsection (f), as so redesignated, by  
9 adding at the end the following—

10 “(4) AUTHORIZATION OF APPROPRIATIONS.—

11 There is authorized to be appropriated not more  
12 than \$5,000,000 for each of the fiscal years 2012  
13 through fiscal year 2017 for grants under this sub-  
14 section.”; and

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

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

19 (b) SHORT SEA TRANSPORTATION DEFINITION.—

20 Section 55605 of title 46, United States Code, is amended  
21 by striking “means the carriage by vessel of cargo—” and  
22 inserting “means the carriage of passengers or freight (or  
23 both) by a vessel documented under the laws of the United  
24 States—”.

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

2 Section 109(a) of title 49, United States Code, is  
3 amended—

4 (1) in the subsection heading by striking “OR-  
5 ORGANIZATION” and inserting “ORGANIZATION AND  
6 MISSION”; and

7 (2) by inserting at the end the following: “The  
8 mission of the Maritime Administration is to foster,  
9 promote, and develop the domestic merchant mari-  
10 time industry of the United States.”.

11 **SEC. 408. LIMITATION ON LIABILITY FOR NON-FEDERAL**  
12 **VESSEL TRAFFIC SERVICE OPERATORS.**

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

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

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

18 “(b) NON-FEDERAL VESSEL TRAFFIC SERVICE OP-  
19 ERATORS.—An entity operating a non-Federal vessel traf-  
20 fic information service or advisory service pursuant to a  
21 duly executed written agreement with the Coast Guard,  
22 and any person acting in accordance with operational pro-  
23 cedures approved by the Coast Guard at such a non-Fed-  
24 eral service, shall not be liable for damages caused by or  
25 related to information, advice, or communication assist-  
26 ance provided by such entity or person while so operating

1 or acting unless the acts or omissions of such entity or  
2 person constitute gross negligence or willful misconduct.”.

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

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

## 7 **TITLE V—FEDERAL MARITIME** 8 **COMMISSION**

### 9 **SEC. 501. AUTHORIZATION OF APPROPRIATIONS.**

10 Section 501 of the Coast Guard and Maritime Trans-  
11 portation Act of 2004 (Public Law 108–293; 118 Stat.  
12 1049) is amended by striking “Commission—” and all  
13 that follows through the period at the end of the section  
14 and inserting “Commission for each of the fiscal years  
15 2012 through 2015, \$24,000,000.”.

## 16 **TITLE VI—MISCELLANEOUS**

### 17 **SEC. 601. TECHNICAL CORRECTIONS.**

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

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

21 and

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



1 (b) STUDY OF BRIDGES.—Section 905 of the Coast  
2 Guard Authorization Act of 2010 (Public Law 111–281;  
3 124 Stat. 3012) is amended to read as follows:

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

5 “The Commandant of the Coast Guard shall submit  
6 to the Committee on Commerce, Science, and Transpor-  
7 tation of the Senate and the Committee on Transportation  
8 and Infrastructure of the House of Representatives a com-  
9 prehensive study on the construction or alteration of any  
10 bridge, drawbridge, or causeway over the navigable waters  
11 of the United States with a channel depth of 25 feet or  
12 greater that may impede or obstruct future navigation to  
13 or from port facilities, for which a permit under the Act  
14 of March 23, 1906 (chapter 1130; 33 U.S.C. 491 et seq.),  
15 popularly known as the Bridge Act of 1906, was requested  
16 on or after January 1, 2006 and on or before August 3,  
17 2011.”.

18 **SEC. 602. REPORT ON COAST GUARD MERCHANT MARINER**

19 **MEDICAL EVALUATION PROGRAM.**

20 (a) IN GENERAL.—Not later than 180 days after the  
21 date of enactment of this Act, the Commandant of the  
22 Coast Guard shall submit to the Committee on Transpor-  
23 tation and Infrastructure of the House of Representatives  
24 and the Committee on Commerce, Science, and Transpor-  
25 tation of the Senate a report on the Coast Guard National

1 Maritime Center's merchant mariner medical evaluation  
2 program and alternatives to the program.

3 (b) CONTENTS.—The report required under sub-  
4 section (a) shall include the following:

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

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

16 (3) An explanation of how the amendments to  
17 the International Convention on Standards of Train-  
18 ing, Certification and Watchkeeping for Seafarers,  
19 1978, that enter into force on January 1, 2012, will  
20 require changes to the Coast Guard's merchant mar-  
21 iner medical evaluation program.

22 **SEC. 603. NOTICE OF ARRIVAL.**

23 The regulations required under section 109(a) of  
24 Public Law 109–347 (33 U.S.C. 1223 note) on notice of  
25 arrival for foreign vessels on the Outer Continental Shelf

1 shall not apply to a vessel documented under section  
2 12105 of title 46, United States Code, unless such vessel  
3 arrives from a foreign port or place.

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

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

7 **“CHAPTER 1—ESTABLISHMENT AND**  
8 **DUTIES**

“Sec.

“1. Establishment of Coast Guard.

“2. Primary duties.

“3. Department in which the Coast Guard operates.

“4. Secretary defined.

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

10 “The Coast Guard shall be a military service and a  
11 branch of the armed forces of the United States at all  
12 times.

13 **“§ 2. Primary duties**

14 “The Coast Guard shall—

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

19 “(2) engage in maritime air surveillance or  
20 interdiction to enforce or assist in the enforcement  
21 of the laws of the United States;

22 “(3) administer laws and promulgate and en-  
23 force regulations for the promotion of safety of life

1 and property on and under the high seas and waters  
2 subject to the jurisdiction of the United States cov-  
3 ering all matters not specifically delegated by law to  
4 some other executive department;

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

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

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

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

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

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

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

16       “(c) Whenever the Coast Guard operates as a service  
17 in the Navy:

18               “(1) applicable appropriations of the Navy De-  
19 partment shall be available for the expense of the  
20 Coast Guard;

21               “(2) applicable appropriations of the Coast  
22 Guard shall be available for transfer to the Navy  
23 Department;

24               “(3) precedence between commissioned officers  
25 of corresponding grades in the Coast Guard and the

1 Navy shall be determined by the date of rank stated  
2 by their commissions in those grades;

3 “(4) personnel of the Coast Guard shall be eli-  
4 gible to receive gratuities, medals, and other insignia  
5 of honor on the same basis as personnel in the naval  
6 service or serving in any capacity with the Navy; and

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

13 **“§ 4. Secretary defined**

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

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

18 Section 421 of the Coast Guard and Maritime Trans-  
19 portation Act of 2006 (Public Law 109-241; 120 Stat.  
20 548) is amended—

21 (1) by striking subsection (b) and inserting the  
22 following:

23 “(b) LICENSING RESTRICTIONS.—

24 “(1) IN GENERAL.—Subsection (a)(1) only ap-  
25 plies to a foreign citizen that holds a credential that

1 is equivalent to the credential issued by the Coast  
2 Guard to a United States citizen for the position,  
3 with respect to requirements for experience, training,  
4 and other qualifications.

5 “(2) TREATMENT OF LICENSE.—An equivalent  
6 credential under paragraph (1) shall be considered  
7 as meeting the requirements of section 8304 of title  
8 46, United States Code, but only while a person  
9 holding the credential is in the service of the vessel  
10 to which this section applies.”; and

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

19 **SEC. 606. WAIVERS.**

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

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

3 (2) MACY-RENEE (United States official  
4 number 1107319)

5 (3) OCEAN VERITAS (IMO number  
6 7366805).

7 (4) LUNA (United States official number  
8 280133).

9 (5) IL MORO DI VENEZIA IV (United States  
10 official number 1028654)

11 (b) DOCUMENTATION OF LNG TANKERS.—

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

18 (A) LNG GEMINI (United States official  
19 number 595752).

20 (B) LNG LEO (United States official  
21 number 595753).

22 (C) LNG VIRGO (United States official  
23 number 595755).

24 (2) LIMITATION ON OPERATION.—Coastwise  
25 trade authorized under paragraph (1) shall be lim-



1       ited to carriage of natural gas, as that term is de-  
2       fined in section 3(13) of the Deepwater Port Act of  
3       1974 (33 U.S.C. 1502(13)).

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

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

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

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

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

6 **SEC. 608. STANDBY VESSELS.**

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

10 **“CHAPTER 807—STANDBY VESSELS**

“Sec.  
“80701. Standby vessels.

11 **“§ 80701. Standby vessels**

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

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

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

23 “(b) IMPROVED STANDBY VESSEL RESPONSE  
24 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 vessels** .....**80701**”.

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           **TITLE VII—COMMERCIAL**  
5           **VESSEL DISCHARGES REFORM**

6           **SEC. 701. SHORT TITLE.**

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

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

10          Title III of the Federal Water Pollution Control Act  
11          (33 U.S.C. 1311 et seq.) is amended by adding at the end  
12          the following:

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

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

16                 “(1) AQUATIC NUISANCE SPECIES.—The term  
17                 ‘aquatic nuisance species’ means a nonindigenous  
18                 species (including a pathogen) that threatens the di-  
19                 versity or abundance of native species or the ecologi-  
20                 cal stability of navigable waters or commercial, agri-  
21                 cultural, aquacultural, or recreational activities de-  
22                 pendent on such waters.

23                 “(2) BALLAST WATER.—

24                         “(A) IN GENERAL.—The term ‘ballast  
25                         water’ means any water (including any sedi-



1           ment suspended in such water) taken aboard a  
2           commercial vessel—

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

5                   “(ii) during the cleaning, mainte-  
6                   nance, or other operation of a ballast water  
7                   treatment system of the vessel.

8                   “(B) EXCLUSION.—The term ‘ballast  
9                   water’ does not include any pollutant that is  
10                  added to water described in subparagraph (A)  
11                  that is not directly related to the operation of  
12                  a properly functioning ballast water treatment  
13                  technology certified under subsection (e).

14                  “(3) BALLAST WATER PERFORMANCE STAND-  
15                  ARD.—The term ‘ballast water performance stand-  
16                  ard’ or ‘performance standard’ means a numerical  
17                  ballast water performance standard specified under  
18                  subsection (c) or established under subsection (d).

19                  “(4) BALLAST WATER TREATMENT SYSTEM.—  
20                  The term ‘ballast water treatment system’ means  
21                  any equipment on board a commercial vessel (includ-  
22                  ing all compartments, piping, spaces, tanks, and  
23                  multi-use compartments, piping, spaces, and tanks)  
24                  that is—

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

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

5           “(5) BALLAST WATER TREATMENT TECH-  
6           NOLOGY.—The term ‘ballast water treatment tech-  
7           nology’ or ‘treatment technology’ means any me-  
8           chanical, physical, chemical, or biological process  
9           used, either singularly or in combination, to remove,  
10          render harmless, or avoid the uptake or discharge of  
11          aquatic nuisance species within ballast water.

12          “(6) BIOCIDES.—The term ‘biocides’ means a  
13          substance or organism, including a virus or fungus,  
14          that is introduced into, or produced by, a ballast  
15          water treatment technology as part of the process  
16          used to comply with a ballast water performance  
17          standard under this section.

18          “(7) COMMERCIAL VESSEL.—The term ‘com-  
19          mercial vessel’ means every description of  
20          watercraft, or other artificial contrivance used or ca-  
21          pable of being used as a means of transportation on  
22          water, that is engaged in commercial service (as de-  
23          fined under section 2101 of title 46, United States  
24          Code).

1           “(8) CONSTRUCTED.—The term ‘constructed’  
2 means a state of construction of a commercial vessel  
3 at which—

4                   “(A) the keel is laid;

5                   “(B) construction identifiable with the spe-  
6 cific vessel begins;

7                   “(C) assembly of the vessel has begun  
8 comprising at least 50 tons or 1 percent of the  
9 estimated mass of all structural material of the  
10 vessel, whichever is less; or

11                   “(D) the vessel commences a major conver-  
12 sion.

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

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

18                           “(i) a discharge into navigable waters  
19 from a commercial vessel of—

20                                   “(I)(aa) graywater (except  
21 graywater referred to in section  
22 312(a)(6)), bilge water, cooling water,  
23 oil water separator effluent, anti-foul-  
24 ing hull coating leachate, boiler or  
25 economizer blowdown, byproducts

1 from cathodic protection, controllable  
2 pitch propeller and thruster hydraulic  
3 fluid, distillation and reverse osmosis  
4 brine, elevator pit effluent, firemain  
5 system effluent, freshwater layup ef-  
6 fluent, gas turbine wash water, motor  
7 gasoline and compensating effluent,  
8 refrigeration and air condensate efflu-  
9 ent, seawater pumping biofouling pre-  
10 vention substances, boat engine wet  
11 exhaust, sonar dome effluent, exhaust  
12 gas scrubber washwater, or stern tube  
13 packing gland effluent; or

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

22 “(II) weather deck runoff, deck  
23 wash, aqueous film forming foam ef-  
24 fluent, chain locker effluent, non-oily  
25 machinery wastewater, underwater

1 ship husbandry effluent, welldeck ef-  
2 fluent, or fish hold and fish hold  
3 cleaning effluent; or

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

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

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

16 “(i) a discharge into navigable waters  
17 from a commercial vessel of—

18 “(I) ballast water;

19 “(II) rubbish, trash, garbage, in-  
20 cinerator ash, or other such material  
21 discharged overboard;

22 “(III) oil or a hazardous sub-  
23 stance within the meaning of section  
24 311; or

1                   “(IV) sewage within the meaning  
2                   of section 312; or

3                   “(ii) an emission of an air pollutant  
4                   resulting from the operation onboard a  
5                   commercial vessel of a vessel propulsion  
6                   system, motor driven equipment, or incin-  
7                   erator.

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

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

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

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

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

23                         “(A) changes its ballast water capacity by  
24                         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 December 19, 2008, for all jurisdictions ex-  
4 cept Alaska and Hawaii, and February 6, 2009, for  
5 Alaska and Hawaii.

6 “(b) GENERAL PROVISIONS.—

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

11 “(A) the discharge—

12 “(i) meets the ballast water perform-  
13 ance standard;

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

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

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

24 “(B) the owner or operator discharges the  
25 ballast water in accordance with a ballast water



1 management plan approved under subsection  
2 (i).

3 “(2) APPLICABILITY.—

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

9 “(i) documented under the laws of the  
10 United States; or

11 “(ii) operating in navigable waters on  
12 a voyage to or from a point in the United  
13 States.

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

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

20 “(ii) a commercial vessel that continu-  
21 ously takes on and discharges ballast water  
22 in a flow-through system;

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

1           “(iv) a commercial vessel that dis-  
2 charges ballast water consisting solely of  
3 water—

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

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

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

19                   “(C) LIMITATION.—An exemption under  
20 subparagraph (B)(v) shall cease to be effective  
21 on the date that is 3 years after the date on  
22 which the regulations under paragraph (3) be-  
23 come effective for the commercial vessel pursu-  
24 ant to the implementation schedule issued  
25 under paragraph (3)(B).

1 “(3) ISSUANCE OF REGULATIONS.—

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

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

16 “(4) COMPLIANCE SCHEDULES.—

17 “(A) INITIAL PERFORMANCE STANDARD  
18 COMPLIANCE DEADLINES.—

19 “(i) IN GENERAL.—An owner or oper-  
20 ator shall comply with the performance  
21 standard established under subsection (c)  
22 on or before the deadline that applies to  
23 the commercial vessel of the owner or oper-  
24 ator, as specified in clause (ii).

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

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

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

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

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

24                   “(iii) REGULATIONS.—In issuing reg-  
25 ulations under paragraph (3), the Sec-

1           retary shall include a compliance schedule  
2           that sets forth the deadlines specified in  
3           clause (ii).

4           “(B) REVISED PERFORMANCE STANDARD  
5           COMPLIANCE DEADLINES.—

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

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

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

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

22                  “(iii) VESSELS CONSTRUCTED AFTER  
23                  ISSUANCE OF REVISED PERFORMANCE  
24                  STANDARDS.—A compliance schedule  
25                  issued under this subparagraph with re-

1           spect to a revised performance standard  
2           shall require, at a minimum, the owner or  
3           operator of a commercial vessel that com-  
4           mences a major conversion or is con-  
5           structed on or after the date of issuance of  
6           the revised performance standard to com-  
7           ply with the revised performance standard.

8           “(C) EXTENSION OF COMPLIANCE DEAD-  
9           LINES.—

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

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

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

1           mercantile vessel (or class, type, or size  
2           of vessel); and

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

10                   “(iii) PERIOD OF EXTENSIONS.—An  
11           extension issued under this subparagraph  
12           shall—

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

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

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

24                     “(I) Whether the treatment tech-  
25           nology to be installed is available in

1 sufficient quantities to meet the com-  
2 pliance deadline.

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

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

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

12 “(V) Electric power generating  
13 capacity aboard the vessel.

14 “(VI) Safety of the vessel and  
15 crew.

16 “(v) CONSIDERATION OF PETI-  
17 TIONS.—

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

23 “(II) DEADLINE.—If the Sec-  
24 retary does not approve or deny a pe-  
25 tition referred to in subclause (I) on



1 or before the last day of the 90-day  
2 period beginning on the date of sub-  
3 mission of the petition, the petition  
4 shall be deemed approved.

5 “(c) BALLAST WATER PERFORMANCE STANDARD  
6 FOR COMMERCIAL VESSELS.—

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

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

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

23 “(2) SAFETY EXEMPTION.—Notwithstanding  
24 paragraph (1), an owner or operator may discharge

1 ballast water without regard to a ballast water per-  
2 formance standard if—

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

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

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

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

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

18 “(d) REVIEW OF PERFORMANCE STANDARD.—

19 “(1) IN GENERAL.—Not later than January 1,  
20 2016, and every 10 years thereafter, the Adminis-  
21 trator, in consultation with the Secretary, shall com-  
22 plete a review to determine whether revising the bal-  
23 last water performance standard would result in a  
24 scientifically demonstrable and substantial reduction

1 in the risk of the introduction or establishment of  
2 aquatic nuisance species.

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

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

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

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

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

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

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

22 “(v) the safety of such technology;

23 “(C) improvements in the capabilities to  
24 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 guidelines specifying 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 a commercial vessel having a  
7 maximum ballast water capacity of less than 8 cubic  
8 meters.

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

12 “(A) the effectiveness of the alternative  
13 method in reducing the risk of the introduction  
14 or establishment of aquatic nuisance species rel-  
15 ative to the performance standard; and

16 “(B) any other factor the Secretary con-  
17 siders appropriate.

18 “(3) BEST MANAGEMENT PRACTICES.—The  
19 Secretary may establish as an alternative method of  
20 compliance appropriate ballast water best manage-  
21 ment practices to minimize the introduction or es-  
22 tablishment of aquatic nuisance species.

23 “(g) GEOGRAPHICALLY LIMITED AREAS.—

24 “(1) IN GENERAL.—Subsections (c), (e), and (i)  
25 shall not apply to a commercial vessel that—

1           “(A) operates exclusively within a geo-  
2           graphically limited area, as determined by the  
3           Secretary, in consultation with the Adminis-  
4           trator; or

5           “(B) operates pursuant to a geographic re-  
6           striction issued for the commercial vessel under  
7           section 3309 of title 46, United States Code.

8           “(2) PETITION FOR DETERMINATION BY THE  
9           SECRETARY.—

10           “(A) SUBMISSION OF PETITIONS.—Fol-  
11           lowing the date of issuance of final regulations  
12           under subsection (b), an owner or operator may  
13           petition the Secretary for a determination  
14           under paragraph (1).

15           “(B) DETERMINATIONS.—The Secretary  
16           shall approve or deny a petition submitted by  
17           an owner or operator under subparagraph (A).

18           “(C) DEADLINE.—If the Secretary does  
19           not approve or deny a petition submitted by an  
20           owner or operator under subparagraph (A) on  
21           or before the last day of the 90-day period be-  
22           ginning on the date of submission of the peti-  
23           tion, the petition shall be deemed approved.

24           “(3) NOTIFICATION.—The Secretary shall no-  
25           tify the Administrator and the Governor of each



1 State the waters of which could be affected by the  
2 discharge of ballast water from a commercial vessel  
3 for which a petition has been granted under para-  
4 graph (2) of the granting of any such petition.

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

12 “(h) RECEPTION FACILITIES.—

13 “(1) IN GENERAL.—An owner or operator shall  
14 discharge ballast water in compliance with sub-  
15 section (e) or (f) unless discharging ballast water  
16 into—

17 “(A) an onshore facility for the reception  
18 of ballast water that meets standards issued by  
19 the Administrator, in consultation with the Sec-  
20 retary; or

21 “(B) an offshore facility for the reception  
22 of ballast water that meets standards issued by  
23 the Secretary, in consultation with the Adminis-  
24 trator.

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

4           “(A) the Administrator, in consultation  
5 with the Secretary, shall issue the standards re-  
6 ferred to in paragraph (1)(A); and

7           “(B) the Secretary, in consultation with  
8 the Administrator, shall issue the standards re-  
9 ferred to in paragraph (1)(B).

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

20          “(4) BALLAST WATER MANAGEMENT PLANS.—  
21 An owner or operator discharging ballast water  
22 under this subsection shall discharge such water in  
23 accordance with a ballast water management plan  
24 approved under subsection (i).

1           “(i) COMMERCIAL VESSEL BALLAST WATER MAN-  
2   AGEMENT PLAN.—

3           “(1) IN GENERAL.—An owner or operator shall  
4   discharge ballast water in accordance with a ballast  
5   water management plan that—

6           “(A) meets requirements prescribed by the  
7   Secretary; and

8           “(B) is approved by the Secretary.

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

17           “(3) RECORDKEEPING.—

18           “(A) IN GENERAL.—Except as provided by  
19   subparagraph (B), an owner or operator shall  
20   maintain in English and have available for in-  
21   spection by the Secretary a ballast water record  
22   book in which each operation of the commercial  
23   vessel involving a ballast water discharge is re-  
24   corded in accordance with regulations issued by  
25   the Secretary.

1           “(B) ALTERNATIVE MEANS OF RECORD-  
2           KEEPING.—The Secretary may provide for al-  
3           ternative methods of recordkeeping, including  
4           electronic recordkeeping, to comply with the re-  
5           quirements of this paragraph.

6           “(j) REGULATION OF BALLAST WATER DIS-  
7           CHARGES.—Effective on and after the date of enactment  
8           of this section—

9           “(1) the Administrator (or a State in the case  
10          of a permit program approved under section 402)  
11          shall not require any new permit or permit condition  
12          under section 402 for any discharge of ballast water  
13          from a commercial vessel into navigable waters; and

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

18          “(k) STATE AUTHORITY.—

19          “(1) STATE PROGRAMS.—The Governor of a  
20          State desiring to administer its own inspection and  
21          enforcement authority for ballast water discharges  
22          within its jurisdiction may submit to the Secretary  
23          a complete description of the program the Governor  
24          proposes to establish and administer under State  
25          law. In addition, the Governor shall submit a state-

1       ment from the State attorney general that the laws  
2       of the State provide adequate authority to carry out  
3       the described program.

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

11              “(A) inspect, monitor, and board a com-  
12      mercial vessel at any time, including the taking  
13      and testing of ballast water samples, to ensure  
14      the commercial vessel’s compliance with this  
15      section;

16              “(B) ensure that any ballast water dis-  
17      charged within the waters subject to the juris-  
18      diction of the State meets the requirements of  
19      this section;

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

22              “(D) investigate and abate violations of  
23      this section, including the imposition of civil  
24      and criminal penalties consistent with sub-  
25      section (o); and

1           “(E) ensure that the Secretary and the  
2           Administrator receive notice of each violation of  
3           this section in an expeditious manner.

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

7           “(4) WITHDRAWAL OF APPROVAL.—Whenever  
8           the Secretary, in consultation with the Adminis-  
9           trator, determines, after providing notice and the op-  
10          portunity for a public hearing, that a State is not  
11          administering a program in accordance with the  
12          terms of the program as approved under paragraph  
13          (2), the Secretary shall notify the State, and, if ap-  
14          propriate corrective action is not taken within a pe-  
15          riod of time not to exceed 90 days, the Secretary,  
16          with the concurrence of the Administrator, shall  
17          withdraw approval of the program. The Secretary  
18          shall not withdraw approval of a program unless the  
19          Secretary has first notified the State and made pub-  
20          lic, in writing, the reasons for the withdrawal.

21          “(5) LIMITATION ON STATUTORY CONSTRUC-  
22          TION.—Nothing in this subsection shall limit the au-  
23          thority of the Administrator or the Secretary to  
24          carry out inspections of any commercial vessel under  
25          subsection (n).

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

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

17           “(1) EVALUATION OF INCIDENTAL DIS-  
18 CHARGES.—

19           “(A) IN GENERAL.—Not later than 3 years  
20 after the date of enactment of this section, the  
21 Administrator, in consultation with the Sec-  
22 retary, shall complete an evaluation of dis-  
23 charges incidental to the normal operation of a  
24 commercial vessel.

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

3                   “(i) the characterization of the var-  
4                   ious types and composition of discharges  
5                   incidental to the normal operation of a  
6                   commercial vessel by different classes,  
7                   types, and sizes of commercial vessels;

8                   “(ii) the volume of such discharges for  
9                   representative individual commercial ves-  
10                  sels and by classes, types, and sizes of  
11                  commercial vessels in the aggregate;

12                  “(iii) the availability and feasibility of  
13                  implementing technologies or best manage-  
14                  ment practices for the control of such dis-  
15                  charges;

16                  “(iv) the characteristics of the receiv-  
17                  ing waters of such discharges;

18                  “(v) the nature and extent of poten-  
19                  tial effects of such discharges on human  
20                  health, welfare, and the environment;

21                  “(vi) the extent to which such dis-  
22                  charges are currently subject to and ad-  
23                  dressed by regulations under existing Fed-  
24                  eral laws or binding international obliga-  
25                  tions of the United States; and



1                   “(vii) any additional factor that the  
2                   Administrator considers appropriate.

3                   “(2) REGULATION OF INCIDENTAL DIS-  
4 CHARGES.—Effective on and after the date of enact-  
5 ment of this section—

6                   “(A) the Administrator (or a State in the  
7 case of a permit program approved under sec-  
8 tion 402) shall not require any new permit or  
9 permit conditions under section 402 for any dis-  
10 charge incidental to the normal operation of a  
11 commercial vessel; and

12                   “(B) a State or political subdivision there-  
13 of shall not adopt or enforce any law or regula-  
14 tion of the State or political subdivision with re-  
15 spect to such a discharge.

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

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

20                   “(A) The terms and conditions of section  
21 6 of such permit or any law of a State regu-  
22 lating the discharge of ballast water or any dis-  
23 charge incidental to the normal operation of a  
24 commercial vessel, upon the date of enactment  
25 of this section.

1           “(B) For each commercial vessel, the  
2 terms and conditions of such permit (except the  
3 terms and conditions referred to in subpara-  
4 graph (A)) applicable to a discharge of ballast  
5 water—

6                   “(i) on the date on which—

7                           “(I) a ballast water treatment  
8 technology certified under subsection  
9 (e) is installed on the commercial ves-  
10 sel;

11                           “(II) an alternative method of  
12 compliance established for the com-  
13 mercial vessel under subsection (f) is  
14 implemented for the commercial ves-  
15 sel;

16                           “(III) a petition is granted for  
17 the commercial vessel under sub-  
18 section (g); or

19                           “(IV) a certificate is issued for  
20 the commercial vessel under sub-  
21 section (h); or

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

24                   “(2) DISCHARGES INCIDENTAL TO THE NOR-  
25 MAL OPERATION OF COMMERCIAL VESSELS.—Not-

1       withstanding the expiration date set forth in the  
2       Vessel General Permit, the terms and conditions of  
3       such permit (except the terms and conditions re-  
4       ferred to in paragraph (1)(A)) applicable to dis-  
5       charges incidental to the normal operation of a com-  
6       mercial vessel shall remain in effect.

7       “(n) INSPECTIONS AND ENFORCEMENT.—

8               “(1) IN GENERAL.—

9                       “(A) COAST GUARD ENFORCEMENT.—The  
10                      Secretary shall enforce the requirements of this  
11                      section and may utilize by agreement, with or  
12                      without reimbursement, law enforcement offi-  
13                      cers or other personnel and facilities of the Ad-  
14                      ministrator, other Federal agencies, and the  
15                      States.

16                     “(B) ENVIRONMENTAL PROTECTION AGEN-  
17                     CY ACTIONS.—Notwithstanding any enforce-  
18                     ment decisions of the Secretary under subpara-  
19                     graph (A), the Administrator may use the au-  
20                     thorities provided in sections 308, 309, 312,  
21                     and 504 whenever required to carry out this  
22                     section.

23                     “(2) COAST GUARD INSPECTIONS.—The Sec-  
24                     retary may carry out inspections of any commercial  
25                     vessel at any time, including the taking of ballast

1 water samples, to ensure compliance with this sec-  
2 tion. The Secretary shall use all appropriate and  
3 practical measures of detection and environmental  
4 monitoring of such commercial vessels and shall es-  
5 tablish adequate procedures for reporting violations  
6 of this section and accumulating evidence regarding  
7 such violations.

8 “(o) COMPLIANCE.—

9 “(1) DETENTION OF COMMERCIAL VESSEL.—

10 The Secretary, by notice to the owner or operator,  
11 may detain the commercial vessel if the Secretary  
12 has reasonable cause to believe that the commercial  
13 vessel does not comply with a requirement of this  
14 section or is being operated in violation of such a re-  
15 quirement.

16 “(2) SANCTIONS.—

17 “(A) CIVIL PENALTIES.—

18 “(i) IN GENERAL.—Any person who  
19 violates this section shall be liable for a  
20 civil penalty in an amount determined  
21 under clause (ii). Each day of a continuing  
22 violation constitutes a separate violation. A  
23 commercial vessel operated in violation of  
24 this section is liable in rem for any civil  
25 penalty assessed for that violation.

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

4                   “(I) For vessels with a ballast  
5                   water capacity less than 1500 cubic  
6                   meters, not to exceed \$25,000 for  
7                   each violation.

8                   “(II) For vessels with a ballast  
9                   water capacity of 1500 cubic meters  
10                  but not more than 5,000 cubic me-  
11                  ters, not to exceed \$28,750 for each  
12                  violation.

13                  “(III) For vessels with a ballast  
14                  water capacity greater than 5,000  
15                  cubic meters, not to exceed \$32,500  
16                  for each violation.

17                  “(B) CRIMINAL PENALTIES.—Any person  
18                  who knowingly violates this section shall be  
19                  punished by a fine of not less than \$5,000 nor  
20                  more than \$50,000 per day of violation, or by  
21                  imprisonment for not more than 3 years, or  
22                  both. If a conviction of a person is for a viola-  
23                  tion committed after a first conviction of such  
24                  person under this paragraph, punishment shall  
25                  be by a fine of not more than \$100,000 per day

1 of violation, or imprisonment of not more than  
2 6 years, or both.

3 “(C) REVOCATION OF CLEARANCE.—Upon  
4 request of the Secretary, the Secretary of  
5 Homeland Security shall withhold or revoke the  
6 clearance of a commercial vessel required by  
7 section 60105 of title 46, United States Code,  
8 if the owner or operator is in violation of this  
9 section.

10 “(3) ENFORCEMENT ACTIONS.—

11 “(A) ADMINISTRATIVE ACTIONS.—If the  
12 Secretary finds that a person has violated this  
13 section, the Secretary may assess a civil penalty  
14 for the violation. In determining the amount of  
15 the civil penalty, the Secretary shall take into  
16 account the nature, circumstances, extent, and  
17 gravity of the prohibited acts committed and,  
18 with respect to the violator, the degree of culpa-  
19 bility, any history of prior violations, and such  
20 other matters as justice may require.

21 “(B) CIVIL ACTIONS.—At the request of  
22 the Secretary, the Attorney General may bring  
23 a civil action in an appropriate district court of  
24 the United States to enforce this section. Any  
25 court before which such an action is brought



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

5           “(p) BEST MANAGEMENT PRACTICES FOR COVERED  
6           VESSELS.—

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

9           “(A) COVERED VESSEL.—The term ‘cov-  
10           ered vessel’ means every description of  
11           watercraft, or other artificial contrivance used  
12           or capable of being used as a means of trans-  
13           portation on water, that is engaged in commer-  
14           cial service (as defined under section 2101 of  
15           title 46, United States Code), and—

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

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

20           “(B) DISCHARGE INCIDENTAL TO THE  
21           NORMAL OPERATION OF A COVERED VESSEL.—  
22           The term ‘discharge incidental to the normal  
23           operation of a covered vessel’ means a discharge  
24           incidental to the normal operation of a commer-



1           cial vessel (as defined in section 321), insofar  
2           as the commercial vessel is a covered vessel.

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

5           “(A) DETERMINATION.—

6           “(i) IN GENERAL.—The Adminis-  
7           trator, in consultation with the Secretary  
8           of the department in which the Coast  
9           Guard is operating, shall determine the  
10          discharges incidental to the normal oper-  
11          ation of a covered vessel for which it is  
12          reasonable and practicable to develop best  
13          management practices to mitigate the ad-  
14          verse impacts of such discharges on the  
15          waters of the United States.

16          “(ii) PROMULGATION.—The Adminis-  
17          trator shall promulgate the determinations  
18          under clause (i) in accordance with section  
19          553 of title 5, United States Code.

20          “(B) CONSIDERATIONS.—In making a de-  
21          termination under subparagraph (A), the Ad-  
22          ministrators shall consider—

23                 “(i) the nature of the discharge;

1           “(ii) the environmental effects of the  
2 discharge, including characteristics of the  
3 receiving waters;

4           “(iii) the effectiveness of the best  
5 management practice in reducing adverse  
6 impacts of the discharge on water quality;

7           “(iv) the practicability of developing  
8 and using a best management practice;

9           “(v) the effect that the use of a best  
10 management practice would have on the  
11 operation, operational capability, or safety  
12 of the vessel;

13           “(vi) applicable Federal and State  
14 law;

15           “(vii) applicable international stand-  
16 ards; and

17           “(viii) the economic costs of the use of  
18 the best management practice.

19           “(C) TIMING.—The Administrator shall—

20           “(i) make initial determinations under  
21 subparagraph (A) not later than 1 year  
22 after the date of enactment of this sub-  
23 section; and

24           “(ii) every 5 years thereafter—

1                   “(I) review the determinations;  
2                   and

3                   “(II) if necessary, revise the de-  
4                   terminations based on any new infor-  
5                   mation available to the Administrator.

6                   “(3) REGULATIONS FOR THE USE OF BEST  
7                   MANAGEMENT PRACTICES.—

8                   “(A) IN GENERAL.—The Secretary of the  
9                   department in which the Coast Guard is oper-  
10                  ating shall promulgate regulations on the use of  
11                  best management practices for discharges inci-  
12                  dental to the normal operation of a covered ves-  
13                  sel that the Administrator determines are rea-  
14                  sonable and practicable to develop under para-  
15                  graph (2).

16                  “(B) REGULATIONS.—

17                  “(i) IN GENERAL.—The Secretary  
18                  shall promulgate the regulations under this  
19                  paragraph as soon as practicable after the  
20                  Administrator makes determinations pur-  
21                  suant to paragraph (2).

22                  “(ii) CONSIDERATIONS.—In promul-  
23                  gating regulations under this paragraph,  
24                  the Secretary may—

1                   “(I) distinguish among classes,  
2                   types, and sizes of vessels;

3                   “(II) distinguish between new  
4                   and existing vessels; and

5                   “(III) provide for a waiver of the  
6                   applicability of the standards as nec-  
7                   essary or appropriate to a particular  
8                   class, type, age, or size of vessel.

9                   “(4) EFFECT OF OTHER LAWS.—This sub-  
10                  section shall not affect the application of section 311  
11                  to a covered vessel.

12                  “(5) PROHIBITION RELATING TO COVERED VES-  
13                  SELS.—After the effective date of the regulations  
14                  promulgated by the Secretary of the department in  
15                  which the Coast Guard is operating under paragraph  
16                  (3), the owner or operator of a covered vessel shall  
17                  neither operate in, nor discharge any discharge inci-  
18                  dental to the normal operation of the vessel into  
19                  navigable waters, if the owner or operator of the ves-  
20                  sel is not using any applicable best management  
21                  practice meeting standards established under this  
22                  subsection.”.

1 **SEC. 704. CONFORMING AND TECHNICAL AMENDMENTS.**

2 (a) EFFLUENT LIMITATIONS.—Section 301(a) of the  
3 Federal Water Pollution Control Act (33 U.S.C. 1311(a))  
4 is amended by inserting “312, 321,” after “318,”.

5 (b) REVIEW OF ADMINISTRATOR’S ACTIONS.—The  
6 first sentence of section 509(b)(1) of such Act (33 U.S.C.  
7 1369(b)(1)) is amended—

8 (1) by striking “and (G)” and inserting “(G)”;

9 and

10 (2) by inserting after “section 304(l),” the fol-  
11 lowing: “and (H) in issuing any regulation or other-  
12 wise taking final agency action under section 312 or  
13 321,”.

14 **SEC. 705. REGULATION OF BALLAST WATER AND INCI-**  
15 **DENTAL DISCHARGES FROM A COMMERCIAL**  
16 **VESSEL.**

17 (a) IN GENERAL.—Effective on the date of enact-  
18 ment of this Act, the following discharges shall not be reg-  
19 ulated in any manner other than as specified in section  
20 312 or 321 of the Federal Water Pollution Control Act  
21 (as added by this title):

22 (1) A discharge incidental to the normal oper-  
23 ation of a commercial vessel.

24 (2) A discharge of ballast water from a com-  
25 mercial vessel.

1 (b) DEFINITIONS.—In this section, the terms “ballast  
2 water”, “commercial vessel”, and “discharge incidental to  
3 the normal operation of a commercial vessel” have the  
4 meanings given those terms in section 321(a) of the Fed-  
5 eral Water Pollution Control Act (as added by this title).

6 **SEC. 706. NONINDIGENOUS AQUATIC NUISANCE PREVEN-**  
7 **TION AND CONTROL ACT OF 1990.**

8 (a) AQUATIC NUISANCE SPECIES IN WATERS OF THE  
9 UNITED STATES.—Effective on the date of issuance of  
10 final regulations under section 321(b) of the Federal  
11 Water Pollution Control Act (as added by this title), sec-  
12 tion 1101 of the Nonindigenous Aquatic Nuisance Preven-  
13 tion and Control Act of 1990 (16 U.S.C. 4711) is re-  
14 pealed.

15 (b) RELATIONSHIP TO OTHER LAWS.—Effective on  
16 the date of enactment of this Act, section 1205 of the  
17 Nonindigenous Aquatic Nuisance Prevention and Control  
18 Act of 1990 (16 U.S.C. 4725) is repealed.

