

109TH CONGRESS
1ST SESSION

S. 1224

To protect the oceans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 9, 2005

Mrs. BOXER (for herself and Mr. LAUTENBERG) introduced the following bill;
which was read twice and referred to the Committee on Commerce,
Science, and Transportation

A BILL

To protect the oceans, and for other purposes.

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

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “National Oceans Protection Act of 2005”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Findings.
- Sec. 3. Purpose.
- Sec. 4. Definitions.

TITLE I—NATIONAL OCEAN POLICY AND LEADERSHIP

- Sec. 101. Short title.
- Sec. 102. Purposes.

Sec. 103. Policy.

Subtitle A—National Oceanic and Atmospheric Administration

Sec. 111. Establishment.
 Sec. 112. Functions and purposes.
 Sec. 113. National Oceanic and Atmospheric Administration.
 Sec. 114. Responsibilities of the Administrator.
 Sec. 115. Powers of the Administrator.
 Sec. 116. Enforcement.
 Sec. 117. Regional capabilities.
 Sec. 118. Intergovernmental coordination.
 Sec. 119. International consultation and cooperation.
 Sec. 120. Report on oceanic and atmospheric conditions and trends.
 Sec. 121. Conforming amendments and repeals.
 Sec. 122. Savings provision.
 Sec. 123. Transition.

Subtitle B—Federal Coordination and Advice

Sec. 131. Council on Ocean Stewardship.
 Sec. 132. Membership.
 Sec. 133. Functions of Council.
 Sec. 134. National priorities for coordination.
 Sec. 135. Employees.
 Sec. 136. Biennial report to Congress.
 Sec. 137. Presidential Panel of Advisers on Oceans and Climate.
 Sec. 138. Federal program recommendations.
 Sec. 139. Implementation.
 Sec. 140. No effect on other authorities.

Subtitle C—Ocean Conservation Certification

Sec. 151. Covered action defined.
 Sec. 152. Certification.
 Sec. 153. Review.
 Sec. 154. Effect.
 Sec. 155. Guidelines.
 Sec. 156. Emergency exemption.
 Sec. 157. Effective date.

Subtitle D—Offshore Governance

Sec. 161. Management and permitting of offshore uses for non-extractive activities.
 Sec. 162. Marine aquaculture.

Subtitle E—Ocean Science, Research, and Education Coordination

Sec. 171. Committee on Ocean Science, Education, and Operations.
 Sec. 172. National strategy for ocean and coastal science.
 Sec. 173. Ocean Research and Education Advisory Panel.
 Sec. 174. Marine ecosystems research.
 Sec. 175. Ocean ecosystem resource information systems.
 Sec. 176. Funding for marine ecosystem research.
 Sec. 177. Subcommittee on Ocean Education.
 Sec. 178. Ocean and Coastal Education Program.

- Sec. 179. Ocean Science and Technology Scholarship Program.
 Sec. 180. Authorization of appropriations.

TITLE II—HABITAT MANAGEMENT

Subtitle A—Management of Coral Habitats

- Sec. 201. Short title.
 Sec. 202. Policy.
 Sec. 203. Definitions.
 Sec. 204. Mapping and research.
 Sec. 205. Data review and recommendations.
 Sec. 206. Coral study areas.
 Sec. 207. Coral management areas.
 Sec. 208. International protections for deep sea corals and sponges.
 Sec. 209. Report to Congress.
 Sec. 210. Authorization of appropriations.

Subtitle B—Protection of Essential Fish Habitat

- Sec. 221. Contents of fishery management plans.
 Sec. 222. Habitat protection program.

TITLE III—FISHERIES MANAGEMENT

- Sec. 301. Amendment of Magnuson-Stevens Fishery Conservation and Management Act.

Subtitle A—Ecosystem-Based Fisheries Management Objectives

- Sec. 311. Purposes and policy.
 Sec. 312. Definitions.
 Sec. 313. National standards for fishery conservation and management.
 Sec. 314. Contents of fishery management plans.
 Sec. 315. Fisheries ecosystem plans.
 Sec. 316. Authorization of appropriations.

Subtitle B—Bycatch Management

- Sec. 321. Policy.
 Sec. 322. Definitions.
 Sec. 323. National standards for fishery conservation and management.
 Sec. 324. Contents of fishery management plans.
 Sec. 325. Other requirements and authority.
 Sec. 326. Authorization of appropriations.

Subtitle C—Cetacean and Sea Turtle Conservation

- Sec. 331. Short title.
 Sec. 332. Purposes.
 Sec. 333. Definitions.
 Sec. 334. International agreements and standards.
 Sec. 335. Research and development grants.
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Subtitle D—Individual Fishing Quotas

- Sec. 341. Individual fishing quotas.

- Sec. 342. Definitions.
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Subtitle E—Fisheries Science and Management

- Sec. 351. Short title.
 Sec. 352. Regional fishery management council committees and panels.
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 Sec. 354. Peer review.
 Sec. 355. Cooperative research, data collection, and gear modification program.
 Sec. 356. Amendments to Saltonstall-Kennedy Act.

TITLE IV—MARINE MAMMALS

- Sec. 401. Emerging threats to marine mammals.
 Sec. 402. National Ocean Noise Pollution Research Fund.
 Sec. 403. Take reduction plans.
 Sec. 404. Fisheries gear development to reduce bycatch.
 Sec. 405. Clarification and expansion of fisheries required to participate in the incidental take program to better address marine mammal bycatch associated with fishing.
 Sec. 406. Conforming amendments to incidental take program.
 Sec. 407. Authorizations for population stock assessments and observer programs.

TITLE V—COASTAL HABITAT PROTECTION AND RESTORATION

Subtitle A—Coastal and Estuarine Land Protection

- Sec. 501. Establishment of Coastal and Estuarine Land Protection Program.
 Sec. 502. Assistance from other agencies.

Subtitle B—Coastal Barrier Resources System

- Sec. 511. Pacific coastal barriers.

Subtitle C—Community-Based Restoration Program for Fishery and Coastal Habitats

- Sec. 521. Establishment, purpose, and activities.
 Sec. 522. Authorization of appropriations.

Subtitle D—National Flood Insurance Program

- Sec. 531. Periodic updating of floodplain areas and flood risk zones.
 Sec. 532. Criteria for land management and use.
 Sec. 533. Losses from erosion and undermining of shorelines.
 Sec. 534. Special updates of maps.

TITLE VI—OCEAN EDUCATION

- Sec. 601. National Oceanic and Atmospheric Administration National Office of Education.
 Sec. 602. Amendment to the National Sea Grant College Program Act.
 Sec. 603. National ocean awareness media campaign.
 Sec. 604. Authorization of appropriations.

TITLE VII—NONINDIGENOUS AQUATIC NUISANCE PREVENTION

Subtitle A—Ballast Water Management

- Sec. 701. Short title.
- Sec. 702. Findings.
- Sec. 703. Ballast water management.
- Sec. 704. Coast Guard report on other vessel-related vectors of invasive species.

Subtitle B—Early Detection; Rapid Response; Control and Outreach

- Sec. 711. Early detection.
- Sec. 712. Rapid response.
- Sec. 713. Dispersal barriers.
- Sec. 714. Environmental soundness.
- Sec. 715. Information, education, and outreach.

Subtitle C—Aquatic Invasive Species Research

- Sec. 721. Ecological, pathway, and experimental research.
- Sec. 722. Analysis.
- Sec. 723. Vessel pathway standards research.
- Sec. 724. Graduate education in systematics and taxonomy.

Subtitle D—Coordination

- Sec. 731. Program coordination.
- Sec. 732. International coordination.

Subtitle E—Authorization of Appropriations

- Sec. 741. Authorization of appropriations.

Subtitle F—Conforming Amendments

- Sec. 751. Conforming amendments.

TITLE VIII—CONTAMINATED SEDIMENTS

- Sec. 801. Designation of sites.
- Sec. 802. Sediment quality survey, monitoring, criteria, and standards.
- Sec. 803. No preemption of State or local authority.

TITLE IX—OCEANS AND WATER QUALITY

- Sec. 901. Water quality criteria and standards for discharges of nutrients.
- Sec. 902. Continuing planning processes for total maximum daily loads.
- Sec. 903. Sanitary sewer overflows.
- Sec. 904. Stormwater runoff from construction and development activity.
- Sec. 905. Beach water testing.
- Sec. 906. Agricultural best management practices.
- Sec. 907. Grants to States for establishment of revolving funds.
- Sec. 908. Authorization of appropriations for safe drinking water State revolving fund.
- Sec. 909. No preemption of State or local authority.

TITLE X—MISCELLANEOUS PROVISIONS

- Sec. 1001. Citizen suits.

1 **SEC. 2. FINDINGS.**

2 Congress makes the following findings:

3 (1) Covering more than $\frac{2}{3}$ of the Earth's sur-
4 face, the oceans play a critical role in the global
5 water cycle and in regulating climate, sustain a large
6 part of Earth's biodiversity, provide an important
7 source of food and a wealth of other natural prod-
8 ucts, act as a frontier for scientific exploration, are
9 critical to national and economic security, and pro-
10 vide a vital means of transportation. The coastal re-
11 gions of the United States have remarkably high bio-
12 logical productivity and contribute approximately 50
13 percent of the gross domestic product of the United
14 States.

15 (2) The oceans and the atmosphere are suscep-
16 tible to change as a direct and indirect result of
17 human activities, and such changes can significantly
18 impact the ability of the oceans and atmosphere to
19 provide the benefits upon which the Nation depends.
20 Changes in ocean and atmospheric processes could
21 affect global climate patterns, ecosystem productivity
22 and health, biodiversity, environmental quality, na-
23 tional security, economic competitiveness, availability
24 of energy, vulnerability to natural hazards, and
25 transportation safety and efficiency.

1 (3) Human pressure on ocean resources is dras-
2 tically increasing. Fifty percent of the population of
3 the United States lives within 50 miles of the coast.
4 If population trends continue as expected, coastal
5 development and urbanization impacts, which can be
6 substantially greater than population impacts alone,
7 will present serious environmental, energy, and
8 water challenges and increase our vulnerability to
9 coastal hazards.

10 (4) Ocean resources are the property of the
11 people of the United States, are held in trust for
12 them by Federal, State, local, and tribal govern-
13 ments, and should be managed in a precautionary
14 manner to preserve the full range of their benefits
15 for present and future generations.

16 (5) A variety of threats and practices have
17 caused dramatic declines in the health and produc-
18 tivity of coastal and marine ecosystems of the
19 United States. Among the major threats to marine
20 ecosystem health are—

- 21 (A) chemical, nutrient, and biological pol-
22 lution;
23 (B) bycatch of nontarget marine species;
24 (C) habitat damage;

1 (D) overfishing and use of destructive fish-
2 ing practices;

3 (E) unwise land use and coastal develop-
4 ment;

5 (F) invasive species; and

6 (G) global climate change.

7 (6) These threats are exacerbated by the legal
8 and geographic fragmentation of authority over
9 ocean space and ocean resources.

10 (7) Activities harming coastal and marine eco-
11 systems jeopardize the economies and social struc-
12 ture of coastal communities dependent on these re-
13 sources.

14 (8) While there is a plethora of laws, govern-
15 ment agencies, and programs dealing with coastal
16 resources and ocean resources, activities thereunder
17 are poorly coordinated and do not constitute unified
18 and comprehensive public policy toward the oceans.

19 (9) Improving and coordinating Federal govern-
20 ance will require close partnerships with States, tak-
21 ing into account their public trust responsibilities,
22 economic and ecological interests in ocean resources,
23 and the role of State and local governments in im-
24 plementation of ocean policies, and managing use of
25 coastal lands and ocean resources.

1 (10) Ecosystem-based management of coastal
2 lands, oceans, and marine resources to protect,
3 maintain, and restore the health of marine eco-
4 systems requires a partnership between Federal,
5 State, local, and tribal governments.

6 (11) It is the continuing mission of the Federal
7 Government to create, foster, and maintain condi-
8 tions, incentives, and programs that will further and
9 assure the sustainable and effective conservation,
10 management, and protection of the oceans and at-
11 mosphere, in order to fulfill the responsibility of
12 each generation as trustee in protecting such re-
13 sources and ensuring that such resources will be
14 available to meet the needs of future generations of
15 Americans.

16 (12) To better enable the various levels of gov-
17 ernment with authority over coastal and ocean
18 space, coastal resources, and ocean resources to ful-
19 fill their public trust responsibilities, a unified na-
20 tional oceans policy that is precautionary in nature
21 is needed to govern the range of human activities
22 that may significantly affect United States ocean
23 waters and ocean resources.

1 **SEC. 3. PURPOSE.**

2 The purpose of this Act is to secure, for present and
3 future generations of people of the United States, the full
4 range of environmental, economic, educational, social, cul-
5 tural, nutritional, and recreational benefits of healthy ma-
6 rine ecosystems.

7 **SEC. 4. DEFINITIONS.**

8 In this Act:

9 (1) ADMINISTRATOR.—The term “Adminis-
10 trator” means the Administrator of NOAA.

11 (2) COMMISSION ON OCEAN POLICY.—The term
12 “Commission on Ocean Policy” means the Commis-
13 sion on Ocean Policy established by section 3 of the
14 Oceans Act of 2000 (33 U.S.C. 857–19 note).

15 (3) MARINE.—The term “marine” includes
16 ocean waters.

17 (4) MARINE ECOSYSTEM HEALTH.—The term
18 “marine ecosystem health” means the capability of
19 a marine ecosystem to—

20 (A) support and maintain a productive and
21 resilient community of organisms that has a
22 species composition, biological diversity, and
23 functional organization comparable to the nat-
24 ural habitat of the region; and

25 (B) provide a range of goods and services
26 to humans and other species at levels and rates

1 comparable to those provided by a similar un-
2 disturbed ecosystem.

3 (5) NOAA.—The term “NOAA” means the Na-
4 tional Oceanic and Atmospheric Administration.

5 (6) OCEAN AND OCEAN WATERS.—The terms
6 “ocean” and “ocean waters” include—

7 (A)(i) coastal areas;

8 (ii) the Great Lakes;

9 (iii) the seabed, subsoil, and waters of the
10 territorial sea of the United States;

11 (iv) the waters of the exclusive economic
12 zone of the United States;

13 (v) the waters of the high seas; and

14 (vi) the seabed and subsoil of and beyond
15 the Outer Continental Shelf marine environ-
16 ment; and

17 (B) the natural resources found in the
18 areas described in clauses (i) through (vi) of
19 subparagraph (A).

20 (7) PERSON.—The term “person” has the
21 meaning given that term by section 1 of title 1,
22 United States Code, but also means any State, polit-
23 ical subdivision of a State, or agency or officer
24 thereof.

1 (8) SECRETARY.—Except as otherwise provided
2 in this Act, the term “Secretary” means the Sec-
3 retary of Commerce.

4 (9) STATE.—The term “State” means any
5 State of the United States, the District of Columbia,
6 the Commonwealth of Puerto Rico, the Virgin Is-
7 lands, Guam, American Samoa, or any other Com-
8 monwealth, territory, or possession of the United
9 States.

10 **TITLE I—NATIONAL OCEAN** 11 **POLICY AND LEADERSHIP**

12 **SEC. 101. SHORT TITLE.**

13 This title may be cited as the “Ernest ‘Fritz’ Hollings
14 National Ocean Policy and Leadership Act”.

15 **SEC. 102. PURPOSES.**

16 The purposes of this title are—

17 (1) to set forth a national policy relating to
18 oceans and atmosphere, and, through an organic act,
19 formally to establish the National Oceanic and At-
20 mospheric Administration as the lead Federal agen-
21 cy concerned with ocean and atmospheric matters;

22 (2) to establish in the National Oceanic and At-
23 mospheric Administration, by statute, the authori-
24 ties, functions, and powers relating to the conserva-
25 tion, management, and protection of the oceans and

1 atmosphere which have previously been established
2 by statute or reorganization plan;

3 (3) to set forth the duties and responsibilities of
4 the Administration, and the principal officers of the
5 Administration;

6 (4) to establish a mechanism for Federal lead-
7 ership and coordinated action on national ocean and
8 atmospheric priorities that are essential to the eco-
9 nomic and environmental security of the United
10 States; and

11 (5) to enhance Federal partnerships with the
12 State and local governments with respect to ocean
13 activities, include management of ocean resources
14 and identification of appropriate opportunities for
15 policymaking and decisionmaking at the State and
16 local level.

17 **SEC. 103. POLICY.**

18 It is the policy of the United States to establish and
19 maintain for the benefit of the United States a coordi-
20 nated, comprehensive, and long-range national program of
21 ocean and atmospheric research, conservation, manage-
22 ment, education, monitoring, and assessment that will—

23 (1) recognize the linkage of ocean, land, and at-
24 mospheric systems, including the linkage of those
25 systems with respect to climate change;

1 (2) protect life and property against natural
2 and manmade hazards, including protection through
3 weather and marine forecasts and warnings;

4 (3) protect, maintain, and restore the long-term
5 health, productivity, and diversity of the ocean envi-
6 ronment, including its natural resources and to pre-
7 vent pollution of the ocean environment;

8 (4) ensure responsible and sustainable use of
9 fishery resources and other ocean and coastal re-
10 sources held in the public trust, using ecosystem-
11 based management and a precautionary and adapt-
12 ive approach;

13 (5) assure sustainable coastal development
14 based on responsible State and community manage-
15 ment and planning, and reflecting the economic and
16 environmental values of ocean resources;

17 (6) develop improved scientific information and
18 use of the best scientific information available to
19 make decisions concerning natural, social, and eco-
20 nomic processes affecting ocean and atmospheric en-
21 vironments;

22 (7) enhance sustainable ocean-related and
23 coastal-dependent commerce and transportation, bal-
24 ancing multiple uses of the ocean environment;

1 (8) provide for continued investment in and im-
2 provement of technologies for use in ocean and cli-
3 mate-related activities, including investments and
4 technologies designed to promote national economic,
5 environmental, and food security;

6 (9) expand human knowledge of marine and at-
7 mospheric environments and ecosystems, including
8 the role of the oceans in climate and global environ-
9 mental change, the interrelationships of ocean health
10 and human health, and the advancement of edu-
11 cation and training in fields related to ocean, coast-
12 al, and climate-related activities;

13 (10) facilitate a collaborative approach that en-
14 courages the participation of a diverse group of
15 stakeholders and the public in ocean and atmos-
16 pheric science and policy, including persons from
17 under-represented groups;

18 (11) promote close cooperation among all gov-
19 ernment agencies and departments, academia, non-
20 governmental organizations, private sector and
21 stakeholders based on this policy to ensure coherent,
22 accountable, and effective planning, regulation, and
23 management of activities affecting oceans and at-
24 mosphere, including climate;

1 (12) promote governance and management of
2 the United States ocean resources through a part-
3 nership of the Federal Government with States, ter-
4 ritories, and Commonwealths that reflects their pub-
5 lic trust responsibilities and interest in ocean envi-
6 ronmental, cultural, historic, and economic re-
7 sources; and

8 (13) preserve the role of the United States as
9 a global leader in ocean, atmospheric, and climate-
10 related activities, and the cooperation in the national
11 interest by the United States with other nations and
12 international organizations in ocean and climate-re-
13 lated activities.

14 **Subtitle A—National Oceanic and**
15 **Atmospheric Administration**

16 **SEC. 111. ESTABLISHMENT.**

17 There is established an agency which shall be known
18 as the National Oceanic and Atmospheric Administration,
19 which shall be the civilian agency principally responsible
20 for providing oceanic, weather, and atmospheric services
21 and supporting research, conservation, management, and
22 education to the nation. The National Oceanic and Atmos-
23 pheric Administration established under this Act shall suc-
24 ceed the National Oceanic and Atmospheric Administra-
25 tion established on October 3, 1970, in Reorganization

1 Plan No. 4 of 1970 and shall continue the activities of
2 that agency as it was in existence on the day before the
3 effective date of this Act.

4 **SEC. 112. FUNCTIONS AND PURPOSES.**

5 (a) IN GENERAL.—NOAA shall be responsible for the
6 following functions, through which it shall carry out the
7 policy of this Act in a coordinated, integrated, and eco-
8 system-based manner for the benefit of the United States:

9 (1) Management, conservation, protection, and
10 restoration of ocean resources, including living ma-
11 rine resources, habitats and ocean ecosystems.

12 (2) Observation, monitoring, assessment, fore-
13 casting, prediction, operations and exploration for
14 ocean and atmospheric environments including
15 weather, climate, navigation and marine resources.

16 (3) Research, education and outreach, technical
17 assistance, and technology development and innova-
18 tion activities relating to ocean and atmospheric en-
19 vironments including basic scientific research and
20 activities that support other agency functions and
21 missions.

22 (b) TRANSFER OF FUNCTIONS.—There shall be
23 transferred to the Administrator any authority established
24 by law that, before the date of enactment of this Act, was
25 vested in the Secretary of Commerce and pertains to the

1 functions, responsibilities, or duties of NOAA under sub-
2 section (a).

3 **SEC. 113. NATIONAL OCEANIC AND ATMOSPHERIC ADMIN-**
4 **ISTRATION.**

5 (a) ADMINISTRATOR.—

6 (1) APPOINTMENT.—NOAA shall be adminis-
7 tered by the Administrator, who shall be appointed
8 by the President, by and with the advice and consent
9 of the Senate.

10 (2) COMPENSATION.—The Administrator shall
11 be compensated at the rate provided for level II of
12 the Executive Schedule under section 5314 of title
13 5, United States Code.

14 (3) QUALIFICATIONS.—The Administrator shall
15 have a broad background, professional knowledge,
16 and substantial experience in oceanic or atmospheric
17 affairs, including any field relating to marine or at-
18 mospheric science and technology, biological
19 sciences, engineering, as well as education, econom-
20 ics, governmental affairs, planning, law, or inter-
21 national affairs.

22 (4) AUTHORITY.—The Administrator shall
23 carry out all functions transferred to the Adminis-
24 trator by this Act and shall have authority and con-

1 trol over all personnel, programs, and activities of
2 NOAA.

3 (b) DEPUTY ADMINISTRATOR.—There shall be a
4 Deputy Administrator, who shall be appointed by the
5 President, by and with the advice and consent of the Sen-
6 ate, based on the individual’s professional qualifications
7 and without regard to political affiliation. The Deputy Ad-
8 ministrator shall have a broad background, professional
9 knowledge, and substantial experience in oceanic or atmos-
10 pheric policy or programs, including science, technology,
11 and education. The Deputy Administrator shall serve as
12 an adviser to the Administrator on program and policy
13 issues, including crosscutting program areas such as re-
14 search, technology, and education and shall perform such
15 functions and exercise such powers as the Administrator
16 may prescribe. The Deputy Administrator shall act as Ad-
17 ministrator during the absence or disability of the Admin-
18 istrator in the event of a vacancy in the office of Adminis-
19 trator. The Deputy Administrator shall be the Administra-
20 tor’s first assistant for purposes of subchapter III of chap-
21 ter 33 of title 5, United States Code, and shall be com-
22 pensated at the rate provided for level IV of the Executive
23 Schedule under section 5315 of title 5, United States
24 Code.

1 (c) ASSOCIATE ADMINISTRATOR FOR OCEAN MAN-
2 AGEMENT AND OPERATIONS.—There shall be in NOAA an
3 Associate Administrator for Ocean Management and Op-
4 erations, who shall be appointed by the President, by and
5 with the advice and consent of the Senate. The Associate
6 Administrator for Ocean Management and Operations
7 shall have a broad background, professional knowledge,
8 and substantial experience in oceanic or atmospheric pol-
9 icy or programs, and shall perform such duties and exer-
10 cise such powers as the Administrator shall from time to
11 time designate. The Associate Administrator shall be com-
12 pensated at the rate provided for level V of the Executive
13 Schedule under section 5315 of title 5, United States
14 Code.

15 (d) ASSOCIATE ADMINISTRATOR FOR CLIMATE AND
16 ATMOSPHERE.—There shall be in NOAA an Associate Ad-
17 ministrator for Climate and Atmosphere, who shall be ap-
18 pointed by the President, by and with the advice and con-
19 sent of the Senate. The Associate Administrator for Cli-
20 mate and Atmosphere shall have a broad background, pro-
21 fessional knowledge, and substantial experience in oceanic
22 or atmospheric policy or programs, and shall perform such
23 duties and exercise such powers as the Administrator shall
24 from time to time designate. The Associate Administrator
25 shall be compensated at the rate provided for level V of

1 the Executive Schedule under section 5315 of title 5,
2 United States Code.

3 (e) CHIEF OPERATING OFFICER.—There shall be a
4 Chief Operating Officer of NOAA, who shall assume the
5 responsibilities held by the Deputy Undersecretary of
6 Commerce prior to enactment of this Act. The Chief Oper-
7 ating Officer shall be responsible for ensuring the timely
8 and effective implementation of NOAA’s purposes and au-
9 thorities and shall provide resource, budget, and manage-
10 ment support to the Office of the Administrator. The
11 Chief Operating Officer shall be responsible for all aspects
12 of NOAA operations and management, including budget,
13 financial operations, information services, facilities,
14 human resources, procurements, and associated services.
15 The Chief Operating Officer shall be a Senior Executive
16 Service position authorized under section 3133 of title 5,
17 United States Code.

18 (f) ASSISTANT ADMINISTRATORS.—There shall be in
19 NOAA at least 3, but no more than 4, Assistant Adminis-
20 trators. The Assistant Administrators shall perform such
21 programmatic and policy functions as the Administrator
22 shall from time to time assign or delegate, and shall have
23 background, professional knowledge, and substantial expe-
24 rience in 1 or more of the following aspects of ocean and
25 atmospheric affairs:

1 (1) Resource management, protection, and res-
2 toration.

3 (2) Operations, forecasting, and services (in-
4 cluding weather and climate).

5 (3) Science, technology, and education.

6 (g) GENERAL COUNSEL.—There shall be in NOAA
7 a General Counsel appointed by the President upon rec-
8 ommendation by the Administrator. The General Counsel
9 shall serve as the chief legal officer for all legal matters
10 which may arise in connection with the conduct of the
11 functions of NOAA.

12 (h) COMMISSIONED OFFICERS.—

13 (1) The Administrator shall designate an officer
14 or officers to be responsible for oversight of NOAA’s
15 vessel and aircraft fleets and for the administration
16 of NOAA’s commissioned officer corps under section
17 228 of the National Oceanic and Atmospheric Ad-
18 ministration Commissioned Officer Corps Act of
19 2002 (33 U.S.C. 3028).

20 (2) The Commissioned Officer Corps of the Na-
21 tional Oceanic and Atmospheric Administration es-
22 tablished by Reorganization Plan No. 4 of October
23 3, 1970, is the Commissioned Officer Corps of
24 NOAA established under this Act.

1 (3) All statutes that applied to officers of the
2 Commissioned Officers Corps of NOAA on the day
3 before the date of enactment of this Act apply to of-
4 ficers of the Corps on and after such date.

5 (4) There are authorized to be on the lineal list
6 of the Commissioned Officers Corps of NOAA at
7 least 350 officers, plus any additional officers nec-
8 essary to support NOAA's missions and the oper-
9 ation and maintenance of NOAA's ships and air-
10 craft.

11 (5) The President may appoint in NOAA, by
12 and with the advice and consent of the Senate, 2
13 commissioned officers to serve at any one time as
14 the designated heads of 2 principal constituent orga-
15 nizational entities of NOAA, or the President may
16 designate 1 such officer as the head of such an orga-
17 nizational entity and the other as the head of the
18 commissioned corps of NOAA. Any such designation
19 shall create a vacancy on the active list and the offi-
20 cer while serving under this subsection shall have
21 the rank, pay, and allowances of a rear admiral
22 (upper half).

23 (6) Any commissioned officer of NOAA who has
24 served under paragraph (5) and is retired while so
25 serving or is retired after the completion of such

1 service while serving in a lower rank or grade, shall
2 be retired with the rank, pay, and allowances au-
3 thorized by law for the highest grade and rank held
4 by him, but any such officer, upon termination of his
5 appointment in a rank above that of captain, shall,
6 unless appointed or assigned to some other position
7 for which a higher rank or grade is provided, revert
8 to the grade and number he would have occupied
9 had he not served in a rank above that of captain
10 and such officer shall be an extra number in that
11 grade.

12 (i) NAVAL DEPUTY.—The Secretary of the Navy may
13 detail a Naval Deputy to the Administrator. This position
14 shall be filled on an additional duty basis by the Oceanog-
15 rapher of the Navy. The Naval Deputy shall—

16 (1) act as a liaison between the Administrator
17 and the Secretary of the Navy in order to avoid du-
18 plication between Federal oceanographic and atmos-
19 pheric activities; and

20 (2) ensure coordination and joint planning by
21 NOAA and the Navy on research, meteorological,
22 oceanographic, and geospatial information services
23 and programs of mutual organizational interest.

1 **SEC. 114. RESPONSIBILITIES OF THE ADMINISTRATOR.**

2 In addition to administering and carrying out all ac-
3 tivities, programs, functions and duties, and exercising
4 those powers, that are assigned, delegated, or transferred
5 to the Administrator by this Act, any other statute, or
6 the President, the responsibilities of the Administrator in-
7 clude—

8 (1) management, conservation, protection, and
9 restoration of ocean resources, including—

10 (A) living marine resources (including fish-
11 eries, vulnerable species and habitats, and ma-
12 rine biodiversity);

13 (B) ocean areas (including marine sanc-
14 tuaries, estuarine reserves, and other managed
15 areas);

16 (C) marine aquaculture;

17 (D) protection of ocean environments from
18 threats to human and ecosystem health, includ-
19 ing pollution and invasive species;

20 (E) sustainable management, beneficial
21 use, protection, and development of coastal re-
22 gions; and

23 (F) mitigation of impacts of natural and
24 manmade hazards including climate change;

25 (2) partnering with and supporting State and
26 local communities in undertaking management, con-

1 servation, protection, and restoration of ocean re-
2 sources described in paragraph (1);

3 (3) observation, analysis, processing, and com-
4 munication of comprehensive data and information
5 concerning the State of—

6 (A) the upper and lower atmosphere;

7 (B) the oceans and resources thereof; and

8 (C) the Earth and near space environment;

9 (4) collection, storage, analysis, and provision of
10 reliable scientific information relating to weather (in-
11 cluding space weather), climate, air quality, water,
12 navigation, marine resources, and ecosystems that
13 can be used as a basis for sound management, pol-
14 icy, and public safety decisions;

15 (5) broadly based data, observing, monitoring,
16 and information activities, programs and systems re-
17 lating to oceanic and atmospheric monitoring and
18 prediction, weather forecasting, and storm warning,
19 including satellite-based and in-situ data collection
20 and associated services;

21 (6) weather forecasting, storm warnings, and
22 other responsibilities of the Secretary of Commerce
23 and the National Weather Service under Reorganiza-
24 tion Plan No. 2 of 1965, Reorganization Plan No.
25 4 of 1970, sections 3 and 4 of the Act of October

1 1, 1890 (15 U.S.C. 312 and 313) and the Weather
2 Service Modernization Act (15 U.S.C. 313 note),
3 and all other statutes, rules, plans, and orders in
4 *pari materia*;

5 (7) providing navigation and assessment oper-
6 ations and services, including maps and charts for
7 the safety of marine and air navigation, maintaining
8 a network of geographic reference coordinates for
9 geodetic control, and observing, charting, mapping,
10 and measuring the marine environment and ocean
11 resources;

12 (8) developing and improving geodetic and map-
13 ping methods and studies of geophysical phenomena
14 such as crustal movement, Earth tides, and ocean
15 circulation, including estuarine areas;

16 (9) collecting, disseminating, and maintaining
17 on a continuing basis information relating to the
18 status, trends, health, use, and protection of the
19 oceans and the atmosphere, to all interested parties,
20 including through an integrated ocean observing sys-
21 tem and national and regional ecosystem-based in-
22 formation management systems;

23 (10) administering, operating, and maintaining
24 satellite and in-situ systems that can monitor global
25 and regional atmospheric weather conditions, climate

1 and related oceanic, solar, hydrological, and other
2 environmental conditions, collect information re-
3 quired for research on weather, climate, and related
4 environmental matters, and monitor the extent of
5 human-induced changes in the lower and upper at-
6 mosphere and the related environment;

7 (11) collecting, analyzing, and disseminating
8 environmental information, in support of environ-
9 mental research and development, including data in
10 the fields of climatology, atmospheric sciences,
11 oceanography, biology, geology, geophysics, solar-ter-
12 restrial relationships, and the relationship among
13 oceans, climate, and human health;

14 (12) undertaking a comprehensive, integrated,
15 and ecosystem-based program of ocean, climate, and
16 atmospheric research related to, and supportive of
17 the missions of NOAA and which uses research
18 products, new findings, and methodologies to develop
19 the most current scientific advice for ecosystem-
20 based management;

21 (13) conducting environmental research and de-
22 velopment activities that are necessary to advance
23 the United States ocean, atmospheric, engineering
24 and technology expertise, including the development
25 and operation of observing platforms such as ships,

1 aircraft, satellites, data buoys, manned or unmanned
2 research submersibles, underwater laboratories or
3 platforms, and improved instruments and calibration
4 methods, and the advancement of undersea diving
5 techniques;

6 (14) conducting a continuing program of ocean
7 exploration, discovery and conservation of significant
8 undersea resources, including cultural resources, to
9 benefit, inform, and inspire the people of the United
10 States, including communication of such knowledge
11 to policymakers and the public;

12 (15) developing and implementing, in coopera-
13 tion with other agencies and entities as appropriate,
14 national ocean and atmospheric education, technical
15 assistance, extension services, and outreach pro-
16 grams designed to increase literacy concerning ocean
17 and atmospheric issues, develop a diverse work force,
18 and enhance stewardship of ocean and atmospheric
19 resources and environments;

20 (16) ensuring the execution and implementation
21 of national ocean, atmospheric, and environmental
22 policy goals through a variety of ocean and atmos-
23 pheric programs;

24 (17) undertaking activities involving the inte-
25 gration of domestic and international policy relating

1 to the oceans and the atmosphere, including the pro-
2 vision of technical advice to the President on inter-
3 national negotiations involving ocean resources,
4 ocean technologies, and climate matters;

5 (18) providing for, encouraging, and assisting
6 public participation in the development and imple-
7 mentation of ocean and atmospheric policies and
8 programs;

9 (19) conducting, supporting, and coordinating
10 efforts to enhance public awareness of NOAA, its
11 purposes, programs, activities and the results there-
12 of, including education and outreach to the public,
13 teachers, students, and ocean resource managers;

14 (20) partnering with other government agen-
15 cies, States, academia, and the private sector, via co-
16 operative agreements or other formal or informal ar-
17 rangements, to improve the acquisition of data and
18 information and the implementation of management,
19 monitoring, research, exploration, education, and
20 other programs;

21 (21) partnering with other Federal agencies
22 and with States and communities to address the
23 issues of land-based activities and their impact on
24 the ocean environment; and

1 (22) coordination with other Federal agencies
2 having related responsibilities.

3 **SEC. 115. POWERS OF THE ADMINISTRATOR.**

4 (a) DELEGATION.—Unless otherwise prohibited by
5 law or reserved by the Secretary of Commerce, the respon-
6 sibilities of the Administrator may be delegated by the Ad-
7 ministrator to other officials in NOAA, and may be redele-
8 gated as authorized by the Administrator.

9 (b) REGULATIONS.—The Administrator is authorized
10 to issue, amend, and rescind such rules and regulations
11 as are necessary or appropriate to carry out the respon-
12 sibilities and functions of the Administrator. The promul-
13 gation of such rules and regulations shall be governed by
14 the provisions of chapter 5 of title 5, United States Code.

15 (c) CONTRACTS.—The Administrator is authorized,
16 without regard to section 3324(a) and (b) of title 31,
17 United States Code, to enter into and perform such con-
18 tracts, leases, grants, cooperative agreements, or other
19 transactions (without regard to chapter 63 of title 31,
20 United States Code), as may be necessary to carry out
21 NOAA's purposes and authorities, on terms the Adminis-
22 trator deems appropriate, with Federal agencies, instru-
23 mentalities, and laboratories, State and local governments,
24 including territories or possessions, Native American
25 tribes and organizations, international organizations, for-

1 eign governments, educational institutions, nonprofit orga-
2 nizations, commercial organizations, and other public and
3 private persons or entities.

4 (d) GIFTS AND DONATIONS.—

5 (1) IN GENERAL.—Notwithstanding section
6 1342 of title 31, United States Code, and subject to
7 such conditions and covenants the Administrator
8 deems appropriate, the Administrator is authorized
9 to accept, hold, administer, and utilize—

10 (A) gifts, bequests or donations of services,
11 money or property, real or personal (including
12 patents and rights thereunder), mixed, tangible
13 or intangible, or any interest therein;

14 (B) contributions of funds; and

15 (C) funds from Federal agencies, instru-
16 mentalities, and laboratories, State and local
17 governments, Native American tribes and orga-
18 nizations, international organizations, foreign
19 governments, educational institutions, nonprofit
20 organizations, commercial organizations, and
21 other public and private persons or entities.

22 (2) USE, OBLIGATION, AND EXPENDITURE.—

23 The Administrator may use property and services
24 accepted by NOAA under paragraph (1) to carry out
25 the mission and purposes of NOAA. Amounts ac-

1 cepted by NOAA under paragraph (1) shall be avail-
2 able for obligation by NOAA, and be available for
3 expenditure by NOAA to carry out mission and pur-
4 poses of NOAA.

5 (e) FACILITIES AND PERSONNEL.—The Adminis-
6 trator may use, with their consent, and with or without
7 reimbursement, the services, equipment, personnel, and
8 facilities of Federal agencies, instrumentalities and labora-
9 tories, State and local governments, Native American
10 tribes and organizations, international organizations, for-
11 eign governments, educational institutions, nonprofit orga-
12 nizations, commercial organizations, and other public and
13 private persons or entities.

14 (f) INFORMATION.—The Administrator shall provide
15 for the most practicable and widest appropriate dissemina-
16 tion of information concerning NOAA, its purposes, pro-
17 grams, activities and the results thereof, including author-
18 ity to conduct education, technical assistance and outreach
19 to the public, teachers, students, and ocean and coastal
20 resource managers.

21 (g) ACQUISITION AND CONSTRUCTION.—The Admin-
22 istrator may—

23 (1) acquire (by purchase, lease, condemnation,
24 or otherwise), lease, sell, or convey, services, money
25 or property, real or personal (including patents and

1 rights thereunder), mixed, tangible or intangible, or
2 any interest therein; and

3 (2) construct, improve, repair, operate, main-
4 tain or dispose of real or personal property, includ-
5 ing buildings, facilities, and land.

6 **SEC. 116. ENFORCEMENT.**

7 (a) **AUTHORITY.**—The Administrator shall have the
8 authority to enforce the applicable provisions of any Act,
9 the enforcement of which is, in whole or in part, assigned,
10 delegated, or transferred to the Administrator, and any
11 term of a license, permit, regulation, or order issued pur-
12 suant thereto. The Administrator may designate any per-
13 son, officer, or agency to exercise the authority of the Ad-
14 ministrator under this title.

15 (b) **USE OF STATE PERSONNEL.**—

16 (1) **IN GENERAL.**—The Administrator may—

17 (A) utilize by agreement, with or without
18 reimbursement, the personnel, services, and fa-
19 cilities of any State agency to the extent the
20 Administrator deems it necessary and appro-
21 priate for effective enforcement of any law for
22 which the Administrator has enforcement au-
23 thority; and

1 (B) designate such personnel to exercise
2 the enforcement authority of the Administrator
3 under subsection (a).

4 (2) STATUS AND POWERS.—Any personnel des-
5 igned by the Administrator under paragraph
6 (1)(B)—

7 (A) shall not be deemed to be Federal em-
8 ployees (except as provided in subparagraph
9 (D)) and shall not be subject to the provisions
10 of law relating to Federal employment, includ-
11 ing those relating to hours of work, competitive
12 examination, rates of compensation, and Fed-
13 eral employee benefits, but may be considered
14 to be eligible for compensation for work-related
15 injuries under subchapter III of chapter 81 of
16 title 5, United States Code, sustained while act-
17 ing pursuant to such designation;

18 (B) shall be considered to be investigative
19 or law enforcement officers of the United States
20 for purposes of the tort claim provisions of title
21 28, United States Code;

22 (C) may, to the extent specified by the Ad-
23 ministrator, search, seize, arrest, and exercise
24 any other law enforcement functions or authori-
25 ties described in this title where such authori-

1 ties are made applicable by this or other law to
2 employees, officers, or other persons designated
3 or employed by the Administrator; and

4 (D) shall be considered to be officers or
5 employees of the Department of Commerce for
6 purposes of sections 111 and 1114 of title 18,
7 United States Code.

8 (c) COOPERATIVE ENFORCEMENT AGREEMENTS.—

9 The Administrator may enter into cooperative agreements
10 with State authorities to ensure coordinated enforcement
11 of State and Federal laws and by such agreements assume
12 enforcement authority under State law when the Adminis-
13 trator and State authorities deem it to be appropriate.
14 When so authorized, the Administrator or the Administra-
15 tor's designee may function as a State law enforcement
16 officer within the scope of the delegation, except that Fed-
17 eral law shall control the resolution of any conflict con-
18 cerning the employee status of any Federal officer while
19 enforcing State law.

20 **SEC. 117. REGIONAL CAPABILITIES.**

21 The Administrator shall—

22 (1) organize agency activities and programs
23 around common eco-regional boundaries identified
24 through a process established by the Council on
25 Ocean Stewardship, based upon recommendations

1 contained in the report of the Commission on Ocean
2 Policy, so as to—

3 (A) enhance inter- and intra-agency co-
4 operation;

5 (B) maximize Federal capabilities in such
6 region;

7 (C) develop coordinated, ecosystem-based
8 management and research programs;

9 (D) develop research partnerships with
10 States and academia;

11 (E) substantially improve the ability of the
12 public to contact and work with all relevant
13 Federal agencies; and

14 (F) maximize opportunities to work in
15 partnership with States in order to facilitate
16 eco-regional management and enhance State
17 and local capacity to manage issues on an eco-
18 regional basis;

19 (2) work with other Federal agencies, including
20 the Environmental Protection Agency, the United
21 States Fish and Wildlife Service, U.S. Army Corps
22 of Engineers, and State agencies to—

23 (A) encourage similar eco-regional organi-
24 zation and, if appropriate, co-location of related

1 programs and facilities to achieve goals of para-
2 graph (1); and

3 (B) in planning and implementing eco-re-
4 gional activities to encourage early cooperation,
5 coordination, and integration across the Federal
6 agencies and with relevant State programs, and
7 to assure applicable Federal and State ocean
8 policies; and

9 (3) NOAA shall in consultation with the States,
10 develop regional information programs as rec-
11 ommended by the Commission on Ocean Policy, in-
12 cluding—

13 (A) coordinated research strategies;

14 (B) integrated ocean and atmospheric
15 monitoring and observation activities; and

16 (C) establishment of service centers and
17 coordinators to support development of innova-
18 tive tools, technologies, training, and technical
19 assistance to facilitate the implementation of
20 ecosystem-based management.

21 **SEC. 118. INTERGOVERNMENTAL COORDINATION.**

22 (a) AVOIDANCE OF DUPLICATIVE REQUIREMENTS.—
23 In administering the provisions of this Act, the Adminis-
24 trator shall consult and coordinate with the head of any
25 Federal department or agency having authority to issue

1 any license, lease, or permit to engage in an activity rela-
2 tion to the functions of the Administrator for purposes
3 of assuring that inconsistent or duplicative requirements
4 are not imposed upon any applicant for or holder of any
5 such license, lease, or permit.

6 (b) AVOIDANCE OF INCONSISTENT AND CONFLICTING
7 ACTIVITIES AND POLICIES.—To identify and resolve in-
8 consistent or conflicting Federal oceanic and atmospheric
9 activities and policies, the Administrator shall—

10 (1) consult and coordinate with the head of any
11 Federal department or agency on the activities and
12 policies of that department or agency related to the
13 functions of the Administrator;

14 (2) request of the head of any Federal depart-
15 ment or agency clarification and justification of
16 those activities and policies that the Administrator
17 determines are inconsistent or conflicting with his
18 functions; and

19 (3) issue, as the Administrator deems appro-
20 priate, reports to the President, the Council on
21 Ocean Stewardship, the head of any Federal depart-
22 ment or agency, and to Congress concerning incon-
23 sistent or conflicting activities and policies of any
24 Federal department or agency relating to ocean and
25 atmospheric activities, including recommendations

1 on how to reconcile inconsistent and conflicting Fed-
2 eral oceanic and atmospheric activities and policies
3 throughout the Federal Government.

4 (c) CONSULTATION WITH ADMINISTRATOR.—The
5 head of any Federal department or agency and all other
6 Federal officials having responsibilities related to the func-
7 tions of the Administrator shall consult with the Adminis-
8 trator when the subject matter of action or activities de-
9 scribed in this Act are directly involved, to assure that
10 all such activities are well coordinated.

11 (d) COORDINATION WITH STATES.—The Adminis-
12 trator shall ensure that NOAA programs work with the
13 States (including territories and possessions) to encourage
14 early cooperation, coordination, and integration of State
15 and Federal ocean and atmospheric programs, including
16 planning and implementing eco-regional activities.

17 (e) OFFICE OF INTERGOVERNMENTAL AFFAIRS.—
18 The Administrator shall establish an office of intergovern-
19 mental affairs to assist in implementing this section and
20 to facilitate planning of joint programs between NOAA
21 line offices and other Federal agencies, including the De-
22 partment of Defense.

1 **SEC. 119. INTERNATIONAL CONSULTATION AND COOPERA-**
2 **TION.**

3 (a) COOPERATION WITH SECRETARY OF STATE.—
4 The Administrator shall cooperate to the fullest prac-
5 ticable extent with the Secretary of State in providing rep-
6 resentation at all meetings and conferences relating to ac-
7 tions or activities described in this Act in which represent-
8 atives of the United States and foreign countries partici-
9 pate.

10 (b) CONSULTATION WITH ADMINISTRATOR.—The
11 Secretary of State and all other officials having respon-
12 sibilities for agreements, treaties, or understanding with
13 foreign nations and international bodies shall consult with
14 the Administrator when the subject matter or activities
15 described in this Act are involved, with a view to assuring
16 that such interests are adequately represented.

17 **SEC. 120. REPORT ON OCEANIC AND ATMOSPHERIC CONDI-**
18 **TIONS AND TRENDS.**

19 Not later than 12 months after the date of enactment
20 of this Act, and biennially thereafter, the Administrator
21 shall, in consultation with relevant Federal and State
22 agencies, submit to Congress a report on—

23 (1) the status and condition of the United
24 States ocean and atmospheric environments (includ-
25 ing with respect to climate change);

1 (2) current and foreseeable trends in the qual-
2 ity, management and utilization of such environ-
3 ments; and

4 (3) the effects of those trends on the social,
5 economic, ecological, and other requirements of the
6 United States.

7 **SEC. 121. CONFORMING AMENDMENTS AND REPEALS.**

8 (a) REORGANIZATION PLAN NO. 4.—Reorganization
9 Plan No. 4 of 1970 (5 U.S.C. App.) is repealed.

10 (b) REFERENCES TO NOAA.—Any reference to the
11 National Oceanic and Atmospheric Administration, the
12 Under Secretary of Commerce for Oceans and Atmosphere
13 (either by that title or by the title of the Administrator
14 of NOAA), or any other official of the National Oceanic
15 and Atmospheric Administration, in any law, rule, regula-
16 tion, certificate, directive, instruction, or other official
17 paper in force on the effective date of this Act shall be
18 deemed to refer and apply to the National Oceanic and
19 Atmospheric Administration established in this Act, or the
20 position of Administrator established in this Act, respec-
21 tively.

22 (c) REFERENCES TO NOAA AS WITHIN THE DE-
23 PARTMENT OF COMMERCE.—

24 (1) Section 407 of Public Law 99–659 (15
25 U.S.C. 1503b) is repealed.

1 (2) Section 12 of the Act of February 14, 1903
2 (15 U.S.C. 1511) is amended by striking paragraph
3 (1) and redesignating paragraphs (2) through (6) as
4 paragraphs (1) through (5), respectively.

5 (d) CONFORMING AMENDMENT TO TITLE 5.—Sec-
6 tion 5315 of title 5, United States Code, is amended by
7 striking “Assistant Secretaries of Commerce (11).” and
8 inserting “Assistant Secretaries of Commerce (10).”.

9 **SEC. 122. SAVINGS PROVISION.**

10 All rules and regulations, determinations, standards,
11 contracts, certifications, authorizations, appointments,
12 delegations, results and findings of investigations, or other
13 actions duly issued, made, or taken by or pursuant to or
14 under the authority of any statute which resulted in the
15 assignment of functions or activities to the Secretary, the
16 Department of Commerce, the Under Secretary, the Ad-
17 ministrators or any other officer of NOAA, in effect imme-
18 diately before the date of enactment of this Act shall con-
19 tinue in full force and effect after the date of enactment
20 of this Act until modified or rescinded.

21 **SEC. 123. TRANSITION.**

22 (a) EFFECTIVE DATE.—The provisions of title II of
23 this Act shall become effective 2 years from the date of
24 enactment of this Act.

1 (b) REORGANIZATION.—The Administrator of
2 NOAA, in consultation with the Assistant Administrator
3 for Program Planning and Integration, shall no later than
4 18 months after the date of enactment of this Act, submit
5 a plan and budget proposal to Congress setting forth a
6 proposal for program and agency reorganization that
7 will—

8 (1) meet the requirements of title II;

9 (2) reflect the recommendations of the Commis-
10 sion on Ocean Policy, particularly with respect to
11 ecosystem-based science and management and addi-
12 tional budgetary requirements; and

13 (3) provide integrated oceanic and atmospheric
14 programs and services for the benefit of the Nation.

15 **Subtitle B—Federal Coordination** 16 **and Advice**

17 **SEC. 131. COUNCIL ON OCEAN STEWARDSHIP.**

18 There is established in the Executive Office of the
19 President a Council on Ocean Stewardship.

20 **SEC. 132. MEMBERSHIP.**

21 (a) MEMBERSHIP.—The Council shall be composed of
22 at least 3 but no more than 5 members who shall be ap-
23 pointed by the President to serve at the pleasure of the
24 President, by and with the advice and consent of the Sen-
25 ate.

1 (b) CHAIRMAN.—The President shall designate 1 of
2 the members of the Council to serve as Chairman.

3 (c) QUALIFICATIONS.—Each member shall be a per-
4 son who, as a result of training, experience, and attach-
5 ments, is exceptionally well qualified—

6 (1) to analyze and interpret ocean and atmos-
7 pheric trends and information of all kinds;

8 (2) to appraise programs and activities of the
9 Federal Government in the light of the policy set out
10 in section 103;

11 (3) to be conscious of and responsive to the sci-
12 entific, environmental, ecosystem, economic, social,
13 aesthetic and cultural needs and interests of the
14 United States; and

15 (4) to formulate and recommend national poli-
16 cies to promote the improvement and the quality of
17 the ocean and atmospheric environments, including
18 as those environments relate to practices on land.

19 **SEC. 133. FUNCTIONS OF COUNCIL.**

20 (a) COORDINATION AND ADVICE.—The Council—

21 (1) shall coordinate ocean and atmospheric ac-
22 tivities among Federal agencies and departments,
23 particularly focusing on the policy set out in section
24 103 and national priorities identified in section 134,
25 while minimizing duplication, including ensuring

1 other ocean-related agencies work together at the
2 operation, program, and research levels in coopera-
3 tion with NOAA;

4 (2) shall provide a forum for improving Federal
5 interagency planning, budget and program coordina-
6 tion, administration, outreach, and cooperation on
7 such programs and activities;

8 (3) shall ensure that all Federal agencies en-
9 gaged in ocean and atmospheric activities adopt and
10 implement the principle of ecosystem-based manage-
11 ment and take necessary steps to improve regional
12 coordination and delivery of services around common
13 eco-regional boundaries;

14 (4) shall review and evaluate the various pro-
15 grams and activities of the Federal Government in
16 light of the policy set out in section 103 and na-
17 tional priorities identified in section 134 for the pur-
18 pose of determining the extent to which such pro-
19 grams and activities are effective and contributing to
20 the achievement of such policy and the overall health
21 of ocean and atmospheric environment, including
22 marine ecosystems;

23 (5) shall conduct an annual review and analysis
24 of funding proposed for ocean and atmospheric re-
25 search and management in all Federal agency budg-

1 ets, and provide budget recommendations to the
2 President, the agencies, and the Office of Manage-
3 ment and Budget that will achieve the policies set
4 out in section 103 and address the national prior-
5 ities identified in section 134, improve coordination,
6 cooperation, and effectiveness of such activities,
7 eliminate unnecessary overlap, and identify areas of
8 highest priority for funding and support;

9 (6) shall identify progress made by Federal
10 ocean and atmospheric programs toward achieving
11 the goals of—

12 (A) providing more effective protection and
13 restoration of marine ecosystems;

14 (B) improving predictions of climate
15 change and variability (weather), including their
16 effects on coastal communities and the nation;

17 (C) improving the safety and efficiency of
18 marine operations;

19 (D) more effectively mitigating the effects
20 of natural hazards;

21 (E) reducing public health risks from
22 ocean and atmospheric sources;

23 (F) ensuring sustainable use of resources;

24 and

1 (G) improving national and homeland secu-
2 rity;

3 (7) shall promote efforts to increase and en-
4 hance partnerships with coastal and Great Lakes
5 States and other non-federal entities to support en-
6 hanced regional research, resource and hazards man-
7 agement, education and outreach, and marine eco-
8 system protection, maintenance, and restoration;

9 (8) shall identify statutory and regulatory
10 redundancies or omissions and develop strategies to
11 resolve conflicts, fill gaps, and address new and
12 emerging ocean and atmospheric issues for national
13 and regional benefit;

14 (9) shall emphasize the development and sup-
15 port of partnerships among government agencies
16 and nongovernmental organizations, academia, and
17 the private sector including regional partnerships;

18 (10) shall expand research, education, and out-
19 reach efforts by all Federal agencies undertaking
20 ocean and atmospheric activities; and

21 (11) may establish a Federal Coordinating
22 Committee on Oceans, chaired by the Council chair-
23 man, to carry out the coordination of ocean and at-
24 mospheric programs and priorities required under
25 this title.

1 (b) CONSULTATION.—In exercising its powers, func-
2 tions, and duties under this title, the Council shall—

3 (1) consult with the Administrator and with the
4 Presidential Panel of Advisers on Oceans and Cli-
5 mate established under this Act to ensure input
6 from potentially affected States, territories, and
7 Commonwealths, the public and other stakeholders;

8 (2) work in close consultation and cooperation
9 with the Council on Environmental Quality, the Of-
10 fice of Science and Technology Policy, the Council of
11 Economic Advisers, and other offices within the Ex-
12 ecutive Office of the President;

13 (3) utilize the expertise and coordinating capa-
14 bilities of the National Ocean Science Committee
15 (and any ocean-related committees formed under the
16 Council) with respect to ocean and atmospheric
17 science, technology, and education matters, including
18 development of a national research strategy; and

19 (4) utilize, to the fullest extent possible, the
20 services, facilities, and information (including statis-
21 tical information) of public and private agencies and
22 organization, and individuals, in order that duplica-
23 tion of effort and expense may be avoided, thus as-
24 suring that the Council's activities will not unneces-
25 sarily overlap or conflict with similar activities au-

1 thorized by law and performed by NOAA and other
2 established agencies.

3 (c) **REVIEWS AND REPORTS.**—The Council shall—

4 (1) prepare the biennial report required by sec-
5 tion 136; and

6 (2) make and furnish such studies, reports
7 thereon, and recommendations with respect to mat-
8 ters of policy and legislation as the President may
9 request.

10 **SEC. 134. NATIONAL PRIORITIES FOR COORDINATION.**

11 The Council, in coordination with the National Ocean
12 Science Committee, shall ensure that the Federal agencies
13 conducting ocean and atmospheric activities give the fol-
14 lowing areas priority attention and develop coordinated
15 Federal budgets, programs, and operations that will mini-
16 mize duplication and foster improved services and other
17 benefits to the United States:

18 (1) Prevention, management and control of
19 nonpoint source pollution including regional or wa-
20 tershed strategies.

21 (2) An integrated ocean and coastal observing
22 system and an associated Earth observing system.

23 (3) Ecosystem-based management, protection,
24 and restoration of ocean and atmospheric resources
25 and environments, including management-oriented

1 research, technical assistance and organization of
2 programs and activities along common eco-regional
3 boundaries.

4 (4) Ocean education and outreach.

5 (5) Regionally based coastal land protection,
6 conservation, maintenance, and restoration.

7 (6) Enhanced research and technology develop-
8 ment on crosscutting areas, including—

9 (A) oceans and human health;

10 (B) social science and economics;

11 (C) atmospheric monitoring and climate
12 change;

13 (D) marine ecosystems, marine biodiver-
14 sity, and ocean exploration;

15 (E) marine and atmospheric hazards, in-
16 cluding sea level rise and geological events; and

17 (F) marine aquaculture.

18 (7) Characterization and mapping of the coastal
19 zone, coastal State waters, the territorial sea, the
20 Exclusive Economic Zone and outer continental
21 shelf, including ocean resources.

22 **SEC. 135. EMPLOYEES.**

23 (a) ASSISTANCE FROM FEDERAL AGENCIES.—

24 (1) IN GENERAL.—For the purpose of carrying
25 out the functions of the Council, each Federal agen-

1 cy or department that conducts oceanic or atmos-
2 pheric activities shall furnish any assistance re-
3 quested by the Council.

4 (2) FORMS OF ASSISTANCE.—Assistance fur-
5 nished by Federal agencies and departments under
6 paragraph (1) may include—

7 (A) detailing employees to the Council to
8 perform such functions, consistent with the pur-
9 poses of this section, as the Chairman of the
10 Council may assign to them; and

11 (B) undertaking, upon request of the
12 Chairman of the Council, such special studies
13 for the Council as are necessary to carry out its
14 functions.

15 (3) PERSONNEL MANAGEMENT.—The Chairman
16 of the Council shall have the authority to make per-
17 sonnel decisions regarding any employees detailed to
18 the Council.

19 (b) EMPLOYMENT OF PERSONNEL, EXPERTS, AND
20 CONSULTANTS.—The Council may—

21 (1) employ such officers and employees as may
22 be necessary to carry out its functions under this
23 title;

24 (2) employ and fix the compensation of such ex-
25 perts and consultants as may be necessary for the

1 carrying out of its functions under this chapter, in
2 accordance with section 3109 of title 5, United
3 States Code, (without regard to the last sentence
4 thereof); and

5 (3) accept and employ voluntary and uncompen-
6 sated services in furtherance of the purposes of the
7 Council notwithstanding section 1342 of title 31,
8 United States Code.

9 **SEC. 136. BIENNIAL REPORT TO CONGRESS.**

10 (a) IN GENERAL.—Not later than 18 months after
11 the date of enactment of this Act, and biennially there-
12 after, the President, through the Council, shall submit to
13 Congress a report on Federal ocean and atmospheric pro-
14 grams, priorities, and accomplishments which shall in-
15 clude—

16 (1) a comprehensive description of the ocean
17 and atmospheric programs and accomplishments of
18 all agencies and departments of the United States;

19 (2) an evaluation of such programs and accom-
20 plishments in terms of the national ocean policy set
21 out in section 103 and the national priorities identi-
22 fied in section 134, specifying progress made with
23 respect to the goals set out in this title;

24 (3) a report on progress in improving Federal
25 and State coordination on ocean and atmospheric ac-

1 activities, including coordination efforts required in
2 this Act;

3 (4) an analysis of the Federal budget allocated
4 to such programs including estimates of the funding
5 requirements of each such agency or department for
6 such programs during the succeeding 5-to-10 fiscal
7 years;

8 (5) recommendations for remedying deficiencies,
9 and for improving organization, effectiveness, and
10 outreach of Federal ocean and atmospheric pro-
11 grams and services, on a regional and national basis,
12 including support for State and local efforts that le-
13 verage public, nongovernmental, and private sector
14 involvement; and

15 (6) recommendations for legislative or other ac-
16 tion.

17 (b) PRESIDENTIAL TRANSMITTAL.—The President
18 shall transmit the biennial report pursuant to this section
19 to the President of the Senate and the Speaker of the
20 House of Representatives not later than December 31 of
21 the year in which it is due.

22 (c) AGENCY COOPERATION.—Each Federal agency
23 and department shall cooperate by providing such data
24 and information without cost as may be requested by the
25 Council for the purpose of this section. Each Federal

1 agency and department shall provide services and per-
2 sonnel on a cost reimbursable basis at the request of the
3 Chairman of the Council for the purpose of accomplishing
4 the requirements of this section.

5 **SEC. 137. PRESIDENTIAL PANEL OF ADVISERS ON OCEANS**
6 **AND CLIMATE.**

7 (a) **ESTABLISHMENT; PURPOSE.**—The President
8 shall establish a Presidential Panel of Advisers on Oceans
9 and Climate. The purpose of the Presidential Panel shall
10 be—

11 (1) to advise and assist the President and the
12 Chairman of the Ocean Stewardship Council in iden-
13 tifying and fostering policies to protect, manage, and
14 restore ocean and atmospheric environments and re-
15 sources, both on a regional and national basis; and

16 (2) to undertake a continuing review, on a se-
17 lective basis, of priority issues relating to national
18 ocean and atmospheric policy (including climate
19 change), conservation and management of ocean en-
20 vironments and resources, and the status of the
21 ocean and atmospheric science and service programs
22 of the United States.

23 (b) **MEMBERSHIP.**—

24 (1) **IN GENERAL.**—The Presidential Panel shall
25 consist of not more than 25 members, one of whom

1 shall be the Chairman of the Council on Ocean
2 Stewardship, and 24 of whom shall be non-Federal
3 members appointed by the President, including at
4 least one representative nominated by a Governor
5 from each of the coastal regions identified in the Re-
6 port of the Commission on Ocean Policy and rep-
7 resentatives of the States and various stakeholders.

8 (2) CHAIR.—The Chairman of the Council on
9 Ocean Stewardship shall co-chair the Presidential
10 Panel with a non-Federal member designated by the
11 President.

12 (c) APPOINTMENT AND QUALIFICATIONS.—The
13 members of the Presidential Panel shall be appointed by
14 the President for 3-year terms from among individuals
15 with diverse perspectives and expertise in 1 or more of
16 the disciplines or fields associated with ocean and atmos-
17 pheric policy, including—

18 (1) marine-related State and local government
19 functions;

20 (2) ocean and coastal resource conservation and
21 management;

22 (3) atmospheric or ocean science, engineering,
23 and technology;

24 (4) the marine industry (including recreation
25 and tourism);

- 1 (5) climate change;
- 2 (6) atmospheric or coastal hazards; and
- 3 (7) other fields appropriate for consideration of
- 4 matters of oceanic or atmospheric policy.

5 (d) VACANCIES.—An individual appointed to fill a va-

6 cancy occurring before the expiration of the term for which

7 his or her predecessor was appointed shall be appointed

8 only for the remainder of such term. No individual may

9 be reappointed to the Presidential Panel for more than

10 1 additional 3-year term. A member may serve after the

11 date of the expiration of the term of office for which ap-

12 pointed until his or her successor has taken office.

13 (e) COMPENSATION.—Each member of the Presi-

14 dential Panel shall, while serving on business of the Com-

15 mission, be entitled to receive compensation at a rate not

16 to exceed a daily rate to be determined by the President

17 consistent with other Federal advisory boards. Federal

18 and State officials serving on the Commission and serving

19 in their official capacity shall not receive compensation in

20 addition to their Federal or State salaries for their time

21 on the Commission. Members of the Presidential Panel

22 may be compensated for reasonable travel expenses while

23 performing their duties as members.

24 (f) MEETINGS.—The Presidential Panel shall meet at

25 least twice per year, or as prescribed by the President.

1 (g) REPORTS.—

2 (1) IN GENERAL.—The Presidential Panel shall
3 submit an annual report to the President and to the
4 Congress setting forth an assessment, on a selective
5 basis, of the status of the Nation’s ocean activities,
6 and shall submit such other reports as may from
7 time to time be requested by the President or the
8 Congress. The Presidential Panel shall submit its
9 annual report on or before June 30 of each year, be-
10 ginning 2 years after the date of enactment of this
11 Act.

12 (2) COMMENT AND REVIEW BY COUNCIL.—
13 Each annual report shall also be submitted to the
14 Chairman of the Council on Ocean Stewardship who
15 shall, in consultation with the Administrator, not
16 later than 60 days after receipt of such report,
17 transmit his or her comments and recommendations
18 to the President and to Congress.

19 **SEC. 138. FEDERAL PROGRAM RECOMMENDATIONS.**

20 Not later than 3 years after the issuance of the final
21 report of the Commission on Ocean Policy, the President,
22 in consultation with the Administrator, and considering
23 the recommendations of the Commission on Ocean Policy,
24 the Ocean Stewardship Council, and the Presidential

1 Panel of Advisers on Oceans and Coasts, shall submit to
2 Congress recommendations—

3 (1) for the transfer of relevant oceanic or at-
4 mospheric programs, functions, services, and associ-
5 ated resources to the National Oceanic and Atmos-
6 pheric Administration from any other Federal agen-
7 cy;

8 (2) for consolidation or elimination of oceanic
9 or atmospheric programs, functions, services, or re-
10 sources within or among Federal agencies if their
11 consolidation or elimination would not undermine
12 policy goals set out in section 103; and

13 (3) regarding Federal reorganization, including
14 elevation of NOAA to departmental status or the es-
15 tablishment of a new department that would provide
16 increased national attention and resources to oceanic
17 and atmospheric needs and priorities.

18 **SEC. 139. IMPLEMENTATION.**

19 Not later than 18 months after the date of enactment
20 of this Act, the Administrator shall—

21 (1) promulgate such regulations as may be nec-
22 essary or appropriate to implement this subtitle; and

23 (2) submit to Congress detailed recommenda-
24 tions on technical and conforming amendments to

1 Federal law necessary to carry out this subtitle and
2 the amendments made by this subtitle.

3 **SEC. 140. NO EFFECT ON OTHER AUTHORITIES.**

4 Except as explicitly provided in this title, nothing in
5 this title or the amendments made by this title shall be
6 construed to modify the authority of the Administrator
7 under any other provision of law.

8 **Subtitle C—Ocean Conservation**
9 **Certification**

10 **SEC. 151. COVERED ACTION DEFINED.**

11 The term “covered action” under this subtitle means
12 any activity affecting United States ocean or coastal wa-
13 ters or resources, that is authorized (including the
14 issuance of a Federal license or permit), carried out, or
15 funded by a Federal agency.

16 **SEC. 152. CERTIFICATION.**

17 The head of each Federal agency that undertakes,
18 authorizes, or funds a covered action shall, not less than
19 90 days prior to taking final agency action, make a certifi-
20 cation that the action—

21 (1) complies with all relevant and applicable
22 laws relating to ocean or coastal waters and re-
23 sources;

1 (2) is consistent with the protection, mainte-
2 nance, and restoration of marine ecosystem health;
3 and

4 (3) is not—

5 (A) likely to significantly degrade the
6 health of marine resources; or

7 (B) likely to significantly impede the res-
8 toration of marine resources.

9 **SEC. 153. REVIEW.**

10 (a) **REQUIREMENT FOR REVIEW.**—The Adminis-
11 trator, in consultation with the Chair of the Council on
12 Ocean Stewardship, shall review a certification made by
13 the Federal agency under section 152, and any materials
14 related to such certification, and determine whether the
15 Administrator concurs with the certification.

16 (b) **WRITTEN ANALYSIS.**—Not later than 90 days
17 after submission of the certification, the Administrator
18 shall provide a written analysis to the head of the appro-
19 priate Federal agencies documenting the basis for the de-
20 termination on the certification.

21 **SEC. 154. EFFECT.**

22 If the Administrator does not concur with a certifi-
23 cation made by the head of a Federal agency under section
24 152, the Administrator shall provide the Federal agency
25 with recommendations to remedy the identified defi-

1 ciencies within 30 days. The head of the Federal agency
2 shall incorporate such recommendations and submit to the
3 Administrator and the Council on Ocean Stewardship a
4 report documenting how the agency shall implement the
5 recommendations prior to taking final agency action or
6 any subsequent action.

7 **SEC. 155. GUIDELINES.**

8 Not later than 12 months after the date of the enact-
9 ment of this Act, the Administrator, in consultation with
10 the Council on Ocean Stewardship, shall issue guidelines
11 setting forth the process by which the Administrator will
12 implement this subtitle with respect to covered actions, in-
13 cluding consultation and review process.

14 **SEC. 156. EMERGENCY EXEMPTION.**

15 The head of a Federal agency may seek an emergency
16 exemption from the requirements of this subtitle if the
17 President determines that the covered action is necessary
18 to address a national or State emergency affecting public
19 health and safety.

20 **SEC. 157. EFFECTIVE DATE.**

21 The provisions of this subtitle shall become effective
22 on the date that is 2 years after the date of enactment
23 of this Act.

1 **Subtitle D—Offshore Governance**

2 **SEC. 161. MANAGEMENT AND PERMITTING OF OFFSHORE** 3 **USES FOR NON-EXTRACTIVE ACTIVITIES.**

4 (a) IN GENERAL.—The Administrator, in coordina-
5 tion with the Secretary of the Interior, the Administrator
6 of the Environmental Protection Agency, and the Army
7 Corps of Engineers, shall develop and maintain a coordi-
8 nated offshore permitting program (referred to in this sec-
9 tion as the “Program” for activities in Federal waters,
10 including—

- 11 (1) marine aquaculture;
- 12 (2) alternative and renewable energy facilities;
- 13 (3) installation of undersea cables; and
- 14 (4) marine bioprospecting operations.

15 (b) PROGRAM GOALS.—The Program shall ensure
16 that activities authorized under this section are conducted
17 in a manner that provides for—

- 18 (1) safety;
- 19 (2) protection of the environment;
- 20 (3) conservation of the natural resources of the
21 outer Continental Shelf;
- 22 (4) a fair return to the Federal Government for
23 any lease granted under this subsection; and

1 (5) prevention of interference with reasonable
2 uses of the high seas, exclusive economic zone, and
3 territorial sea.

4 (c) PROGRAM REQUIREMENTS.—The Program shall
5 set forth procedures and criteria for—

6 (1) ensuring that management of the outer
7 Continental Shelf is conducted in a manner which
8 considers—

9 (A) the economic, social, and environ-
10 mental values of the renewable and nonrenew-
11 able resources of the outer Continental Shelf;
12 and

13 (B) the potential impact of such activities
14 on other resource values of the outer Conti-
15 nental Shelf and the marine, coastal, and
16 human environments;

17 (2) selection of timing and location of permit-
18 ting under this section, including consideration of
19 the relative environmental sensitivity and marine
20 productivity of different areas of the outer Conti-
21 nental Shelf and of other uses of the sea and seabed,
22 including—

23 (A) fisheries;

24 (B) navigation;

25 (C) existing or proposed sea lanes;

1 (D) potential sites of deepwater ports; and

2 (E) other anticipated uses of the resources

3 and space of the outer Continental Shelf;

4 (3) duration, issuance, transfer, renewal, sus-

5 pension, and termination of permits or authoriza-

6 tions, including suspension or cancellation if the ac-

7 tivity is likely to cause serious harm to—

8 (A) safety;

9 (B) the environment (including living ma-

10 rine resources); or

11 (C) property;

12 (4) public notice and comment on proposals

13 submitted for leases pursuant to this section, includ-

14 ing information related to environment, health, or

15 safety;

16 (5) review by State and local governments,

17 which may be impacted by the proposed activities;

18 (6) periodic consultation with State and local

19 governments and representatives of other individuals

20 or organizations engaged in activity in or on the

21 outer Continental Shelf, including those involved in

22 fish and shellfish recovery, and recreational activi-

23 ties;

24 (7) consideration of the coastal zone manage-

25 ment program being developed or administered by a

1 potentially affected coastal State under sections 305
2 through 307 of the Coastal Zone Management Act
3 (16 U.S.C. 1454–1456);

4 (8) bonding and restoration requirements deter-
5 mined by the Administrator to be necessary to pro-
6 tect the interests of the United States; and

7 (9) oversight, inspection, research, monitoring,
8 and enforcement.

9 (d) REVIEW APPROVAL.—Before issuing a permit or
10 exercising the authority granted under this section, the
11 Administrator shall—

12 (1) consult with the Commandant of the Coast
13 Guard and the Secretary of Defense concerning
14 issues related to national security and navigational
15 obstruction; and

16 (2) determine that the project does not pose an
17 adverse impact to conservation and management of
18 living marine resources, fisheries, protection of the
19 marine environment, or navigation safety.

20 (e) RELATIONSHIP TO EXISTING PERMITTING
21 SCHEMES.—The Program shall—

22 (1) integrate the permitting process with those
23 of existing programs, including programs authorized
24 by—

1 (A) the Outer Continental Shelf Lands
2 Act;

3 (B) the Deepwater Ports Act; and

4 (C) the Ocean Thermal Energy Conserva-
5 tion Act;

6 (2) ensure that the Administrator has—

7 (A) an opportunity to review activities pro-
8 posed for permitting under such authorities;
9 and

10 (B) determined that the activity does not
11 pose a threat to conservation and management
12 of living marine resources, protection of the ma-
13 rine environment, or navigation safety.

14 (f) PROTECTED MARINE AREAS.—This section shall
15 not apply to any area on the outer continental shelf that
16 is—

17 (1) within the exterior boundaries of any unit
18 of the National Park System, National Wildlife Ref-
19 uge System, or National Monument; or

20 (2) designated as a National Marine Sanctuary
21 or a National Estuarine Research Reserve.

22 (g) MARINE RESOURCE FUND.—

23 (1) ESTABLISHMENT.—There is established in
24 the Treasury of the United States a trust fund to

1 be known as the “Marine Resources Trust Fund”,
2 which shall be administered by the Administrator.

3 (2) FORMS OF PAYMENT.—The Administrator
4 shall establish, by rule or by agreement with the
5 party to whom the lease is granted, appropriate
6 forms of payment for any permit or authorization
7 granted under this subsection, which may include
8 fees, rentals, cash bonus payments, or other pay-
9 ments.

10 (3) DEPOSITS.—The Administrator shall de-
11 posit a portion of the payments or fees collected
12 under paragraph (2) into the Marine Resources
13 Trust Fund.

14 (4) EXPENDITURES.—Amounts in the Marine
15 Resources Trust Fund shall be made available—

16 (A) for programs and projects to address
17 displacement of fishing activities and other ex-
18 isting uses; and

19 (B) to assess or respond to impacts on the
20 marine and coastal environment, including—

21 (i) research, monitoring, mapping and
22 associated activities;

23 (ii) restoration; and

24 (iii) general marine and coastal con-
25 servation purposes and programs.

1 **SEC. 162. MARINE AQUACULTURE.**

2 (a) FINDINGS.—Congress makes the following find-
3 ings:

4 (1) Knowledge is needed about potential inter-
5 actions between aquaculture and natural ocean envi-
6 ronments, including habitat degradation, disease
7 transmission, transmission of parasites, genetic dilu-
8 tion of wild stocks, introduction of invasive species,
9 including non-native and genetically modified orga-
10 nisms, and discharges of wastes, toxins, and excess
11 nutrients.

12 (2) Prior to proposing development of marine
13 aquaculture, the environmental impacts of such pro-
14 posals shall be studied, as required under the Na-
15 tional Environmental Policy Act (42 U.S.C. 4321 et
16 seq.).

17 (b) AMENDMENTS.—The National Aquaculture Act
18 of 1980 (16 U.S.C. 2801 et seq.) is amended—

19 (1) in section 2(b)—

20 (A) by striking “and” at the end of para-
21 graph (3);

22 (B) by redesignating paragraph (4) as
23 paragraph (5); and

24 (C) by inserting after paragraph (3) the
25 following:

1 “(4) establishing the National Oceanic and At-
 2 mospheric Administration as the lead Federal agen-
 3 cy with respect to the management of marine aqua-
 4 culture; and”;

5 (2) by redesignating sections 10 and 11 as sec-
 6 tions 11 and 12, respectively; and

7 (3) by inserting after section 9 the following:

8 “REQUIREMENT FOR REGULATIONS

9 “SEC. 10. The Administrator of the National Oceanic
 10 and Atmospheric Administration may not lease a coastal,
 11 estuarine, or offshore area for aquaculture or issue a per-
 12 mit for aquaculture until the Administrator promulgates
 13 national standards and regulations that protect native
 14 stocks and prevent disease transmission, transmission of
 15 parasites, genetic dilution of wild stocks, introduction of
 16 invasive species, and impairment of habitat and water
 17 quality.”.

18 **Subtitle E—Ocean Science, Re-**
 19 **search, and Education Coordi-**
 20 **nation**

21 **SEC. 171. COMMITTEE ON OCEAN SCIENCE, EDUCATION,**
 22 **AND OPERATIONS.**

23 (a) COMMITTEE.—The Administrator shall establish
 24 a Committee on Ocean Science, Education, and Oper-
 25 ations (referred to in this subtitle as the “Committee”).

1 (b) MEMBERSHIP.—The Committee shall be com-
2 posed of the following members:

3 (1) The Administrator.

4 (2) The Director of the National Science Foun-
5 dation.

6 (3) The Administrator of the National Aero-
7 nautics and Space Administration.

8 (4) The Under Secretary of Energy for Energy,
9 Science, and Environment.

10 (5) The Administrator of the Environmental
11 Protection Agency.

12 (6) The Under Secretary of Homeland Security
13 for Science and Technology.

14 (7) The Commandant of the Coast Guard.

15 (8) The Director of the Office of Naval Re-
16 search.

17 (9) The Director of the United States Geologi-
18 cal Survey.

19 (10) The Director of the Minerals Management
20 Service.

21 (11) Under Secretary of Agriculture for Re-
22 search, Education, and Economics.

23 (12) The Assistant Secretary of State for
24 Oceans and International Environmental and Sci-
25 entific Affairs.

1 (13) The Director of the Defense Advanced Re-
2 search Projects Agency.

3 (14) The Director of the Office of Science and
4 Technology Policy.

5 (15) The Director of the Office of Management
6 and Budget.

7 (16) The Under Secretary of Education.

8 (17) The leadership of such other Federal agen-
9 cies and departments as the chair and vice chairs of
10 the Committee consider appropriate.

11 (c) CHAIR AND VICE CHAIRS.—The chair and vice
12 chairs of the Committee shall be appointed every 2 years
13 by a selection subcommittee of the Committee composed
14 of, at a minimum, the Administrator, the Director of the
15 National Science Foundation, and the Director of the
16 United States Geological Survey. The term of office of the
17 chair and vice chairs shall be 2 years. A person who has
18 previously served as chair or vice chair may be re-
19 appointed.

20 (d) RESPONSIBILITIES.—The Committee shall—

21 (1) serve as a source of advice and support on
22 scientific research, technology, education, and oper-
23 ational matters, including budgetary analyses;

1 (2) improve cooperation among Federal depart-
2 ments and agencies with respect to ocean and coast-
3 al science budgets;

4 (3) develop and recommend the National Strat-
5 egy for Ocean and Coastal Science under section
6 172 and oversee its implementation;

7 (4) establish interagency subcommittees and
8 working groups as appropriate to develop com-
9 prehensive and balanced Federal programs and ap-
10 proaches to ocean and coastal science issues and
11 needs;

12 (5) consult with academic, fisheries, State, in-
13 dustry, foundation, and other partners in the con-
14 duct of coastal and marine operations, research, and
15 education and with actual and potential users of
16 ocean science information in establishing priorities
17 and developing plans for research and technology
18 and education;

19 (6) cooperate with the Secretary of State in—

20 (A) coordinating United States Govern-
21 ment activities with those of other nations and
22 with international research and technology and
23 education; and

1 (B) providing, as appropriate, support for
2 and representation on United States delegations
3 to relevant international meetings; and
4 (7) carry out such other activities as may be re-
5 quired.

6 **SEC. 172. NATIONAL STRATEGY FOR OCEAN AND COASTAL**
7 **SCIENCE.**

8 (a) GOALS AND PRIORITIES.—The Committee shall
9 develop a National Strategy for Ocean and Coastal
10 Science. The Committee chair shall submit the strategy
11 to the Congress within 2 years after the date of enactment
12 of this title, and a revised strategy shall be submitted at
13 least once every 5 years thereafter. The strategy shall es-
14 tablish, for the 10-year period beginning in the year the
15 strategy is submitted, the scientific goals and priorities for
16 ocean and coastal research, technology, education, out-
17 reach, and operations which most effectively advance
18 knowledge and provide usable information as the basis for
19 policy decisions to—

20 (1) understand, assess, and respond to human-
21 induced and natural processes of global climate
22 change;

23 (2) improve understanding, public forecasts,
24 and warnings and mitigate natural hazards;

1 (3) enhance public safety and efficiency of ma-
2 rine operations;

3 (4) support efforts to protect, maintain, and re-
4 store the health of marine ecosystems and to imple-
5 ment ecosystem-based management of United States
6 ocean waters, including how marine ecosystems func-
7 tion on varying spatial and temporal scales and how
8 biological, physical, chemical, and socioeconomic
9 processes interact;

10 (5) implement and monitor the effectiveness of
11 ocean and coastal environmental policies;

12 (6) contribute to public understanding of coast-
13 al and global ocean systems and public awareness of
14 the importance and health of marine ecosystems;

15 (7) respond to environmental changes that af-
16 fect human health;

17 (8) strengthen homeland security and military
18 preparedness; and

19 (9) improve understanding of sea level changes
20 shoreline erosion and the condition of the beaches in
21 the United States.

22 (b) STRATEGY.—The strategy shall—

23 (1) describe specific activities required to
24 achieve established goals and priorities including re-
25 search and education programs, observation collec-

1 tion and analysis requirements, technology develop-
2 ment, facility and equipment investments, informa-
3 tion management, student support and training, pro-
4 fessional certification and training for persons en-
5 gaged in fishing and other maritime activities, data
6 stewardship and access, and participation in inter-
7 national research and education and other capacity-
8 building efforts;

9 (2) identify and address relevant programs and
10 activities of the Federal agencies and departments
11 represented on the Committee that will contribute to
12 scientific goals and priorities and set forth the role
13 of each Federal agency and department in imple-
14 menting the strategy;

15 (3) consider and use, as appropriate, reports
16 and studies conducted by Federal agencies and de-
17 partments, the National Research Council, or other
18 entities;

19 (4) make recommendations for the coordination
20 of ocean and coastal science activities of the United
21 States with those of other nations and international
22 organizations, including bilateral and multilateral
23 proposals for cooperation on major projects, for im-
24 proving worldwide access to scientific data and infor-
25 mation, and for encouraging participation in inter-

1 national ocean science research and education pro-
2 grams by developing nations;

3 (5) estimate, to the extent practicable, Federal
4 funding for ocean and coastal science activities to be
5 conducted pursuant to the strategy; and

6 (6) ensure the integrity of ocean and coastal
7 science and research.

8 (c) STRATEGIC ELEMENTS.—The strategy shall in-
9 clude the following elements:

10 (1) Global measurements on all relevant spatial
11 and time scales, establishing worldwide observations
12 necessary to study and assess coastal and global
13 ocean systems and support information needs, in-
14 cluding marine ecosystem health.

15 (2) National ocean partnerships, building part-
16 nerships among Federal agencies, academia, fishing
17 industries, and other members of the ocean and
18 coastal science community in the areas of research,
19 education, data systems, and communication.

20 (3) Marine science facility support, ensuring the
21 procurement, maintenance, and operation of the na-
22 tional oceanographic research fleet and related infra-
23 structure to provide for sustained ocean and coastal
24 observations from in situ, remote, aircraft, and ves-
25 sel platforms.

1 (4) Focused research initiatives, funding com-
2 petitive research grants to advance understanding of
3 the nature of and interaction among physical, chem-
4 ical, and biological processes of the oceans, including
5 the effect of human activities on such processes.

6 (5) Technology development, supporting devel-
7 opment of new technologies and sensors to achieve
8 strategic and program goals, and development of al-
9 gorithms, analysis methods, and long-term data
10 records for emerging operational sensors.

11 (6) Workforce development, building and main-
12 taining a diverse national ocean science professional
13 workforce through traineeships, scholarships, fellow-
14 ships, and internships.

15 (7) Ocean science education, providing national
16 coordination and support of formal and informal
17 ocean science education programs at all education
18 levels and establishing mechanisms to improve ocean
19 literacy, contribute to public awareness of the impor-
20 tance and health of marine ecosystems, and create
21 an oceans stewardship ethic among citizens.

22 (8) Professional training, including certification
23 and continuing education programs, for persons en-
24 gaged in the harvest, handling, and processing of
25 fish and seafood aboard vessels to assure the highest

1 levels of care are taken to selectively harvest fish
2 from the sea with the minimum impact on habitat
3 to handle fish onboard vessels with techniques that
4 assure the safety and highest quality of fish landed,
5 and improve the safety of vessels and their personnel
6 at sea.

7 (9) Information management, establishing and
8 maintaining information systems that promote effi-
9 cient stewardship, transfer, and use of data, create
10 globally accessible data standards and formats, and
11 allow analysis of data from varied sources to
12 produce information readily usable by policymakers
13 and stakeholders.

14 (d) PUBLIC PARTICIPATION.—In developing the
15 strategy, the Committee shall consult with academic,
16 State, industry, fisheries, and environmental groups and
17 representatives. Not later than 90 days before the chair
18 of the Committee submits the strategy, or any revision
19 thereof, to Congress, a summary of the proposed strategy
20 shall be published in the Federal Register for a public
21 comment period of not less than 60 days.

22 **SEC. 173. OCEAN RESEARCH AND EDUCATION ADVISORY**
23 **PANEL.**

24 (a) MEMBERSHIP.—The Committee shall maintain
25 an Ocean Research and Education Advisory Panel con-

1 sisting of not less than 10 and not more than 18 members
2 appointed by the chair, including the following:

3 (1) One member representing the National
4 Academy of Sciences.

5 (2) One member representing the National
6 Academy of Engineering.

7 (3) One member representing the Institute of
8 Medicine.

9 (4) One Sea Grant director.

10 (5) Members selected from among individuals
11 representing ocean industries, State governments,
12 academia, fisheries, nongovernmental organizations,
13 and such other participants in ocean and coastal ac-
14 tivities as the chair considers appropriate.

15 (6) Members selected from among individuals
16 eminent in the fields of marine science, marine pol-
17 icy, ocean engineering, or related fields.

18 (7) Members selected from among individuals
19 eminent in the field of education.

20 (b) RESPONSIBILITIES.—The Advisory Panel shall
21 advise the Committee on the following:

22 (1) Development and implementation of the Na-
23 tional Strategy for Ocean and Coastal Science.

24 (2) Matters relating to national oceanographic
25 data requirements, ocean and coastal observing sys-

1 tems, ocean science education and training, and
2 oceanographic facilities including renewal of the na-
3 tional academic research fleet.

4 (3) Any additional matters that the Committee
5 considers appropriate.

6 (c) PROCEDURAL MATTERS.—

7 (1) PUBLIC MEETINGS.—All meetings of the
8 Advisory Panel shall be open to the public, except
9 that a meeting or any portion of it may be closed
10 to the public if it concerns matters or information
11 that pertains to national security, employment mat-
12 ters, litigation, or other reasons provided under sec-
13 tion 552b of title 5, United States Code. Interested
14 persons shall be permitted to appear at open meet-
15 ings and present oral or written statements on the
16 subject matter of the meeting. The Advisory Panel
17 may administer oaths or affirmations to any person
18 appearing before it.

19 (2) PUBLICATION OF MEETINGS.—All open
20 meetings of the Advisory Panel shall be preceded by
21 timely public notice in the Federal Register of the
22 time, place, and subject of the meeting.

23 (3) MINUTES.—Minutes of each meeting shall
24 be kept and shall include a record of the people
25 present, a description of the discussion that oc-

1 curred, and copies of all statements filed. Subject to
2 section 552 of title 5, United States Code, the min-
3 utes and records of all meetings and other docu-
4 ments that were made available to or prepared for
5 the Advisory Panel shall be available for public in-
6 spection and copying at a single location in the part-
7 nership program office.

8 (4) RELATIONSHIP TO FACa.—The Federal Ad-
9 visory Committee Act (5 U.S.C. App.) does not
10 apply to the Advisory Panel.

11 (d) FUNDING.—The chair and vice chairs of the Com-
12 mittee annually shall make funds available to support the
13 activities of the Advisory Panel.

14 **SEC. 174. MARINE ECOSYSTEMS RESEARCH.**

15 (a) ECOSYSTEM-BASED APPROACHES.—The Admin-
16 istrator shall work with the Committee to identify research
17 efforts for improving the implementation of this Act by
18 informing ecosystem-based management efforts to protect,
19 maintain, and restore marine ecosystem health.

20 (b) MARINE BIODIVERSITY RESEARCH PROGRAM.—
21 As part of this effort, the Administrator, in cooperation
22 with the National Science Foundation and other Federal
23 agencies represented on the Committee, shall establish and
24 maintain a ten-year interagency research program to as-
25 sess and explain the diversity, distribution, functions, and

1 abundance of marine organisms in the world's oceans for
2 the purposes of—

3 (1) understanding the patterns, processes, and
4 consequences of changing marine biological diversity;

5 (2) improving the linkages between marine eco-
6 logical and oceanographic sciences and informing
7 ecosystem-based management efforts so as to pro-
8 tect, maintain, and restore marine ecosystem health;

9 (3) strengthening and expanding the field of
10 marine taxonomy, including use of genomics and
11 proteomics;

12 (4) facilitating and encouraging the use of new
13 technological advances, predictive models, and his-
14 torical perspectives to investigate marine biodiver-
15 sity;

16 (5) using new understanding gained through
17 the program to improve predictions of the impacts of
18 human activities on the health of the marine envi-
19 ronment, and of the impacts of changes in the ma-
20 rine environment on human well-being; and

21 (6) enhancing formal and informal outreach
22 and education efforts through research-generated
23 knowledge, information, and tools.

1 (c) PROGRAM ELEMENTS.—The research program
2 established under this section shall provide for the fol-
3 lowing:

4 (1) Dynamic access to biological data through
5 an ocean biogeographic information system that
6 links marine databases, manages data generated by
7 the program, and supports analysis of biodiversity
8 and related physical and ecological parameters.

9 (2) Integrated regional studies that focus on
10 appropriate scales to support ecosystem-based man-
11 agement.

12 (3) Improved biological sensors for ocean ob-
13 serving systems.

14 (4) Investment in exploration and taxonomy to
15 study little known areas and describe new species.

16 (5) Studies of earlier changes in marine popu-
17 lations to trace information on biological abundance,
18 distribution, function, and diversity to the earliest
19 historical periods of minimum human impact.

20 (6) Improved predictive capability to enhance
21 the effectiveness of conservation and ecosystem-
22 based management programs and minimize adverse
23 impacts of human activities and natural processes on
24 United States Ocean Waters.

1 (d) SCIENTIFIC ASSESSMENT.—The Administrator,
2 through the Committee, shall prepare and submit to the
3 President and the Congress a biennial assessment that—

4 (1) integrates, evaluates, and interprets the
5 findings of the program and discusses the scientific
6 uncertainties associated with such findings; and

7 (2) analyzes current trends in marine and
8 coastal ecosystems, both human-induced and nat-
9 ural, and projects major trends, including marine
10 ecosystem health, for the subsequent decade.

11 **SEC. 175. OCEAN ECOSYSTEM RESOURCE INFORMATION**
12 **SYSTEMS.**

13 (a) FINDINGS.—Congress makes the following find-
14 ings:

15 (1) Conservation and management of the
16 United States ocean waters requires an under-
17 standing of the ocean ecosystem in order to make
18 knowledgeable decisions regarding the uses of the
19 oceans, or extractions therefrom, and their effect on
20 other ocean uses and resources.

21 (2) The United States Commission on Ocean
22 Policy and the President's Ocean Action Plan both
23 call for ecosystem-based management of the United
24 States ocean waters.

1 (3) Ecosystem-based management will require
2 development of an ocean information system and
3 products representing integration of data useful to
4 management decisions. This information includes
5 terrestrial, aquatic, oceanographic, and biological
6 data to accomplish the following:

7 (A) Serve as a repository of existing infor-
8 mation and new research and data sets as they
9 become available.

10 (B) Help understand relationships of ocean
11 and ecosystem functions and factors affecting
12 oceans and their resources.

13 (C) Provide a foundation upon which to
14 base policies and decisions for conserving and
15 managing the nation's ocean water and living
16 marine resources.

17 (D) Identify gaps in the knowledge of the
18 nation's oceans and living marine resources that
19 may serve as a guide in the development of new
20 research priorities.

21 (4) Information generated by ocean monitoring
22 systems, including the National Environmental Ob-
23 servatory Network (NEON), will be more useful if
24 fully integrated into resource information systems
25 developed for ecosystem-based management applica-

1 tions. Data from these offshore monitoring pro-
2 grams, coupled with other information on ocean and
3 aquatic ecosystems, will provide a basis for under-
4 standing natural and anthropogenic environmental
5 variability, including climate change and the result-
6 ing impacts on living marine resources.

7 (5) Natural resource information systems have
8 been developed and are presently a successful man-
9 agement tool for terrestrial uses, including some Pa-
10 cific Coast watersheds, and they should now be ap-
11 plied to the aquatic environment to facilitate eco-
12 system-based management of the United States
13 oceans.

14 (b) ESTABLISHMENT.—

15 (1) IN GENERAL.—Not later than June 30,
16 2006, the Administrator shall cause to be estab-
17 lished a network of regional Ocean Ecosystem Re-
18 source Information Systems to act as an organized
19 repository of geophysical, relevant atmospheric,
20 oceanographic, and marine biological data, including
21 genetic research, studies, data, maps, and analyses
22 necessary to the understanding of the ocean eco-
23 system, and from which to draw information for the
24 establishment of national policies and priorities re-
25 lated to the conservation, use, and management of

1 the nation's ocean waters and the marine resources
2 therein. The Administrator shall coordinate with
3 current ocean data acquisition and distribution sys-
4 tems, such as the National Geospatial Data Clear-
5 inghouse, to avoid duplication.

6 (2) INFORMATION INCLUDED.—Information for
7 inclusion in each regional Ocean Ecosystem Re-
8 source Information System may include—

9 (A) relevant historic or social science infor-
10 mation that may aid in the understanding of
11 ocean ecosystems or their management; or

12 (B) published and unpublished research,
13 data, and scientifically peer-reviewed analysis,
14 developed by State agencies, academic or sci-
15 entific institutions, fishermen's collaborative re-
16 search programs, and any other reliable and
17 relevant information sources.

18 (3) REQUIREMENT FOR PEER REVIEW.—All
19 analysis and interpretations of data to explain eco-
20 system relationships in any regional Ocean Eco-
21 system Resource Information System shall be sci-
22 entifically peer-reviewed.

23 (4) AUTHORITY TO CONTRACT.—The Adminis-
24 trator may contract with other Federal agencies,
25 State agencies, nongovernmental organizations, uni-

1 versities, or private academic institutions for devel-
2 opment of portions of each regional Ocean Eco-
3 system Resource Information System, provided such
4 work will be open source and the end product will
5 be solely the property of NOAA.

6 (5) SCHEDULE.—The Ocean Ecosystem Re-
7 source Information Systems shall be established and
8 in operation for all regions identified in subsection
9 (c) not later than January 1, 2010.

10 (6) AVAILABILITY.—The system shall be readily
11 accessible at no, or nominal, cost to Congress, all
12 Federal agencies, the States, academic and scientific
13 institutions, and the public through the Internet, li-
14 braries, and such other mediums as may be appro-
15 priate and practical.

16 (c) REGIONS.—

17 (1) REQUIRED REGIONS.—Ocean Ecosystem
18 Resource Information Systems shall be established
19 for the following regions:

20 (A) New England, to include the ocean wa-
21 ters offshore the States of Maine, New Hamp-
22 shire, Massachusetts, and Connecticut.

23 (B) Mid-Atlantic, to include the ocean wa-
24 ters offshore the States of New York, New Jer-

1 sey, Delaware, Pennsylvania, Maryland, and
2 Virginia.

3 (C) South Atlantic, to include the ocean
4 waters offshore the States of North Carolina,
5 South Carolina, Georgia and Florida.

6 (D) Caribbean, to include the ocean waters
7 offshore the United States Virgin Islands and
8 the Commonwealth of Puerto Rico.

9 (E) Gulf of Mexico, to include the ocean
10 waters offshore the States of Florida, Alabama,
11 Louisiana, Mississippi, and Texas.

12 (F) Pacific Coast, to include the ocean wa-
13 ters offshore the States of California, Oregon,
14 and Washington.

15 (G) Southeast Alaska, to include the ocean
16 waters offshore the State of Alaska, beginning
17 at Dixon Entrance and extending north and
18 west to Cook Inlet.

19 (H) Aleutian Islands, to include the ocean
20 waters offshore the State of Alaska, beginning
21 at Cook Inlet and extending south, west, and
22 north to Attu Island and east to Togiak.

23 (I) Bering Sea, to include the ocean waters
24 offshore the State of Alaska, beginning at
25 Togiak and extending west, north, and east, en-

1 compassing St. Lawrence Island to the western-
2 most tip of the Seward Peninsula, and includ-
3 ing the Pribilof Islands.

4 (J) Arctic Ocean, to include the ocean wa-
5 ters offshore the State of Alaska, beginning at
6 the westernmost tip of the Seward Peninsula
7 north and east to Demarcation Bay.

8 (K) Hawaii, to include the ocean waters
9 offshore the State of Hawaii.

10 (L) Western Pacific, to include United
11 States territorial waters offshore American
12 Samoa, Guam, and the Northern Mariana Is-
13 lands.

14 (2) OTHER REGIONS.—The Administrator, for
15 purposes of administrative convenience and to en-
16 sure the timely completion and establishment of the
17 regional Ocean Ecosystem Resource Information
18 Systems, may—

19 (A) divide the regions or include other wa-
20 ters not listed under paragraph (1); and

21 (B) establish regions other than those de-
22 scribed in such paragraph.

23 (d) COORDINATION.—

24 (1) IN GENERAL.—The Administrator in the
25 preparation of the regional Ocean Ecosystem Re-

1 source Information Systems, shall request the co-
2 operation and coordination with the United States
3 Geological Survey, the United States Fish and Wild-
4 life Service, the Minerals Management Service, the
5 United States Environmental Protection Agency, the
6 United States Coast Guard and the United States
7 Navy, together with all NOAA agencies for all un-
8 classified information necessary for the development
9 and operation of the systems. The Administrator
10 may request and enter into cooperative agreements
11 with States, universities, or private academic institu-
12 tions for access to information necessary or useful
13 for the development and operation of the systems.

14 (2) INTERNATIONAL AGREEMENTS.—The Ad-
15 ministrator may enter into agreements with the Gov-
16 ernments of Canada, Mexico, or Russia in the prepa-
17 ration of a regional Ocean Ecosystem Resource In-
18 formation System where an international border of
19 the United States or the coastal waters of the
20 United States abut such country or the territorial
21 waters of such country, for any information or data
22 that may be necessary or useful in the development
23 and operation of such system.

1 **SEC. 176. FUNDING FOR MARINE ECOSYSTEM RESEARCH.**

2 (a) MARINE ECOSYSTEMS RESEARCH.—For develop-
3 ment and implementation of the research program under
4 section 174, there are authorized to be appropriated
5 \$50,000,000 for each of fiscal years 2006 through 2010.

6 (b) REGIONAL OCEAN ECOSYSTEM RESOURCE IN-
7 FORMATION SYSTEMS.—For development and implemen-
8 tation of the regional Ocean Ecosystem Resource Informa-
9 tion Systems under section 175, there are authorized to
10 be appropriated \$25,000,000 for each of fiscal years 2006
11 through 2010.

12 (c) AVAILABILITY.—Sums appropriated pursuant to
13 an authorization of appropriation in this section shall re-
14 main available until expended.

15 **SEC. 177. SUBCOMMITTEE ON OCEAN EDUCATION.**

16 (a) MEMBERSHIP.—The Committee shall establish a
17 Subcommittee on Ocean Education (referred to in this
18 subtitle as the “Subcommittee”). Each member of the
19 Committee may designate a senior representative with ex-
20 pertise in education to serve on the Subcommittee. The
21 Committee shall select a chair and 1 or more vice chairs
22 for the Subcommittee from the membership of the Sub-
23 committee.

24 (b) RESPONSIBILITIES.—The Subcommittee shall—
25 (1) support and advise the Committee on mat-
26 ters related to ocean and coastal education for the

1 purpose of increasing the overall effectiveness and
2 productivity of Federal education and outreach ef-
3 forts;

4 (2) provide recommendations on education goals
5 and priorities for and implementation of the Na-
6 tional Strategy for Ocean and Coastal Science devel-
7 oped under section 172 and guidance for educational
8 investments;

9 (3) coordinate Federal ocean, coastal, and wa-
10 tershed education activities for students, including
11 funding for educational opportunities at the under-
12 graduate, graduate, and postdoctoral levels;

13 (4) identify and work to establish linkages
14 among Federal programs, such as the National Sea
15 Grant College Program, and those of States, aca-
16 demic institutions, State Sea Grant programs, muse-
17 ums and aquaria, industry, foundations, and other
18 nongovernmental organizations;

19 (5) support existing marine, coastal and Great
20 Lakes education and outreach programs, including
21 those at the State, regional, and local;

22 (6) facilitate Federal agency efforts to work
23 with minority-serving institutions, historically Black
24 colleges and universities, and traditionally majority-
25 serving institutions to ensure that students of under-

1 represented groups have access to and support for
2 pursuing ocean-related careers;

3 (7) promote the establishment of professional
4 certification, training, and continuing education pro-
5 gram for persons engaged in fishing or other mari-
6 time activities, including partnerships with academic
7 or nongovernmental organizations to carry out such
8 programs;

9 (8) lead development of effective national strat-
10 egies with common perspectives and messages for
11 formal and informal ocean and coastal education ef-
12 forts; and

13 (9) carry out such other activities as the Com-
14 mittee request.

15 **SEC. 178. OCEAN AND COASTAL EDUCATION PROGRAM.**

16 (a) ESTABLISHMENT.—Consistent with the National
17 Strategy for Ocean and Coastal Science, the Committee,
18 through the Subcommittee, shall establish a national,
19 interagency ocean and coastal education program to im-
20 prove public awareness, understanding, and appreciation
21 of the role of the oceans in meeting the economic, social,
22 and environmental needs of the United States. To the ex-
23 tent practicable, the interagency program shall utilize and
24 build from existing Federal programs and mechanisms for

1 ocean and coastal outreach and education at the State,
2 regional, and local levels.

3 (b) SCOPE.—The national, interagency ocean and
4 coastal education program shall include formal education
5 activities for elementary, secondary, undergraduate, grad-
6 uate, and postdoctoral students, continuing education ac-
7 tivities for adults, and informal education activities for
8 learners of all ages.

9 (c) ELEMENTS.—The ocean and coastal education
10 program shall use existing interesting science programs
11 and other appropriate mechanisms and shall, at a min-
12 imum, provide sustained funding for the following:

13 (1) A national network of centers for ocean
14 science education excellence to improve the acquisi-
15 tion of knowledge by students at all levels.

16 (2) The National Sea Grant College Program's
17 education and outreach efforts.

18 (3) A regional education network to support
19 academic competition and experiential learning op-
20 portunities for elementary and secondary school stu-
21 dents.

22 (4) Teacher enrichment programs that provide
23 for participation in research expeditions, voyages of
24 exploration, and the conduct of scientific research.

1 (5) Development of model instructional pro-
2 grams for students at all levels.

3 (6) Student training and support to provide di-
4 verse ocean-related education opportunities at the
5 undergraduate, graduate, and postdoctoral levels.

6 (7) Mentoring programs and partnerships with
7 minority-serving institutions to ensure diversity in
8 the ocean and coastal workforce.

9 (8) A network of regional facilities, operated by
10 nongovernmental organizations or academic institu-
11 tions that provide training and continuing education
12 for persons engaged in fishing or other maritime ac-
13 tivities, including establishment of criteria for pro-
14 fessional certification programs in consultation with
15 the fishing industry.

16 (9) Dissemination of ocean and coastal informa-
17 tion that is relevant for a wider public audience.

18 **SEC. 179. OCEAN SCIENCE AND TECHNOLOGY SCHOLAR-**

19 **SHIP PROGRAM.**

20 (a) ESTABLISHMENT.—

21 (1) IN GENERAL.—The Committee shall estab-
22 lish a National Ocean Science and Technology Schol-
23 arship Program (in this section referred to as the
24 “Program”) that is designed to recruit and prepare
25 students for careers in the departments or agencies

1 that are represented on the Committee (in this sec-
2 tion referred to as “participating agencies”). The
3 Program shall award scholarships to individuals who
4 are selected through a competitive process primarily
5 on the basis of academic merit, with consideration
6 given to financial need and the goal of promoting
7 the participation of individuals identified in section
8 33 or 34 of the Science and Engineering Equal Op-
9 portunities Act (42 U.S.C. 1885a and 1885b).

10 (2) CONTRACTUAL AGREEMENTS.—To carry
11 out the Program, participating agencies shall enter
12 into contractual agreements with individuals selected
13 under paragraph (1) under which the individuals
14 agree to serve as full-time employees of the partici-
15 pating agency, for the period of time to be deter-
16 mined by the participating agency, and stated in the
17 contractual agreements, in positions needed by the
18 participating agency and for which the individuals
19 are qualified, in exchange for receiving a scholarship.

20 (b) ELIGIBILITY CRITERIA.—In order to be eligible
21 to participate in the Program, an individual must—

22 (1) be enrolled or accepted for enrollment as a
23 full-time student at an institution of higher edu-
24 cation (as defined in section 101(a) of the Higher
25 Education Act of 1965 (20 U.S.C. 1001(a))) in an

1 academic field or discipline described in the list
2 made available under subsection (c);

3 (2) be a United States citizen; and

4 (3) at the time of the initial scholarship award,
5 not be an employee of the department or agency pro-
6 viding the award.

7 (c) PROGRAM LISTING.—The Committee shall make
8 publicly available a list of academic programs and fields
9 of study for which scholarships under the Program may
10 be used, and shall update the list as necessary.

11 (d) APPLICATION.—An individual seeking a scholar-
12 ship under this section shall submit an application to a
13 participating agency at such time, in such manner, and
14 containing such information, agreements, or assurances as
15 the participating agency may require.

16 (e) SCHOLARSHIP LIMITS.—

17 (1) ACADEMIC REQUIREMENTS.—The partici-
18 pating agency may provide a scholarship under the
19 Program for an academic year if the individual ap-
20 plying for the scholarship has submitted to the par-
21 ticipating agency, as part of the application required
22 under subsection (d), a proposed academic program
23 leading to a degree in a program or field of study
24 on the list made available under subsection (c).

1 (2) TIME LIMITATION.—An individual may not
2 receive a scholarship under this section for more
3 than 4 academic years, unless the participating
4 agency grants a waiver.

5 (3) DOLLAR LIMITATION.—The dollar amount
6 of a scholarship under this section for an academic
7 year shall be established by regulation but may not
8 exceed the cost of attendance as such cost is deter-
9 mined in section 472 of the Higher Education Act
10 of 1965 (20 U.S.C. 10871l).

11 (4) USE OF FUNDS.—A scholarship provided
12 under this section may be expended for tuition, fees,
13 and other authorized expenses as established by reg-
14 ulation.

15 (5) CONTRACTUAL AGREEMENT.—The partici-
16 pating agency may enter into a contractual agree-
17 ment with an institution of higher education under
18 which the amounts provided for a scholarship under
19 this section for tuition, fees, and other authorized
20 expenses are paid directly to the institution with re-
21 spect to which the scholarship is provided.

22 (f) PERIOD OF SERVICE.—

23 (1) IN GENERAL.—The period of service for
24 which an individual shall be obligated to serve as an
25 employee of the participating agency, except as pro-

1 vided in subsection (h)(2), shall be determined by
2 the participating agency as stated in subsection
3 (a)(2).

4 (2) START OF SERVICE.—Except as provided in
5 paragraph (3), obligated service under paragraph (1)
6 shall begin not later than 60 days after the indi-
7 vidual obtains the educational degree for which the
8 scholarship was provided.

9 (3) DEFERRAL.—The participating agency may
10 defer the obligation of an individual to provide a pe-
11 riod of service under paragraph (1) if the partici-
12 pating agency determines that such a deferral is ap-
13 propriate. The Administrator shall prescribe the
14 terms and conditions under which a service obliga-
15 tion may be deferred through regulation.

16 (g) REPAYMENT.—

17 (1) REQUIREMENT.—Scholarship recipients who
18 fail to maintain a high level of academic standing,
19 as defined by the participating agency by regulation,
20 who are dismissed from their educational institutions
21 for disciplinary reasons, or who voluntarily terminate
22 academic training before graduation from the edu-
23 cational program for which the scholarship was
24 awarded, shall be in breach of their contractual
25 agreement and, in lieu of any service obligation aris-

1 ing under such agreement, shall be liable to the
2 United States for repayment within 1 year after the
3 date of default of all scholarship funds paid to them
4 and to the institution of higher education on their
5 behalf under the agreement, except as provided in
6 subsection (h). The repayment period may be ex-
7 tended by the participating agency when determined
8 to be necessary.

9 (2) FAILURE TO COMPLETE SERVICE REQUIRE-
10 MENT.—Scholarship recipients who, for any reason,
11 fail to begin or complete their service obligation
12 after completion of academic training, or fail to com-
13 ply with the terms and conditions of deferment es-
14 tablished by the participating agency pursuant to
15 subsection (f)(3), shall be in breach of their contrac-
16 tual agreement. When recipients breach their agree-
17 ments for the reasons stated in the preceding sen-
18 tence, the recipient shall be liable to the United
19 States for an amount equal to—

20 (A) the total amount of scholarships re-
21 ceived by such individual under this section;
22 added to

23 (B) the amount of the interest on the
24 amounts of such scholarships that would be
25 payable if at the time such scholarships were

1 received they were loans bearing interest at the
2 maximum legal prevailing rate, as determined
3 by the Treasurer of the United States, multi-
4 plied by 3.

5 (h) CANCELLATION OR WAIVER.—

6 (1) CANCELLATION.—Any obligation of an indi-
7 vidual incurred under the Program (or a contractual
8 agreement thereunder) for service or payment shall
9 be canceled upon the death of the individual.

10 (2) WAIVER.—The participating agency shall by
11 regulation provide for the partial or total waiver or
12 suspension of any obligation of service or payment
13 incurred by an individual under the Program (or a
14 contractual agreement thereunder) whenever compli-
15 ance by the individual is impossible or would involve
16 extreme hardship to the individual, or if enforcement
17 of such obligation with respect to the individual
18 would be contrary to the best interests of the Gov-
19 ernment.

20 **SEC. 180. AUTHORIZATION OF APPROPRIATIONS.**

21 (a) NATIONAL OCEAN AND COASTAL EDUCATION
22 PROGRAM.—Of the amounts authorized annually to
23 NOAA, the Department of the Navy, the National Science
24 Foundation, and the National Aeronautics and Space Ad-
25 ministration for fiscal year 2006 through fiscal year 2010,

1 \$25,000,000 from each agency shall be available for the
 2 ocean and coastal education program under section 178.

3 (b) SCHOLARSHIP PROGRAM.—Of the amounts au-
 4 thorized annually to NOAA, the National Science Founda-
 5 tion, the National Aeronautics and Space Administration,
 6 and the Department of the Navy for fiscal year 2006
 7 through fiscal year 2010, \$15,000,000 shall be available
 8 for National Ocean Science and Technology Scholarships
 9 under section 179.

10 (c) AVAILABILITY.—Sums appropriated under this
 11 section shall remain available until expended.

12 **TITLE II—HABITAT**

13 **MANAGEMENT**

14 **Subtitle A—Management of Coral**

15 **Habitats**

16 **SEC. 201. SHORT TITLE.**

17 This subtitle may be cited as the “Deep Sea Coral
 18 Protection Act”.

19 **SEC. 202. POLICY.**

20 It is the policy of the United States to employ pre-
 21 ventative and precautionary strategies to protect deep sea
 22 corals and deep sea sponges, including protecting such or-
 23 ganisms that are found in the continental margins, can-
 24 yons, seamounts, and ridges of the world’s oceans, and
 25 the habitats of such organisms from damage from gear

1 and equipment used in commercial fishing, particularly
2 bottom-tending mobile fishing gear.

3 **SEC. 203. DEFINITIONS.**

4 In this subtitle:

5 (1) **BOTTOM-TENDING MOBILE FISHING**
6 **GEAR.**—The term “bottom-tending mobile fishing
7 gear” means any trawl or dredge fishing gear that
8 contacts the ocean floor while in use, including pe-
9 lagic trawls that contact the ocean floor while in use,
10 otter trawls, and scallop dredges.

11 (2) **CORAL MANAGEMENT AREA.**—The term
12 “Coral Management Area” means an area des-
13 ignated as a Coral Management Area under section
14 207 of this Act.

15 (3) **CORAL STUDY AREA.**—The term “Coral
16 Study Area” means an area designated as a Coral
17 Study Area under section 206 of this Act.

18 (4) **COUNCIL.**—Except as otherwise provided in
19 this subtitle, the term “Council” means 1 of the Re-
20 gional Fishery Management Councils established
21 under section 302 of the Magnuson-Stevens Fishery
22 Conservation and Management Act (16 U.S.C.
23 1852).

24 (5) **DEEP SEA CORAL.**—The term “deep sea
25 coral” means the species that—

1 (A) occur at a depth of more than 50 me-
2 ters;

3 (B) do not contain symbiotic algae; and

4 (C) are in the phylum Cnidaria and in the
5 order—

6 (i) Antipatharia;

7 (ii) Scleractinia;

8 (iii) Gorgonacea;

9 (iv) Alcyonacea;

10 (v) Pennatulacea, of the class
11 Authozoa; or

12 (vi) Hydorecorallina, of the class
13 Hydrozoa.

14 (6) DEEP SEA CORAL AND SPONGE ECO-
15 SYSTEM.—The term “deep sea coral and sponge eco-
16 system” means a community of living species of deep
17 sea corals or deep sea sponges, the benthic and non-
18 benthic species associated with such species, and the
19 living and nonliving physical, chemical components,
20 and environmental factors that constitute habitat for
21 corals and sponges.

22 (7) DEEP SEA SPONGE.—The term “deep sea
23 sponge” means species of the phylum Porifera that
24 occur at a depth of more than 50 meters.

1 (8) EXCLUSIVE ECONOMIC ZONE.—The term
2 “exclusive economic zone” has the meaning given
3 that term in section 3 of the Magnuson-Stevens
4 Fishery Conservation and Management Act (16
5 U.S.C. 1802).

6 **SEC. 204. MAPPING AND RESEARCH.**

7 (a) REQUIREMENT FOR MAPPING AND RESEARCH.—
8 The Administrator shall carry out a comprehensive pro-
9 gram to explore, research, identify, and map deep sea cor-
10 als and deep sea sponges that includes an annual research
11 strategy that—

12 (1) compares areas open to bottom-tending mo-
13 bile fishing gear with areas designated as Coral
14 Management Areas; and

15 (2) prioritizes Coral Study Areas for evaluation
16 to determine whether such designation should be ter-
17 minated or whether the areas should be designated
18 as Coral Management Areas.

19 (b) DESCRIPTION OF MAPPING AND RESEARCH.—
20 The comprehensive program described in subsection (a)
21 shall include—

22 (1) creating maps of the locations of deep sea
23 coral and sponge ecosystems; and

1 (2) conducting research related to deep sea corals and deep sea sponges and the habitats of deep sea corals and deep sea sponges, including—

4 (A) the natural history;

5 (B) taxonomic classification;

6 (C) ecological role; and

7 (D) the benefits of such species and habitats.

9 **SEC. 205. DATA REVIEW AND RECOMMENDATIONS.**

10 (a) **REQUIREMENT FOR REVIEW.**—Not less frequently than once every other year, an advisory panel selected by the Administrator from a list of names developed by the Chair of the National Research Council shall review all available data related to deep sea corals and deep sea sponges. Such data shall include data from—

16 (1) bycatch records used to determine the rate of bycatch of deep sea corals and deep sea sponges, including the log books of commercial fishing vessels, records from onboard observers, and trawl surveys;

21 (2) research data used to determine the presence of deep sea corals or deep sea sponges, including data from trawl surveys, explorations with remote or manned submersibles or sleds, and sediment

1 surveys using sonar technology, sampling tech-
2 nologies, or any other technology; and

3 (3) any Federal agency under subsection (b).

4 (b) DATA FROM FEDERAL ENTITIES.—The head of
5 any Federal agency that holds information related to the
6 ocean floor, including information related to the habitats
7 of deep sea corals or deep sea sponges, shall, upon request,
8 furnish such information to the Administrator who shall
9 make it available for the advisory panel referred to in sub-
10 section (a).

11 (c) RECOMMENDATIONS.—

12 (1) IN GENERAL.—Not later than 30 days after
13 completing a review required by subsection (a), the
14 advisory panel referred to in such subsection shall
15 submit to the Administrator a recommendation
16 that—

17 (A) any area identified as a deep sea coral
18 and sponge ecosystem in such annual review be
19 designated as a Coral Management Area; and

20 (B) any area containing a potential or ac-
21 tual deep sea coral and sponge ecosystem for
22 which additional research is needed be des-
23 igned as a Coral Study Area.

24 (2) PUBLICATION.—Notice of the availability of
25 each recommendation submitted to the Secretary

1 under paragraph (1) shall be published in the Fed-
2 eral Register.

3 **SEC. 206. CORAL STUDY AREAS.**

4 (a) **STUDY AREAS IDENTIFIED THROUGH FISHING**
5 **RECORDS.**—The Administrator shall designate as a Coral
6 Study Area any area that is located within the exclusive
7 economic zone for which records of commercial fishing
8 trips maintained by the National Marine Fisheries Service
9 demonstrate that the area has not been fished using bot-
10 tom-tending mobile fishing gear during the 7-year period
11 ending on the date of the enactment of this Act. For a
12 fishery that employs bottom-tending mobile fishing gear
13 for which reliable records are not available during such
14 7-year period, the Administrator shall determine the
15 boundaries of the fished areas by delineating the reason-
16 able range of the fishery based on depth limits of the bot-
17 tom-tending mobile fishing gears currently in use. The Ad-
18 ministrator is authorized to alter these determinations
19 based on official records dated from the beginning of the
20 7-year period to the date of enactment of this Act, includ-
21 ing landings reports and VMS data received from a Coun-
22 cil or from commercial fishermen.

23 (b) **STUDY OF AREAS IDENTIFIED THROUGH BY-**
24 **CATCH RECORDS, RESEARCH, OR MAPPING.**—The Admin-
25 istrator shall review on a continuing basis bycatch records,

1 research, mapping, and survey data obtained from areas
2 of the exclusive economic zone open to fishing with com-
3 mercial bottom-tending mobile fishing gear to determine
4 if these data indicate the actual or potential presence or
5 a deep sea coral and sponge ecosystem. A designation of
6 a Coral Study Area shall expire upon decision by the Ad-
7 ministrator to terminate the designation pursuant to sub-
8 section (d).

9 (c) STUDY AREAS RECOMMENDED BY THE ADVISORY
10 PANEL.—

11 (1) PROPOSED RULE.—Not later than 30 days
12 after receiving a recommendation pursuant to sec-
13 tion 205, the Administrator shall publish in the Fed-
14 eral Register a proposed rule to designate any rec-
15 ommended area as a Coral Study Area.

16 (2) COMMENT PERIOD.—The Administrator
17 shall accept comments on any proposed rule pub-
18 lished under paragraph (1) for 60 days after the
19 date of the publication of such proposed rule.

20 (3) FINAL DETERMINATION.—Not later than
21 120 days after the publication of such proposed rule,
22 the Administrator shall designate the area rec-
23 ommended under section 205 as a Coral Study Area
24 unless the Administrator finds no rational basis for
25 the recommendation.

1 (d) TERMINATION OF STUDY AREA DESIGNATION.—
2 The Administrator may determine, at the Administrator's
3 discretion or upon recommendation of the Council having
4 advisory duties for the fisheries of an area, that an area
5 or part of an area that is designated as a Coral Study
6 Area pursuant to subsection (a), (b), or (c) shall no longer
7 be designated as a Coral Study Area if the area does not
8 warrant designation as a Coral Management Area.

9 **SEC. 207. CORAL MANAGEMENT AREAS.**

10 (a) AREAS IDENTIFIED FROM RESEARCH ON CORAL
11 STUDY AREAS.—The Administrator shall determine that
12 a Coral Study Area be designated as a Coral Management
13 Area if—

14 (1) the area has been surveyed for the presence
15 of deep sea corals and deep sea sponges; and

16 (2) there is a deep sea coral and sponge eco-
17 system present in the area.

18 (b) AREAS RECOMMENDED BY THE ADVISORY
19 PANEL.—

20 (1) PROPOSED RULE.—Not later than 30 days
21 after receiving a recommendation pursuant to sec-
22 tion 205, the Administrator shall publish in the Fed-
23 eral Register a proposed rule to designate any rec-
24 ommended area as a Coral Management Area.

1 (2) COMMENT PERIOD.—The Administrator
2 shall accept comments on any proposed rule pub-
3 lished under paragraph (1) for 60 days after the
4 date of the publication of such proposed rule.

5 (3) FINAL DETERMINATION.—Not later than
6 120 days after the publication of such proposed rule,
7 the Administrator shall designate the area rec-
8 ommended under section 205 as a Coral Manage-
9 ment Area unless the Administrator finds no ration-
10 al basis for the recommendation.

11 **SEC. 208. INTERNATIONAL PROTECTIONS FOR DEEP SEA**
12 **CORALS AND SPONGES.**

13 (a) DEVELOPMENT OF DATA.—The President is au-
14 thorized to permit the Administrator, in consultation with
15 the Secretary of State, to work with appropriate foreign
16 entities to develop the data necessary to identify areas lo-
17 cated in international waters that would benefit from addi-
18 tional protection for deep sea corals and deep sea sponges.

19 (b) INTERNATIONAL PROTECTION.—The President
20 shall direct the Administrator, in consultation with the
21 Secretary of State, to work with appropriate foreign enti-
22 ties to develop a legal regime to protect deep sea corals
23 and deep sea sponges beyond the zones of national juris-
24 diction consistent with the United Nations Convention on
25 the Law of the Sea, done at Montego Bay December 10,

1 1982, the Food and Agriculture Organization Code of
2 Conduct for Responsible Fisheries, and other relevant
3 international instruments.

4 **SEC. 209. REPORT TO CONGRESS.**

5 (a) REQUIREMENT.—On the date that is 3 years
6 after the date of enactment of this Act, and every 3 years
7 thereafter, the Administrator shall submit to Congress a
8 report on the activities undertaken to carry out the provi-
9 sions of this subtitle.

10 (b) CONTENT.—The reports required by subsection
11 (a) shall include a description of—

12 (1) the activities carried out to protect and
13 monitor deep sea corals and deep sea sponges;

14 (2) any area designated as a Coral Study Area
15 or a Coral Management Area;

16 (3) any area whose designation as a Coral
17 Study Area is terminated;

18 (4) a summary of any bycatch or other data
19 that indicates the actual or potential presence of a
20 deep sea coral and sponge ecosystem; and

21 (5) a summary of the research strategy created
22 pursuant to section 204.

23 (c) PUBLICATION.—Notice of the availability of each
24 report required by this section shall be published in the
25 Federal Register.

1 **SEC. 210. AUTHORIZATION OF APPROPRIATIONS.**

2 There is authorized to be appropriated \$10,000,000
3 for each of the fiscal years 2006 through 2010 to carry
4 out the provisions of this subtitle.

5 **Subtitle B—Protection of Essential**
6 **Fish Habitat**

7 **SEC. 221. CONTENTS OF FISHERY MANAGEMENT PLANS.**

8 Section 303(a)(7) of the Magnuson-Stevens Fishery
9 Conservation and Management Act (16 U.S.C.
10 1853(a)(7)) is amended to read as follows:

11 “(7) describe and identify essential fish habitat
12 based on the guidelines established by the Secretary
13 under section 305(b)(1)(A), and—

14 “(A) analyze the impacts of fishing on es-
15 sential fish habitat;

16 “(B) minimize adverse impacts on essential
17 fish habitat from fishing;

18 “(C) close areas to bottom-tending mobile
19 fishing gear, or any other fishing gear or prac-
20 tice that damages seafloor habitat, and prohibit
21 aquaculture or other fish production facilities
22 pursuant to the habitat protection program
23 under paragraphs (5) and (6) of section 305(b);
24 and

25 “(D) identify other actions to conserve and
26 enhance such habitats;”.

1 **SEC. 222. HABITAT PROTECTION PROGRAM.**

2 Section 305(b) of the Magnuson-Stevens Fishery
3 Conservation and Management Act (16 U.S.C. 1855(b))
4 is amended by adding at the end the following:

5 “(5) The Secretary shall create a habitat protection
6 program to protect seafloor habitats from the adverse im-
7 pacts of bottom-tending mobile fishing gear and any other
8 gear or practice that damages seafloor habitat. Not later
9 than 180 days after the enactment of the Deep Sea Coral
10 Protection Act, the Secretary shall promulgate regulations
11 to—

12 “(A) prohibit the use of bottom-tending mobile
13 fishing gear in habitat areas known to be especially
14 sensitive to disturbance from such gear, including
15 coral reef and deep coral habitats and areas des-
16 ignated as Coral Management Areas under section
17 207 of the Deep Sea Coral Protection Act, complex
18 rocky bottoms, seamounts, kelp forests, sea grass
19 beds, and sponge habitats;

20 “(B) prevent expansion of bottom-tending mo-
21 bile fishing gear into geographical areas where such
22 fishing gear has never been used as documented by
23 the best scientific information available;

24 “(C) prevent expansion of the numbers of ves-
25 sels employing bottom-tending mobile fishing gear
26 by—

1 “(i) restricting the number of licenses, per-
2 mits, or endorsements to no more than current
3 fleet sizes;

4 “(ii) allowing transfers of licenses only to
5 gears that are documented to have the same or
6 lower impacts on habitats;

7 “(iii) allowing replacement of vessels only
8 with vessels that are documented to have the
9 same or lower impacts on habitats; and

10 “(D) prohibit aquaculture or other fish produc-
11 tion facilities that damage or alter seafloor habitat
12 or impair water quality.

13 “(6)(A) Not later than 5 years after the date of en-
14 actment of the National Oceans Protection Act of 2005,
15 the Secretary shall augment the habitat protection pro-
16 gram established under paragraph (5) by—

17 “(i) based on the best available science, identi-
18 fying areas where bottom-tending mobile fishing
19 gear and any other fishing gear or practice may be
20 used without altering or destroying important or sig-
21 nificant amounts of habitat or reducing biodiversity;
22 and

23 “(ii) closing all other areas to these fishing
24 gears and practices.

1 “(B) If the Secretary fails to carry out the activities
2 required by subparagraph (A) within 5 years after the
3 date of enactment of the National Oceans Protection Act
4 of 2005, the Secretary shall immediately close those areas
5 not covered by the habitat protection program established
6 under paragraph (5) to bottom-tending mobile fishing
7 gear and any other fishing gear or practice that may alter
8 or destroy important or significant amounts of habitat or
9 reduce biodiversity until such activities are carried out.

10 “(7) The Secretary shall develop and implement a
11 gear-substitution program to reduce the use of bottom-
12 tending mobile fishing gear by—

13 “(A) conducting a viability assessment to deter-
14 mine fisheries dependent on such gear;

15 “(B) providing funding for a research program
16 to redesign bottom-tending mobile fishing gear to re-
17 duce habitat damage in fisheries that cannot be via-
18 bly fished without such gear; and

19 “(C) providing funding to replace bottom-tend-
20 ing mobile fishing gear in such fisheries.

21 “(8) The habitat protection program created under
22 paragraph (5) shall not be used to facilitate the expansion
23 of marine aquaculture.

24 “(9) There are authorized to the Secretary
25 \$20,000,000 for each of fiscal years 2006 through 2010

1 to carry out the habitat protection program required by
 2 paragraph (5) and the activities required by paragraph
 3 (6).”.

4 **TITLE III—FISHERIES** 5 **MANAGEMENT**

6 **SEC. 301. AMENDMENT OF MAGNUSON-STEVENSON FISHERY** 7 **CONSERVATION AND MANAGEMENT ACT.**

8 Except as otherwise expressly provided, whenever in
 9 this title an amendment or repeal is expressed in terms
 10 of an amendment to, or repeal of, a section or other provi-
 11 sion, the reference shall be considered to be made to a
 12 section or other provision of the Magnuson-Stevens Fish-
 13 ery Conservation and Management Act (16 U.S.C. 1801
 14 et seq.).

15 **Subtitle A—Ecosystem-Based** 16 **Fisheries Management Objectives**

17 **SEC. 311. PURPOSES AND POLICY.**

18 (a) PURPOSES.—

19 (1) IN GENERAL.—Subsection (b) of section 2
 20 (16 U.S.C. 1801) is amended by adding at the end
 21 the following new paragraphs:

22 “(8) to set as the principal objective of United
 23 States fishery policy in all ocean waters of the
 24 United States the protection, maintenance, and res-
 25 toration of the health, integrity, productive capacity,

1 and resilience of the marine ecosystems upon which
2 long-term health and viability of fisheries depend
3 and in cases of conflict between this objective and
4 any other objective or in cases where information is
5 uncertain or inconclusive, the principal ecological ob-
6 jective shall take precedence; and

7 “(9) to set as the socioeconomic objective of
8 United States fishery policy conserving and man-
9 aging fisheries in order to support a diversity of
10 fishing participants, methods and sectors, flexibility
11 in managing fishing operations and implementing
12 conservation changes, and resilience and adaptability
13 in responding to changes in biological and economic
14 conditions within the industry and fishing commu-
15 nities.”.

16 (2) TECHNICAL AMENDMENTS.—Such sub-
17 section is further amended—

18 (A) in paragraph (6), by striking “and” at
19 the end; and

20 (B) in paragraph (7), by striking the pe-
21 riod at the end and inserting a semicolon.

22 (b) POLICY.—Subsection (c)(3) of section 2 is
23 amended to read as follows:

24 “(3) to assure that the national fishery con-
25 servation and management program utilizes, and is

1 based upon, the best scientific information available;
2 involves, and is responsive to the needs of, interested
3 and affected States and citizens; incorporates and
4 applies ecosystem principles; considers how fishing
5 affects predator-prey and other important ecological
6 relationships within marine ecosystems; draws upon
7 Federal, State, and academic capabilities and the
8 knowledge and experience of persons in the commer-
9 cial and recreational fisheries in carrying out re-
10 search, administration, management, and enforce-
11 ment; considers the effects of fishing on immature
12 fish and encourages development of practical meas-
13 ures that minimize bycatch and avoid waste of fish;
14 and is workable and effective;”.

15 **SEC. 312. DEFINITIONS.**

16 (a) CONSERVATION AND MANAGEMENT.—Paragraph
17 (5) of section 3 (16 U.S.C. 1802) is amended to read as
18 follows:

19 “(5) The term ‘conservation and management’
20 refers to all of the rules, regulations, conditions,
21 methods, and other measures which are—

22 “(A) required to rebuild, restore, or main-
23 tain, or which are useful in rebuilding, restor-
24 ing, or maintaining, any fishery resource and
25 the marine environment;

1 “(B) in any case in which information is
2 uncertain, unreliable, or inadequate, intended to
3 reduce risks by setting reference points for each
4 stock of fish that take into account such uncer-
5 tainty, unreliability, or inadequacy and the ac-
6 tion to be taken if such a reference point is ap-
7 proached or exceeded;

8 “(C) required to take into account the di-
9 rect and indirect impacts of fishing on other
10 species and their habitats and the conservation
11 of those species and their habitats as important
12 components of the ecosystem;

13 “(D) required to allow the expansion of ex-
14 isting fisheries or the development of new fish-
15 eries after measures are in place to prevent ad-
16 verse impacts on the stocks, associated species,
17 and the ecosystem; and

18 “(E) designed to assure that—

19 “(i) a supply of food and other prod-
20 ucts may be taken, and that recreational
21 benefits may be obtained, on a continuing
22 basis;

23 “(ii) irreversible or long-term adverse
24 effects on fishery resources and the marine
25 environment are avoided; and

1 “(iii) there will be a multiplicity of op-
2 tions available with respect to future uses
3 of these resources.”.

4 (b) OPTIMUM.—Paragraph (28) of section 3 is
5 amended to read as follows:

6 “(28) The term ‘optimum’, with respect to the
7 yield from a fishery, means the amount of fish
8 which—

9 “(A) will provide the greatest overall ben-
10 efit to the Nation, particularly with respect to
11 protection of marine ecosystems, food produc-
12 tion, and recreational opportunities; and

13 “(B) is prescribed as such on the basis of
14 the maximum sustainable yield from the fish-
15 ery, as reduced by any relevant economic, so-
16 cial, or ecological factors, including predator-
17 prey and other important ecological relation-
18 ships within marine ecosystems.”.

19 **SEC. 313. NATIONAL STANDARDS FOR FISHERY CONSERVA-**
20 **TION AND MANAGEMENT.**

21 Section 301(a)(1) (16 U.S.C. 1851(a)(1)) is amended
22 to read as follows:

23 “(1) Conservation and management measures
24 shall protect the long-term health and viability of
25 fisheries by protecting, maintaining, and restoring

1 the health, integrity, productive capacity, resilience
2 of the marine ecosystems upon which they depend
3 and prevent overfishing, while achieving, on a con-
4 tinuing basis, the optimum yield from each fishery
5 for the United States fishing industry.”.

6 **SEC. 314. CONTENTS OF FISHERY MANAGEMENT PLANS.**

7 (a) REQUIRED PROVISIONS.—

8 (1) ECOSYSTEM HEALTH AND STABILITY.—Sec-
9 tion 303(a)(1)(A) (16 U.S.C. 1853(a)(1)(A)) is
10 amended by striking “fishery;” and inserting “fish-
11 ery and the marine ecosystem within which the fish-
12 ery functions;”.

13 (2)(A) EFFECTS OF MANAGEMENT MEAS-
14 URES.—Section 303(a) is amended by adding at the
15 end the following new paragraph:

16 “(15) contain an assessment of the likely ef-
17 fects, if any, of the management measures of the
18 plan on species other than species in such fishery,
19 with emphasis on key interactions between predators
20 and prey in the ecosystem for the purpose of deter-
21 mining if such measures are consistent with the ap-
22 propriate Fisheries Ecosystem Plan prepared under
23 section 305(j).”.

24 (B) TECHNICAL AMENDMENTS.—Section
25 303(a) is further amended—

1 (i) in paragraph (13), by striking “and” at
2 the end; and

3 (ii) in paragraph (14), by striking the pe-
4 riod at the end and inserting a semicolon and
5 “and”.

6 (b) DISCRETIONARY PROVISIONS.—Section
7 303(b)(12) (16 U.S.C. 1853(b)(12)) is amended by strik-
8 ing “fishery.” and inserting “fishery or the marine eco-
9 system within which the fishery functions.”.

10 **SEC. 315. FISHERIES ECOSYSTEM PLANS.**

11 Section 305 (16 U.S.C. 1855) is amended by adding
12 at the end the following:

13 “(j) FISHERIES ECOSYSTEM PLANS.—

14 “(1)(A) Not later than 18 months after the
15 date of enactment of the National Oceans Protection
16 Act of 2005, the Secretary shall—

17 “(i) prepare, in conjunction with the Coun-
18 cils and other scientific, fisheries, and conserva-
19 tion interests as appropriate, and publish guid-
20 ance for the development of Fisheries Eco-
21 system Plans; and

22 “(ii) provide such guidance to the Councils
23 to facilitate development and implementation of
24 the required Fisheries Ecosystem Plans within
25 the prescribed time period.

1 “(B) The Secretary shall issue regulations that
2 establish a process for preparing and developing
3 Fisheries Ecosystem Plans that is consistent with
4 the fishery management plan process outlined in sec-
5 tion 304.

6 “(C) To assist in developing the guidelines and
7 regulations, the Secretary shall—

8 “(i) conduct workshops with the Councils
9 and other scientific, fisheries, and conservation
10 interests; and

11 “(ii) identify the major marine ecosystems
12 within each Council’s jurisdiction.

13 “(2)(A) Each Council shall, within 12 months
14 after the publication of the guidance and regulations
15 required by paragraph (1) and based on the best sci-
16 entific information available, prepare and submit to
17 the Secretary a Fisheries Ecosystem Plan for each
18 major marine ecosystem within its jurisdiction.

19 “(B) In the case in which significant portions
20 of a major ecosystem are in the jurisdictions of adja-
21 cent Councils, the Councils shall jointly prepare a
22 plan for the major marine ecosystem.

23 “(3) Each Fisheries Ecosystem Plan shall—

24 “(A) contain information on the structure
25 and function of the ecosystem in which fishing

1 activities occur, including the geographic extent
2 of the ecosystem and its biological, physical,
3 and chemical dynamics, a description of the sig-
4 nificant food web including key predator-prey
5 relationships, and the habitat needs of different
6 life stages of species that make up the signifi-
7 cant food web;

8 “(B) establish indices of ecosystem health
9 and integrity;

10 “(C) describe how the information on eco-
11 system structure and function is to be incor-
12 porated into the context of fishery-specific man-
13 agement plans;

14 “(D) include specific recommendations for
15 implementing ecosystem protections in fishery
16 management plans; and

17 “(E) outline long-term monitoring to
18 evaluate changes in the ecosystem.

19 “(4) The Secretary shall review each Fisheries
20 Ecosystem Plan according to the guidance prepared
21 pursuant to paragraph (1) and approve or dis-
22 approve the plan, in whole or in part, according to
23 the process described in section 304. If the Sec-
24 retary disapproves or partially approves a plan, the

1 Council shall revise and resubmit the plan not later
2 than 6 months after its disapproval.

3 “(5) If, within the 18-month period after publi-
4 cation of the guidance and regulations required pur-
5 suant to paragraph (1), a Council fails to develop
6 and submit to the Secretary a Fisheries Ecosystem
7 Plan as required under this section, or if the Sec-
8 retary disapproves in whole or in part such a plan,
9 the Secretary shall prepare a plan for that ecosystem
10 concerned within 24 months after the publication of
11 the guidance and regulations required pursuant to
12 paragraph (1).

13 “(6)(A) The Secretary may not approve a fish-
14 eries management plan or an amendment to such a
15 plan, unless the Secretary determines that the fish-
16 eries management plan or an amendment is con-
17 sistent with the principles, goals, policies, and rec-
18 ommendations of each relevant Fisheries Ecosystem
19 Plan approved or prepared by the Secretary.

20 “(B) Not later than 30 months after the date
21 the Secretary approves or prepares a final Fisheries
22 Ecosystem Plan, each Council shall submit to the
23 Secretary any fishery management plan or plan
24 amendments required to make all fisheries manage-
25 ment plans under its jurisdiction consistent with the

1 principles, goals, policies, and recommendations of
2 the Fisheries Ecosystem Plan.

3 “(C) If a Council fails to submit any fishery
4 management plan or amendment required under
5 subparagraph (A) before the end of the 30-month
6 period beginning on the date of such approval, or if
7 the Secretary disapproves in whole or in part such
8 plan or amendment, the Secretary shall prepare such
9 plan or amendment not later than 36 months after
10 such approval.

11 “(k) OCEAN AND COASTAL RESOURCE INFORMATION
12 SYSTEM.—

13 “(1) The Secretary may establish an ocean and
14 coastal resource information system.

15 “(2) An ocean and coastal resource information
16 system established under paragraph (1) shall include
17 a database of information on ocean and coastal data
18 that includes—

19 “(A) ocean observation system data;

20 “(B) fishery research and stock assessment
21 data;

22 “(C) other biological, oceanographic, geo-
23 graphic, and geological data; and

24 “(D) hypothesis-driven science.

1 “(3) An ocean and coastal resource information
2 system shall be accessible to the public and pub-
3 lished on the Internet.”.

4 **SEC. 316. AUTHORIZATION OF APPROPRIATIONS.**

5 (a) **FISHERIES ECOSYSTEM PLANS.**—There are au-
6 thorized to be appropriated for the conservation of marine
7 ecosystems under section 305(j), as added by section 315
8 of this Act—

9 (1) \$15,000,000 for fiscal year 2006;

10 (2) \$20,000,000 for fiscal year 2007;

11 (3) \$25,000,000 for fiscal year 2008;

12 (4) \$30,000,000 for fiscal year 2009; and

13 (5) \$35,000,000 for fiscal year 2010.

14 (b) **OCEAN AND COASTAL RESOURCE INFORMATION**
15 **SYSTEM.**—There are authorized to be appropriated for the
16 ocean and coastal resource information system under sec-
17 tion 305(k) as added by section 315 of this Act,
18 \$5,000,000 for each of the fiscal years 2006 through
19 2010.

20 **Subtitle B—Bycatch Management**

21 **SEC. 321. POLICY.**

22 Subsection (c)(3) of section 2, as amended by section
23 311 of this Act, is further amended by striking “minimize
24 bycatch and avoid waste of fish;” and inserting “avoid by-

1 catch, minimize the mortality of bycatch that cannot be
2 avoided, and minimize waste of fish;”.

3 **SEC. 322. DEFINITIONS.**

4 Section 3(2) (16 U.S.C. 1802(2)) is amended to read
5 as follows:

6 “(2) The term ‘bycatch’—

7 “(A) means—

8 “(i) catch of nontarget fish species
9 and nonfish species;

10 “(ii) economic and regulatory discards
11 including discards of target species; and

12 “(iii) nontarget fish and nonfish spe-
13 cies that are otherwise killed or injured as
14 a result of fishing; and

15 “(B) does not include fish released alive
16 under a recreational catch and release fishery
17 management program.”.

18 **SEC. 323. NATIONAL STANDARDS FOR FISHERY CONSERVA-**
19 **TION AND MANAGEMENT.**

20 Section 301(a)(9) (16 U.S.C. 1851(a)(9)) is amended
21 to read as follows:

22 “(9) Conservation and management measures
23 shall, to the maximum extent practicable, with a
24 goal of reducing bycatch to levels approaching
25 zero—

1 “(A) avoid bycatch; and

2 “(B) to the extent bycatch cannot be
3 avoided, minimize the mortality of such by-
4 catch.”.

5 **SEC. 324. CONTENTS OF FISHERY MANAGEMENT PLANS.**

6 (a) REQUIRED PROVISIONS.—

7 (1) IN GENERAL.—Section 303(a) (16 U.S.C.
8 1853(a)), as amended by section 314(a) of this Act,
9 is further amended—

10 (A) by striking paragraph (11) and insert-
11 ing the following:

12 “(11) not later than 1 year after the date of en-
13 actment of the National Oceans Protection Act of
14 2005, establish and implement a bycatch monitoring
15 and minimization plan that includes—

16 “(A) an accurate and reliable standardized
17 reporting methodology to assess the amount
18 and type of bycatch occurring in the fishery, in-
19 cluding an appropriate and effective system to
20 monitor bycatch which, in the case of vessels of
21 the United States (other than vessels engaged
22 in charter fishing that are carrying 6 or fewer
23 passengers for hire) engaged in commercial
24 fishing may be an observer program;

1 “(B) based on data from the bycatch moni-
2 toring programs established under subpara-
3 graph (A), objective and measurable targets to
4 reduce bycatch on an annual basis by a statis-
5 tically significant amount from the previous
6 year, utilizing conservation and management
7 measures that, to the maximum extent prac-
8 ticable and in the following priority—

9 “(i) avoid bycatch; and

10 “(ii) minimize the mortality of by-
11 catch that cannot be avoided; and

12 “(C) place a high priority on fisheries
13 with—

14 “(i) high levels of bycatch mortality;

15 “(ii) high rates of bycatch mortality;

16 “(iii) bycatch of protected species;

17 “(iv) poor data on bycatch; or

18 “(v) bycatch that causes significant
19 ecological impacts.”; and

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

21 “(16) account for all direct and indirect sources
22 of fishing mortality, including bycatch mortality, in
23 stock assessments, in determining the maximum sus-
24 tainable yield for the fishery, in establishing total al-

1 lowable catch and other catch limits necessary to
2 achieve the optimum yield, and in counting catch.”.

3 (2) TECHNICAL AMENDMENTS.—Such sub-
4 section is further amended—

5 (A) in paragraph (14), by striking “and”
6 at the end; and

7 (B) in paragraph (15), by striking
8 “305(j).” and inserting “305(j); and”.

9 (b) DISCRETIONARY PROVISIONS.—

10 (1) IN GENERAL.—Section 303(b), as amended
11 by section 314(b) of this Act, if further amended by
12 adding at the end the following:

13 “(13) notwithstanding any other provision of
14 law, involve stakeholders in affected fisheries in the
15 development of bycatch monitoring and minimization
16 plans and include in such bycatch monitoring and
17 minimization plans conservative bycatch quotas for
18 individual fish species which account for all direct
19 and indirect sources of bycatch mortality.”.

20 (2) TECHNICAL AMENDMENTS.—Such sub-
21 section is further amended—

22 (A) in paragraph (11), by striking “and”
23 at the end; and

24 (B) in paragraph (12), by striking “eco-
25 system.” and inserting “ecosystem; and”.

1 **SEC. 325. OTHER REQUIREMENTS AND AUTHORITY.**

2 Section 305(d) (16 U.S.C. 1855(d)) is amended by
 3 adding at the end, “Not later than 6 months after the
 4 date of enactment of the National Oceans Protection Act
 5 of 2005, the Secretary shall promulgate regulations estab-
 6 lishing national criteria to define what constitutes an ade-
 7 quate and appropriate bycatch monitoring and minimiza-
 8 tion plan under section 303(a)(11), including minimum
 9 criteria for an observer program or other appropriate and
 10 effective system to monitor bycatch.”.

11 **SEC. 326. AUTHORIZATION OF APPROPRIATIONS.**

12 There is authorized to be appropriated for the devel-
 13 opment of a bycatch monitoring and minimization plan
 14 and criteria, as required by the amendments made by sec-
 15 tions 324 and 325 the following amounts:

16 (1) \$15,000,000 for fiscal year 2006.

17 (2) \$10,000,000 for each of the fiscal years
 18 2007 through 2010.

19 **Subtitle C—Cetacean and Sea**
 20 **Turtle Conservation**

21 **SEC. 331. SHORT TITLE.**

22 This subtitle may be cited as the “Cetacean and Sea
 23 Turtle Conservation Act of 2005”.

24 **SEC. 332. PURPOSES.**

25 The purposes of this subtitle are—

1 (1) to restore and perpetuate healthy popu-
2 lations of cetaceans and sea turtles by reducing by-
3 catch of cetaceans and sea turtles to sustainable lev-
4 els through the development of bilateral and multi-
5 lateral efforts among the United States and other
6 fishing nations;

7 (2) to increase the technical capacity, financial
8 resources, and political will necessary to reduce by-
9 catch of cetaceans and sea turtles to sustainable lev-
10 els globally;

11 (3) to promote international standards and
12 guidelines to reduce bycatch of cetaceans and sea
13 turtles; and

14 (4) to authorize financial resources for the pur-
15 poses described in paragraphs (1) through (3).

16 **SEC. 333. DEFINITIONS.**

17 In this subtitle:

18 (1) **APPROPRIATE FISHING GEAR AND METH-**
19 **ODS.**—The term “appropriate fishing gear and
20 methods” means gear and methods used in fishing
21 operations that are proven to be effective in reducing
22 bycatch of cetaceans or sea turtles to sustainable
23 levels.

24 (2) **BYCATCH.**—The term “bycatch” means the
25 incidental mortality or serious injury of an animal

1 that is not the target of a fishing operation that oc-
2 curs in the course of the fishing operation.

3 (3) CETACEAN.—The term “cetacean” means
4 an aquatic mammal that is a member of the order
5 Cetacea, including whales, dolphins, and porpoises.

6 (4) INDEPENDENT EXPERTS.—The term “inde-
7 pendent experts” means individuals with expertise in
8 issues related to cetaceans or sea turtles including
9 representatives of academic and scientific organiza-
10 tions, nongovernmental organizations that promote
11 conservation of cetacean populations, and the fishing
12 industry.

13 (5) POPULATION.—The term “population”
14 means a distinct group of individuals of a species or
15 smaller taxa in a common spatial arrangement that
16 interbreed when mature.

17 (6) SEA TURTLE.—The term “sea turtle”
18 means a member of—

19 (A) the family Cheloniidae; or

20 (B) the family Dermochelyidae.

21 (7) SUSTAINABLE LEVELS.—The term “sus-
22 tainable levels” means, with respect to bycatch, a
23 level of bycatch that, in combination with other mor-
24 tality caused by humans, does not exceed the max-
25 imum number of individuals that may be removed

1 from a population while allowing that population to
2 recover to a level at which such population maintains
3 its maximum productivity.

4 **SEC. 334. INTERNATIONAL AGREEMENTS AND STANDARDS.**

5 (a) INTERNATIONAL AGREEMENTS.—The Secretary,
6 with the consent of the President and in consultation with
7 independent experts and with the Secretary of State, shall
8 negotiate with foreign governments that are engaged in,
9 or that have persons or companies engaged in, commercial
10 fishing operations that are adversely impacting popu-
11 lations of cetaceans or populations of sea turtles for the
12 purpose of developing bilateral or multilateral agreements
13 that require such governments to reduce bycatch of
14 cetaceans or sea turtles to at least sustainable levels.

15 (b) STANDARDS.—An international agreement nego-
16 tiated under subsection (a) shall include provisions to pro-
17 mote the development and implementation of standards
18 for commercial fishing operations that interact with
19 cetaceans or sea turtles that—

20 (1) require such operations to use appropriate
21 fishing gear and methods; and

22 (2) are intended to reduce bycatch of cetaceans
23 and sea turtles to at least sustainable levels.

24 (c) UNITED NATIONS.—The Secretary may consult
25 and coordinate with the Committee on Fisheries of the

1 Food and Agriculture Organization of the United Nations
2 in developing international agreements under subsection
3 (a) or standards under subsection (b).

4 **SEC. 335. RESEARCH AND DEVELOPMENT GRANTS.**

5 (a) **AUTHORITY.**—The Secretary is authorized to
6 award grants and to provide other assistance that the Sec-
7 retary determines is appropriate to an eligible person to
8 carry out the research or development of appropriate fish-
9 ing gear and methods, including appropriate fishing gear
10 and methods for use—

11 (1) in the North Sea, where harbor porpoise by-
12 catch is severe;

13 (2) in Mexico's Gulf of California, where the
14 vaquita porpoise faces extinction unless gillnets are
15 banned;

16 (3) in the east coast of South America, includ-
17 ing waters off the coasts of Brazil, Uruguay, and
18 Argentina, where bycatch of franciscana dolphins is
19 contributing to the precipitous decline of that spe-
20 cies; or

21 (4) in areas where bycatch of sea turtles associ-
22 ated with longline fishing has been found to occur
23 frequently, as follows:

24 (A) The central Pacific Ocean.

25 (B) The southern Pacific Ocean.

1 (C) The southern Atlantic Ocean.

2 (D) The Mediterranean Sea.

3 (b) DEFINITIONS.—In this section:

4 (1) APPROPRIATE CONGRESSIONAL COMMIT-
5 TEES.—The term “appropriate congressional com-
6 mittees” means the Committee on Commerce,
7 Science, and Transportation of the Senate and the
8 Committee on Resources of the House of Represent-
9 atives.

10 (2) FOREIGN PERSON DEFINED.—The term
11 “foreign person” means—

12 (A) an individual who is not a United
13 States citizen;

14 (B) any corporation, partnership, business
15 association, society, trust, organization, or other
16 nongovernmental entity created or organized
17 under the laws of a foreign country or that has
18 its principal place of business outside the
19 United States; or

20 (C) any governmental entity of a foreign
21 country.

22 (3) MARINE MAMMAL COMMISSION.—The term
23 “Marine Mammal Commission” means the Marine
24 Mammal Commission established by section 201 of

1 the Marine Mammal Protection Act of 1972 (16
2 U.S.C. 1401).

3 (c) ELIGIBILITY.—

4 (1) IN GENERAL.—The Secretary shall deter-
5 mine if a person, including any governmental entity
6 or any foreign person, is eligible to receive a grant
7 under this section.

8 (d) APPLICATION.—A person seeking a grant under
9 this section shall submit an application to the Secretary
10 at such time, in such manner, and including such informa-
11 tion as the Secretary may reasonably require.

12 (e) TERMS AND CONDITIONS.—

13 (1) IN GENERAL.—A recipient of a grant or
14 other financial assistance provided by the Secretary
15 under this section shall agree to such terms and con-
16 ditions as the Secretary determines are necessary to
17 protect the interests of the United States.

18 (2) REQUIREMENT FOR CONSULTATION.—The
19 Secretary shall consult with the Marine Mammal
20 Commission prior to determining the terms and con-
21 ditions described in paragraph (1) for a recipient of
22 a grant or other financial assistance to be used to
23 reduce bycatch of cetaceans.

24 (f) REPORT.—Not later than one year after the date
25 of enactment of this Act, and annually thereafter, the Sec-

1 retary shall submit a report to the appropriate congres-
2 sional committees on the grants and other assistance pro-
3 vided under this section.

4 **SEC. 336. BYCATCH DATABASE.**

5 (a) **REQUIREMENT FOR DATABASE.**—The Secretary
6 shall establish a database of bycatch data for cetaceans
7 and sea turtles from fisheries around the world for the
8 purpose described in subsection (b).

9 (b) **PURPOSE OF DATABASE.**—The purpose of the
10 database is to make information related to bycatch, includ-
11 ing cetacean or sea turtles species affected by bycatch, the
12 development and use of appropriate fishing gear and
13 methods, and efforts to reduce the bycatch of cetaceans
14 and sea turtles, available to scientists, resource managers,
15 and the public.

16 (c) **AVAILABILITY.**—The Secretary shall make the
17 database established pursuant to subsection (a) available
18 by public posting through an Internet Web site.

19 **SEC. 337. AUTHORIZATION OF APPROPRIATIONS.**

20 There are authorized to be appropriated \$5,000,000
21 for each fiscal year 2005 through 2008 to carry out the
22 provisions of this subtitle.

1 **Subtitle D—Individual Fishing**
2 **Quotas**

3 **SEC. 341. INDIVIDUAL FISHING QUOTAS.**

4 Section 303 (16 U.S.C. 1853) is amended—

5 (1) by striking subsection (b)(6) and inserting
6 the following:

7 “(6) establish a limited access system for the
8 fishery in order to achieve optimum yield if, in devel-
9 oping such system, the Council and the Secretary
10 take into account—

11 “(A) the conservation requirements of this
12 Act with respect to the fishery;

13 “(B) the present and historic participation
14 in the fishery;

15 “(C) the economics of the fishery;

16 “(D) the cultural and social framework rel-
17 evant to the fishery and any affected fishing
18 communities;

19 “(E) the fair and equitable distribution of
20 a public resource; and

21 “(F) any other relevant considerations.”;

22 and

23 (2) in subsection (d)—

24 (A) by striking paragraph (5);

1 (B) by redesignating paragraphs (2)
2 through (4) as paragraphs (7) through (9);

3 (C) by striking all that precedes paragraph
4 (7), as so redesignated, and inserting the fol-
5 lowing:

6 “(d) FISHING QUOTA SYSTEMS.—

7 “(1) A fishery management plan or plan
8 amendment that establishes a fishing quota system
9 for a fishery after the date of enactment of the Na-
10 tional Oceans Protection Act of 2005 shall—

11 “(A) include management measures de-
12 signed to ensure the sustainability of the fishery
13 and provide additional and substantial con-
14 servation benefits to the fishery;

15 “(B) be effective for a period of a fixed du-
16 ration, not to exceed 7 years;

17 “(C) provide for administration of the sys-
18 tem by the Secretary in accordance with the
19 terms of the plan;

20 “(D) establish procedures for the Council
21 having authority over the fishery, or the Sec-
22 retary in the case of a fishery management plan
23 developed by the Secretary, to review the quota
24 system at least 1 year prior to the end of the
25 effective period of the plan;

1 “(E) allocate, review, and limit or termi-
2 nate quota shares in accordance with this sub-
3 section;

4 “(F) provide a fair and equitable process
5 to appeal to the Secretary decisions made by a
6 Council on—

7 “(i) eligibility to participate in all
8 referenda authorized under this subsection
9 and eligibility to receive an allocation of
10 quota shares; and

11 “(ii) limitations, restrictions, and rev-
12 ocations of quota shares;

13 “(G) minimize, to the maximum extent
14 practicable, negative social and economic im-
15 pacts of the system on local coastal commu-
16 nities;

17 “(H) ensure adequate enforcement, man-
18 agement, and data collection, including the use
19 of observers where appropriate at a level of cov-
20 erage that yields statistically significant results;
21 and

22 “(I) not require that quota shares be held
23 by a person engaged in personal-use fishing, in-
24 cluding any recreational or subsistence fishing,
25 if the fishery management plan designates a

1 separate portion of the total allowable catch for
2 personal-use fishing.

3 “(2)(A) The Council having authority over the
4 fishery shall make a fair and equitable allocation of
5 all, or only a portion, of the total allowable catch
6 limit as quota shares among existing categories of
7 vessels and among fishing gear types or other appro-
8 priate qualifiers. In allocating quota shares for a
9 fishery, the Council shall—

10 “(i) take into account present and historic
11 participation in the fishery;

12 “(ii) ensure that each quota share is held
13 only by persons who—

14 “(I) except for allocations under
15 clause (iii), hold a permit to fish in the
16 fishery; and

17 “(II) are natural persons of the
18 United States or permanent resident aliens
19 qualified by Federal or State law to par-
20 ticipate in the fishery;

21 “(iii) establish a mechanism to allow new
22 entrants into the fishery;

23 “(iv) prevent any person from controlling
24 an excessive share of fishing quotas issued for
25 the fishery and establish any other limits or

1 measures necessary to prevent inequitable con-
2 centration of quota shares and to prevent sig-
3 nificant impacts on any person that holds a per-
4 mit authorizing fishing in the fishery or the
5 fishing community; and

6 “(v) create incentives in successive alloca-
7 tions for fishermen who increase their gear se-
8 lectivity and protection of essential fish habitat
9 by increasing the allocation for those fishermen.

10 “(B)(i) The Secretary may allow the transfer of
11 a quota share allocated under subparagraph (A), on
12 a case-by-case basis, without regard to subparagraph
13 (A)(ii)(I), from the holder of the quota share to a
14 member of the holder’s immediate family, due to
15 death or disablement of the holder.

16 “(ii) The Secretary shall establish a simple and
17 expeditious process for such a transfer.

18 “(iii) The Secretary may allow such a transfer
19 only within the same category of vessel, fishing gear
20 type, or other appropriate qualifier to maintain a
21 fair and equitable allocation of quota shares.

22 “(3)(A) A fishing quota system established for
23 a fishery may be limited or terminated at any time
24 if necessary for the conservation and management of
25 the fishery, including if the quota system has been

1 found to have jeopardized the sustainability of the
2 stock or the safety of fishermen, by—

3 “(i) the Council that has authority over the
4 fishery for which the system is established,
5 through a fishery management plan or amend-
6 ment;

7 “(ii) the Secretary, pursuant to section
8 304(h); or

9 “(iii) the Secretary, in the case of any fish-
10 ing quota system established by a fishery man-
11 agement plan developed or approved by the Sec-
12 retary.

13 “(B) Subparagraph (A) does not diminish the
14 authority of the Secretary under any other provision
15 of this Act.

16 “(C) A quota share issued under a fishing
17 quota system established by a fishery management
18 plan—

19 “(i) shall expire not later than 7 years
20 after the date it is issued;

21 “(ii) shall be reviewed by the Council com-
22 mittee established in paragraph (5) not later
23 than 6 months prior to expiration under clause
24 (i); and

1 “(iii) shall be renewed in accordance with
2 the terms of the plan and regulations issued by
3 the Secretary or the Council having authority
4 over the fishery for which it is issued, if, based
5 on a review by the committee established under
6 paragraph (5), the quota shareholder is meeting
7 or exceeding the requirements of this Act or the
8 conservation and management requirements of
9 the fishery (including as a result of a violation
10 of this Act or any regulation prescribed under
11 this Act).

12 “(4)(A)(i) A Council may submit a fishery man-
13 agement plan or plan amendment that establishes a
14 fishing quota system only if the submission of such
15 plan or plan amendment is approved in referendum
16 conducted in accordance with this paragraph.

17 “(ii) The Secretary, in the case of a fishery
18 management plan developed by the Secretary, may
19 approve a fishery management plan or plan amend-
20 ment that establishes a fishing quota system only if
21 the approval of such plan or plan amendment is ap-
22 proved in referendum conducted in accordance with
23 this paragraph.

24 “(B) The Secretary shall conduct the ref-
25 erendum required under subparagraph (A). The Sec-

1 retary shall develop guidelines to determine proce-
2 dures for the referenda to conduct such referendum
3 in a fair and equitable manner. Prior to the ref-
4 erendum, the Secretary shall identify and notify all
5 persons who are eligible to vote in the referendum
6 and make available to all such persons information
7 concerning the schedule, procedures, and eligibility
8 requirements for the referendum process and the
9 proposed fishing quota system.

10 “(C) Each referendum shall be decided by the
11 affirmative vote of a two-thirds majority of the votes
12 cast by the persons who the Secretary determines
13 are eligible to vote in the referendum.

14 “(D) The Secretary shall conduct a referendum
15 to determine support for submitting a specific pro-
16 posed fishing quota system for approval and imple-
17 mentation. Eligible voters shall be all persons who
18 hold a permit to fish in the fishery or crew members
19 who derive at least 75 percent of their income from
20 the fishery subject to the proposed fishing quota sys-
21 tem.

22 “(5)(A) Each Council, upon deciding to develop
23 a fishing quota program for a fishery, shall estab-
24 lish, maintain, and appoint members of a review
25 committee to make recommendations for develop-

1 ment, evaluation, and necessary changes to such
2 programs to ensure that such members meet the re-
3 quirements of this subsection.

4 “(B) The Council, in consultation with the Sec-
5 retary, shall develop guidelines that will ensure that
6 committee members are qualified for appointment
7 and are subject to conflict of interest rules. A mem-
8 ber shall not vote on any decision pertaining to a
9 fishing quota system under which the member holds
10 a quota share or will hold a quota share during the
11 5-year period beginning on the date of such vote.

12 “(C) The members of a review committee estab-
13 lished by a Council under subparagraph (A) shall be
14 made by the Council in such a manner as to provide
15 fair representation to all groups affected by such
16 programs, including commercial, recreational, and
17 subsistence fishing interests, fishing communities,
18 scientists, and public interest groups (including con-
19 servation organizations).

20 “(D) Not less frequently than once every 7
21 years, each review committee shall review fishing
22 quota systems, determine whether such systems
23 meet the requirements of this Act, and evaluate
24 whether each such system has improved manage-
25 ment, conservation, and safety in the fishery. Pursu-

1 ant to such review, the review committee shall rec-
2 ommend any changes to a system necessary to en-
3 sure it meets requirements and standards of im-
4 provement.

5 “(E)(i) Not less frequently than once every 7
6 years, the review committee shall review compliance
7 of fishing quota holders under a fishing quota sys-
8 tem with the system and this Act and may rec-
9 ommend that a quota share be limited, reduced, or
10 revoked if the shareholder is not meeting such re-
11 quirements.

12 “(ii) Reduced and revoked quota shares shall be
13 reallocated through a mechanism approved by the
14 Council. In the case of any such reallocation, pref-
15 erence shall be given to those quota shareholders
16 that the review committee determines are providing
17 additional and substantial conservation benefits to
18 the fishery, or to new entrants in a fishing gear type
19 or vessel category that, as a group, are providing ad-
20 ditional and substantial conservation benefits to the
21 fishery.

22 “(iii) Any recommendation for limitation, re-
23 duction, revocation, or reallocation of quota share is
24 subject to appeal under the process established
25 under paragraph (1)(F).

1 “(F) Not later than 90 days after the date that
2 a review committee completes a review under sub-
3 paragraph (D), the appropriate Council shall trans-
4 mit to Congress a report containing the results of
5 each fishing quota system review within 90 days
6 after the review is completed.”; and

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

8 “(10) In this subsection:

9 “(A) The term ‘additional and substantial
10 conservation benefits to the fishery’—

11 “(i) means scientifically measurable
12 benefits to the fishery at the time of estab-
13 lishment of the system, that substan-
14 tially—

15 “(I) avoid bycatch and minimize
16 the mortality of unavoidable bycatch;

17 “(II) prevent highgrading;

18 “(III) reduce overfishing (includ-
19 ing localized depletions) and rebuild
20 overfished stocks; and

21 “(IV) protect essential fish habi-
22 tat; or

23 “(ii) if it is not possible to directly
24 measure conservation benefits, means ac-
25 tions taken by a fishing quota shareholder

1 that are deemed necessary by the Sec-
2 retary to provide such benefits.

3 “(B) The term ‘excessive share’ means
4 more than 1 percent of the total allowable catch
5 in a fishery, except that a Council may increase
6 such percentage—

7 “(i) to no more than 5 percent, if the
8 Council can demonstrate that such an in-
9 crease will not be detrimental to other indi-
10 vidual fishing quota shareholders in the
11 program; or

12 “(ii) to no more than 15 percent, if
13 there are 20 or fewer participants in the
14 fishery and the Council can demonstrate
15 that such an increase will not be detri-
16 mental to other individual quota share-
17 holders in the program.

18 “(C) The term ‘fair and equitable alloca-
19 tion’ means initial or subsequent allocation of
20 fishing quota shares based on multiple criteria
21 that provide consideration for—

22 “(i) conservation performance, includ-
23 ing the use of selective fishing practices
24 that have minimal bycatch, prevent

1 highgrading, and have minimal adverse im-
2 pacts on essential fish habitat;

3 “(ii) owner-operators of fishing ves-
4 sels; and

5 “(iii) long-term participation in the
6 fishery.”.

7 **SEC. 342. DEFINITIONS.**

8 Section 3 (16 U.S.C. 1802) is amended by adding
9 at the end the following:

10 “(46) The term ‘fishing quota system’ means
11 any system that requires a user to acquire a Federal
12 permit, which specifies by a unit or units a percent-
13 age of the total allowable catch of a fishery that may
14 be received or held for exclusive use by a person or
15 a definable group of persons, to harvest fish in a
16 fishery, during each fishing season for which the
17 permission is granted, including area or community
18 quotas, sector quotas, fishing cooperatives, and fish-
19 ing quota programs.

20 “(47) The term ‘quota share’ means a Federal
21 permit under a fishing quota system to harvest a
22 quantity of fish, expressed by a unit or units rep-
23 resenting a percentage of the total allowable catch of
24 a fishery that may be received or held for exclusive
25 use by a person or a definable group of persons, dur-

1 ing each fishing season for which the permission is
2 granted.”.

3 **SEC. 343. ACTION ON LIMITED ACCESS SYSTEMS.**

4 (a) IN GENERAL.—Section 304(d)(2) (16 U.S.C.
5 1854(d)(2)) is amended to read as follows:

6 “(2)(A) Notwithstanding paragraph (1), the Sec-
7 retary is authorized and shall collect an annual fee from
8 a person that hold or transfers a quota share to recover
9 the actual costs directly related to the management and
10 enforcement of any—

11 “(i) individual fishing quota program; and

12 “(ii) community development quota program
13 that allocates a percentage of the total allowable
14 catch of a fishery to such program.

15 “(B)(i) Fees collected under this paragraph shall be
16 in addition to any other fees charged under this Act and
17 shall be deposited in the Limited Access System Adminis-
18 tration Fund established under section 305(h)(5)(B).

19 “(ii) Upon application by a State, the Secretary shall
20 transfer to such State up to 33 percent of any fee collected
21 pursuant to subparagraph (A) under a community devel-
22 opment quota program and deposited in the Limited Ac-
23 cess System Administration Fund in order to reimburse
24 such State for actual costs directly incurred in the man-
25 agement and enforcement of such program.

1 “(C) The Secretary, in consultation with the Coun-
2 cils, shall promulgate regulations prescribing the method
3 of determining under this paragraph the ex-vessel value
4 of fish authorized under a quota share, the amount of fees,
5 and the method of collecting fees.

6 “(D) Fees collected under subparagraph (B)(ii) from
7 holders of quota shares in a fishery shall be an offsetting
8 collection and shall be available to the Secretary only for
9 the purposes of administering and implementing this Act
10 with respect to that fishery.

11 “(E) In addition to the other requirements of this
12 Act, the Secretary may not approve a fishery management
13 plan that establishes a limited access system that provides
14 for the allocation of fishing quotas (in this subsection re-
15 ferred to as a ‘fishing quota system’) unless the plan com-
16 plies with section 303(d). Not later than 1 year after re-
17 ceipt of recommendations from the review panel estab-
18 lished under section 303(d)(6), the Secretary shall issue
19 regulations that establish requirements for establishing a
20 fishing quota system. The regulations shall be developed
21 in accordance with the recommendations of the review
22 panel. The regulations shall—

23 “(i) specify factors that shall be considered by
24 a Council in determining whether a fishery should be
25 managed under a fishing quota system;

1 “(ii) ensure that any fishing quota system is
2 consistent with the requirements of section 303(d),
3 and require the collection of fees in accordance with
4 paragraph (1);

5 “(iii) provide for appropriate penalties for viola-
6 tions of regulations governing fishing quota systems,
7 including the revocation of quota shares for such
8 violations; and

9 “(iv) establish a central lien registry system for
10 the identification, perfection, and determination of
11 lien priorities, and nonjudicial foreclosure of encum-
12 brances, on fishing quotas.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) QUOTA SHARE.—The following provisions
15 are each amended by striking “individual fishing
16 quota” each place it appears and inserting “quota
17 share”:

18 (A) Subsection (d)(7) of section 303 (16
19 U.S.C. 1853), as redesignated by section
20 241(2)(B) of this Act.

21 (B) Section 304(c)(3) (16 U.S.C.
22 1854(c)(3)).

23 (C) Section 402(b)(1)(D) (16 U.S.C.
24 1881a(b)(1)(D)).

1 (D) Subsections (a)(1)(D), (c)(1), and
 2 (c)(2)(B) of section 407 (16 U.S.C. 1883).

3 (2) LIMITED ACCESS SYSTEM PERMITS.—Sec-
 4 tion 305(h)(1) (16 U.S.C. 1855(h)(1)) is amended
 5 by striking “individual”.

6 **Subtitle E—Fisheries Science and** 7 **Management**

8 **SEC. 351. SHORT TITLE.**

9 This subtitle may be cited as the “Fisheries Science
 10 and Management Enhancement Act of 2005”.

11 **SEC. 352. REGIONAL FISHERY MANAGEMENT COUNCIL** 12 **COMMITTEES AND PANELS.**

13 (a) SCIENCE AND STATISTICAL COMMITTEES.—Sec-
 14 tion 302(g)(1) of the Magnuson-Stevens Fishery Con-
 15 servation and Management Act (16 U.S.C. 1852(g)(1)) is
 16 amended to read as follows:

17 “(1) SCIENCE AND STATISTICAL COMMIT-
 18 TEES.—

19 “(A) REQUIREMENT TO ESTABLISH.—
 20 Each Council shall establish and maintain a
 21 science and statistical committee to assist the
 22 Council in the development, collection, and eval-
 23 uation of such statistical, biological, economic,
 24 social, and other scientific information as is rel-
 25 evant to the Council’s development and amend-

1 ment of any fishery management plan. The
2 members of the science and statistical com-
3 mittee shall consist of qualified Federal, State,
4 academic, or independent scientists, and shall
5 be appointed and paid a stipend by the Admin-
6 istrator of the National Oceanic and Atmos-
7 pheric Administration.

8 “(B) ESTABLISHMENT OF FISHERY AND
9 MARINE SCIENCE SUBCOMMITTEE.—Each
10 science and statistical committee established by
11 a Council under this paragraph shall include a
12 fishery and marine science subcommittee that—

13 “(i) is composed of members of the
14 science and statistical committee who have
15 demonstrated scientific expertise in fishery
16 biological science or marine ecology; and

17 “(ii) includes balanced representation
18 of both such disciplines on the sub-
19 committee.

20 “(C) FUNCTIONS OF FISHERY AND MARINE
21 SCIENCE SUBCOMMITTEE.—In the development
22 by a Council of any fishery management plan or
23 amendment to a fishery management plan, and
24 in the taking by a Council of any other action
25 that prescribes an authorized fishing mortality

1 level or rate, the fishery and marine science
2 subcommittee of the Council shall—

3 “(i) based on the best scientific infor-
4 mation available, determine for the Coun-
5 cil—

6 “(I) biological catch (including
7 bycatch) limits, including annual lim-
8 its, that will prevent overfishing, re-
9 build overfished stocks, achieve, on a
10 continuing basis, the optimum yield
11 for such fishery, and that consider
12 predator-prey relationships and other
13 ecological factors;

14 “(II) specific habitat types and
15 areas in need of protection from the
16 adverse effects of fishing identified
17 pursuant to section 303(a)(7); and

18 “(III) any additional protections
19 required for species under the Coun-
20 cil’s jurisdiction that are listed as
21 threatened species or endangered
22 under section 4 of the Endangered
23 Species Act of 1973 (16 U.S.C.
24 1533);

1 “(ii) allow an opportunity for public
2 input on the development of the sub-
3 committee’s determinations and create a
4 public record of such input and the sub-
5 committee’s response to such input;

6 “(iii) publish its determinations in the
7 Federal Register; and

8 “(iv) review all conservation and man-
9 agement measures developed by the Coun-
10 cil to determine whether such measures are
11 at least as stringent as the subcommittee’s
12 determinations made under clause (i).

13 “(D) RECOMMENDATIONS.—Each fishery
14 and marine science subcommittee may rec-
15 ommend to the associated Council conservation
16 and management measures that are based on
17 and consistent with the determinations made by
18 the subcommittee under subparagraph (C)(i).”.

19 (b) EFFECT OF DECISIONS AND RECOMMENDA-
20 TIONS.—Section 302(g)(5) of the Magnuson-Stevens Fish-
21 ery Conservation and Management Act (16 U.S.C.
22 1852(g)(5)) is amended by inserting “, except decisions
23 and recommendations made by the fisheries and marine
24 science subcommittees of the science and statistical com-

1 mittees pursuant to paragraph (1)(C)(i),” after “under
2 this subsection”.

3 (c) EFFECT OF DECISIONS AND RECOMMENDA-
4 TIONS.—Section 302(g) of the Magnuson-Stevens Fishery
5 Conservation and Management Act (16 U.S.C. 1852(g))
6 is amended by adding at the end the following:

7 “(6) For the purposes of this subsection, the
8 term ‘qualified Federal, State, academic, or inde-
9 pendent scientists’ means individuals who—

10 “(A) through publication of peer-reviewed
11 scientific literature and academic training,
12 have—

13 “(i) demonstrated scientific expertise
14 in fisheries science or marine ecology; or

15 “(ii) demonstrated expertise in eco-
16 nomics or social science as it relates to
17 fisheries management; and

18 “(B) have no direct financial interest, or
19 are not employed by any person with a direct
20 financial interest, in any fishery.”.

21 (d) DISCLOSURE OF FINANCIAL INTEREST AND
22 RECUSAL.—Section 302(j) of the Magnuson-Stevens Fish-
23 ery Conservation and Management Act (16 U.S.C.
24 1852(j)) is amended by striking paragraphs (6) and (7)
25 and inserting the following:

1 “(6) PROHIBITION ON VOTING.—

2 “(A) PROHIBITION.—An affected indi-
3 vidual shall not vote on a Council decision that
4 would have an effect on a financial interest that
5 the individual is required to disclose under
6 paragraph (2).

7 “(B) DETERMINATION OF EFFECT ON FI-
8 NANCIAL INTEREST.—At the request of an af-
9 fected individual or a member of the public, or
10 upon the initiative of the appropriate des-
11 ignated official, the designated official shall
12 make a determination for the record whether a
13 Council decision would have an effect on the fi-
14 nancial interest of an affected individual re-
15 ferred to in subparagraph (A).

16 “(C) REVIEW OF DETERMINATION.—Any
17 Council member or member of the public may
18 submit a written request to the Administrator
19 of the National Oceanic and Atmospheric Ad-
20 ministration to review any determination by the
21 designated official under subparagraph (B),
22 within 10 days after such determination. Such
23 review shall be completed within 30 days after
24 receipt of the request.

1 “(D) TREATMENT OF DECISION MADE
2 PENDING REVIEW.—If the Council makes a de-
3 cision before the Administrator has completed a
4 review under subparagraph (C), the eventual
5 ruling by the Administrator in the review shall
6 be treated as a cause for invalidation or recon-
7 sideration by the Administrator of such deci-
8 sion, if the Administrator determines that the
9 Council decision had an effect on the financial
10 interest of an affected individual and the af-
11 fected individual’s vote decided the Council ac-
12 tion.

13 “(E) RULEMAKING.—The Administrator,
14 in consultation with the Councils and by not
15 later than 1 year after the date of enactment of
16 the Fisheries Science and Management En-
17 hancement Act of 2005, shall promulgate regu-
18 lations that—

19 “(i) prohibit an affected individual
20 from voting in accordance with subpara-
21 graph (A); and

22 “(ii) allow for the making of deter-
23 minations under subparagraphs (B) and
24 (C).

1 “(7) RELATIONSHIP TO OTHER LAW.—Section
2 208 of title 18, United States Code, does not apply
3 to an affected individual referred to in paragraph
4 (1)(A)(ii) during any time during which the indi-
5 vidual is in compliance with the regulations pre-
6 scribed under paragraph (5).”.

7 **SEC. 353. REQUIRED PROVISIONS IN FISHERY MANAGE-**
8 **MENT PLANS.**

9 Section 303(a) of the Magnuson-Stevens Fishery
10 Conservation and Management Act (16 U.S.C. 1853(a))
11 is amended—

12 (1) in paragraph (1)(A) by inserting “and the
13 associated ecosystem” before the semicolon at the
14 end;

15 (2) in paragraph (1) by striking “and” after
16 the semicolon at the end of subparagraph (B), by
17 adding “and” after the semicolon at the end of sub-
18 paragraph (C), and by adding at the end the fol-
19 lowing:

20 “(D) in the case of a plan developed by a
21 Council, at least as stringent as (or more strin-
22 gent than) the matters determined under sec-
23 tion 302(g)(1)(C)(i) by the fishery and marine
24 science subcommittee of the Council;” and

1 (3) by amending paragraph (14) to read as fol-
2 lows:

3 “(14) allocate any quotas or other conservation
4 and management measures fairly and equitably
5 among the commercial, recreational, and charter
6 fishing sectors in the fishery, and allow individual
7 sectors of the fishery to develop allocation plans that
8 are subject to the approval of the Council.”.

9 **SEC. 354. PEER REVIEW.**

10 Section 304 of the Magnuson-Stevens Fishery Con-
11 servation and Management Act (16 U.S.C. 1854) is
12 amended by adding at the end the following:

13 “(i) PEER REVIEW.—

14 “(1) REVIEW REQUIREMENTS.—The Adminis-
15 trator of the National Oceanic and Atmospheric
16 Administration, using qualified independent sci-
17 entists, shall—

18 “(A) periodically conduct peer reviews of
19 determinations made under section
20 302(g)(1)(C)(i) by each fishery and marine
21 science subcommittee of a Council’s science and
22 statistical committee; and

23 “(B) upon request by a Council, conduct a
24 peer review of a determination made under sec-
25 tion 302(g)(1)(C)(i) by a fishery and marine

1 science subcommittee of the Council's science
2 and statistical committee.

3 “(2) IMPLEMENTATION OF DETERMINATION
4 NOT AFFECTED.—Paragraph (1)(B), and any re-
5 quest for review under that paragraph, shall not af-
6 fect any requirement that a Council implement a de-
7 termination that is the subject of such a request.”.

8 **SEC. 355. COOPERATIVE RESEARCH, DATA COLLECTION,**
9 **AND GEAR MODIFICATION PROGRAM.**

10 Section 305 of the Magnuson-Stevens Fishery Con-
11 servation and Management Act (16 U.S.C. 1855) is
12 amended by adding at the end the following:

13 “(j) COOPERATIVE RESEARCH, DATA COLLECTION,
14 AND GEAR MODIFICATION PROGRAM.—In cooperation
15 with the Councils, the fishing industry, the conservation
16 community, and interested academics, the Administrator
17 of the National Oceanic and Atmospheric Administration
18 shall carry out a cooperative research, data collection, and
19 gear modification program to—

20 “(1) conduct conservation engineering projects
21 designed to avoid bycatch, minimize the mortality of
22 unavoidable bycatch, or minimize fishery impacts on
23 essential fish habitat through modifications of fish-
24 ing gear and practices;

1 “(2) identify ecosystem effects of fishing, to
2 monitor marine ecosystem trends and dynamics;

3 “(3) collect information on the status of stocks
4 of fish and the life history of managed species of
5 fish;

6 “(4) provide financial assistance to fishermen to
7 offset the costs of modifying fishing practices and
8 gear to meet the requirements of this Act;

9 “(5) provide financial assistance to States for
10 programs to improve recreational fishing data; and

11 “(6) provide financial or other incentives for
12 fishermen to develop and utilize fishing gear and
13 practices that avoid bycatch, the mortality of un-
14 avoidable bycatch, and adverse impacts on essential
15 fish habitat.”.

16 **SEC. 356. AMENDMENTS TO SALTONSTALL-KENNEDY ACT.**

17 (a) USE OF TRANSFERRED AMOUNTS.—Section 2(b)
18 of the Act of August 11, 1939 (15 U.S.C. 713c–3(b)),
19 popularly known as the Saltonstall-Kennedy Act, is
20 amended to read as follows:

21 “(b) TRANSFER OF FUNDS.—The Secretary of Agri-
22 culture shall transfer to the Administrator of the National
23 Oceanic and Atmospheric Administration each fiscal year
24 from moneys made available to carry out the provisions
25 of section 32 of such Act of August 24, 1935, an amount

1 equal to 30 percent of the gross receipts from duties col-
2 lected under the customs laws on fishery products (includ-
3 ing fish, shellfish, mollusks, crustacea, aquatic plants and
4 animals, and any products thereof, including processed
5 and manufactured products), which shall be maintained
6 in a separate fund only for use by the Administrator—

7 “(1) to provide financial assistance for the pur-
8 pose of carrying out fisheries research and develop-
9 ment projects approved under subsection (c);

10 “(2) to implement the national fisheries re-
11 search and development program provided for under
12 subsection (d);

13 “(3) to implement the Northwest Atlantic
14 Ocean Fisheries Reinvestment Program established
15 under section 314 of the Magnuson-Stevens Fishery
16 Conservation and Management Act (16 U.S.C.
17 1863);

18 “(4) to fund the Federal share of a fishing ca-
19 pacity reduction program established under section
20 312 of the Magnuson-Stevens Fishery Conservation
21 and Management Act (16 U.S.C. 1861a); and

22 “(5) to implement section 305(j) of the Magnu-
23 son-Stevens Fishery Conservation and Management
24 Act (16 U.S.C. 1855(j)).”.

1 (b) ALLOCATION OF FUND MONEYS.—Section
2 2(e)(1) of such Act (15 U.S.C. 713c–3(e)) is amended—

3 (1) in the first sentence by inserting “and such
4 other purposes as are authorized by this Act” after
5 “provisions of this section”;

6 (2) by inserting after the first sentence the fol-
7 lowing:

8 “Amounts available for allocation under this subsection
9 shall be in addition to amounts appropriated for National
10 Marine Fisheries Service operations.”;

11 (3) in paragraph (1)(A) by striking “no less
12 than 60 per centum \$5,000,000 of such moneys”
13 and inserting “\$5,000,000”; and

14 (4) by amending paragraph (1)(B) to read as
15 follows:

16 “(B) The Administrator of the National
17 Oceanic and Atmospheric Administration shall
18 use the balance of the moneys in the fund to fi-
19 nance activities carried out under section
20 305(k) of the Magnuson-Stevens Fishery Con-
21 servation and Management Act (16 U.S.C.
22 1855(k)).”.

1 **TITLE IV—MARINE MAMMALS**

2 **SEC. 401. EMERGING THREATS TO MARINE MAMMALS.**

3 (a) IN GENERAL.—The Chairman of the Marine
4 Mammal Commission shall, after consultation with inter-
5 ested parties and by not later than January 1, 2007,
6 transmit to the Administrator, the Secretary of the Inte-
7 rior, the Committee on Commerce, Science, and Transpor-
8 tation of the Senate, and the Committee on Resources of
9 the House of Representatives, and make available to the
10 public, a report on emerging threats to marine mammals.
11 The report shall be developed by the Commission and its
12 Committee of Scientific Advisers on Marine Mammals in
13 consultation with individuals with knowledge and experi-
14 ence in marine mammal biology, ecology, physiology, at-
15 mospheric science, chemical and physical oceanography,
16 bio- and ocean acoustics, and marine conservation.

17 (b) CONTENT.—The report shall—

18 (1) identify and assess the magnitude of emerg-
19 ing and existing threats to marine mammal popu-
20 lation stocks;

21 (2) evaluate the health of marine mammal popu-
22 lation stock in the wild, and correlate that informa-
23 tion with data on ecosystem health, food supply,
24 predator and prey relationships, and other relevant

1 physical, chemical, and biological environmental pa-
2 rameters;

3 (3) identify data gaps in distribution, status of
4 population stocks, and threats to population stocks
5 and provide a research plan to fill such gaps; and

6 (4) provide recommendations for regulations or
7 statutory changes to the Marine Mammal Protection
8 Act of 1972 to mitigate such threats.

9 (c) AUTHORIZATION OF APPROPRIATIONS.—There is
10 authorized to be appropriated to the Marine Mammal
11 Commission to carry out this section \$2,500,000 for fiscal
12 years 2006 and 2007.

13 **SEC. 402. NATIONAL OCEAN NOISE POLLUTION RESEARCH**
14 **FUND.**

15 Section 4 of the National Fish and Wildlife Founda-
16 tion Establishment Act (16 U.S.C. 3703) is amended by
17 adding at the end the following:

18 “(j)(1) In carrying out the purposes under section
19 2(b), the Foundation shall establish a national ocean noise
20 pollution research endowment fund (referred to in this
21 subsection as the ‘endowment fund’) to be used by the
22 Foundation to support research and management pro-
23 grams that contribute to the understanding, evaluation,
24 mitigation, or management of the effects of ocean noise
25 on marine species, including marine mammals and fish.

1 “(2)(A) In a manner consistent with subsection
2 (c)(1), the Foundation may—

3 “(i) accept, receive, solicit, hold, administer,
4 and use any gift, devise, or bequest made to the
5 Foundation for the express purpose of supporting
6 the endowment fund; and

7 “(ii) deposit in the endowment fund any funds
8 made available to the Foundation under this sub-
9 paragraph, including any income or interest earned
10 from a gift, devise, or bequest received by the Foun-
11 dation under this subparagraph.

12 “(B) To raise funds to be deposited in the endowment
13 fund, the Foundation may enter into appropriate arrange-
14 ments to provide for the design, copyright, production,
15 marketing, or licensing of logos, seals, decals, stamps, or
16 any other item that the Foundation determines to be ap-
17 propriate.

18 “(C)(i) There is authorized to be appropriated for
19 purposes of transfer to the endowment fund and in addi-
20 tion to any other authorized funds, \$3,000,000 for each
21 of the fiscal years 2006 through 2010. The Secretary shall
22 transfer to the Foundation for deposit in this endowment
23 fund all funds authorized to be appropriated to it by Con-
24 gress for this purpose. Notwithstanding any other provi-
25 sion of this chapter, the funds hereby authorized shall be

1 provided to, and may be used by, the Foundation without
2 regard to the availability of matching contributions made
3 by private persons and State and local government agen-
4 cies.

5 “(ii) Of the funds authorized to be appropriated
6 under clause (i), 2.5 percent of the amount authorized to
7 be appropriated for fiscal year 2006 and 1 percent of the
8 amount authorized for subsequent fiscal years may be
9 used by the Foundation for the administration of the en-
10 dowment fund.

11 “(3)(A) The Foundation shall form, within 90 days
12 of the establishment of the endowment fund, a council of
13 advisors for the administration of the endowment fund.
14 Such council shall consist of persons knowledgeable in the
15 science and policy of marine acoustic pollution and shall
16 include among its members—

17 “(i) 1 representative appointed by the Sec-
18 retary;

19 “(ii) 1 representative appointed by the Marine
20 Mammal Commission; and

21 “(iii) representatives from nongovernmental
22 conservation or wildlife protection organizations and
23 from the scientific community.

24 “(B) The council established under subparagraph (A)
25 shall identify funding priorities, review and select pro-

1 posals, and evaluate projects that are supported by the
2 endowment fund.

3 “(C) It is the intent of Congress that in making ex-
4 penditures from the endowment fund to carry out activi-
5 ties specified in paragraph (1), the Foundation should give
6 priority to funding projects on marine noise pollution that
7 the council of advisors determines will address—

8 “(i) subtle changes in marine mammal behav-
9 ior, such as those related to masking, caused by an-
10 thropogenic sounds;

11 “(ii) the development of noise-induced stress in-
12 dicators in marine mammals, fisheries, and other
13 marine life;

14 “(iii) causal mechanisms for mass strandings
15 and observed traumas of beaked whales and other
16 cetaceans;

17 “(iv) the development of models to predict pop-
18 ulation-level consequences of anthropogenic sounds,
19 or of integrated models to assess noise effects on
20 hearing and behavior;

21 “(v) the development of a global ocean noise
22 budget;

23 “(vi) the development of methods for siting
24 noise-generating activities with the purpose of reduc-
25 ing impacts on the marine environment;

1 “(vii) the development of alternative tech-
2 nologies or control technologies that would reduce
3 the impact of noise-generating activities;

4 “(viii) the development of alternative tech-
5 nologies that would reduce the level of sound pro-
6 duced by noise-generating activities; or

7 “(ix) any other matters that are important to
8 the understanding, evaluation, mitigation, or man-
9 agement of the effects of ocean noise on marine
10 life.”.

11 **SEC. 403. TAKE REDUCTION PLANS.**

12 Section 115(b)(4) of the Marine Mammal Protection
13 Act of 1972 (16 U.S.C. 1383b(b)(4)) is amended to read
14 as follows:

15 “(4) If the Secretary determines that a take reduc-
16 tion plan is necessary to reduce the taking of marine mam-
17 mals incidental to engaging in a listed fishery from a stra-
18 tegic stock, or for species or stocks that interact with a
19 fishery for which the Secretary has made a determination
20 under section 118(f)(1), any conservation plan prepared
21 under this subsection for such species or stock shall incor-
22 porate the take reduction plan required under section 118
23 for such species or stock.”.

1 **SEC. 404. FISHERIES GEAR DEVELOPMENT TO REDUCE BY-**
2 **CATCH.**

3 Section 111 of the Marine Mammal Protection Act
4 of 1972 (16 U.S.C. 1381) is amended as follows:

5 (1) Subsection (a) is amended to read as fol-
6 lows:

7 “(a) RESEARCH AND DEVELOPMENT PROGRAM.—

8 “(1) IN GENERAL.—The Secretary of Com-
9 merce (in this section referred to as the ‘Secretary’)
10 shall—

11 “(A) carry out a program of research and
12 development for the purpose of devising im-
13 proved fishing methods and gear so as to re-
14 duce to the maximum extent practicable the in-
15 cidental taking of marine mammals in connec-
16 tion with fishing operations; and

17 “(B) make every practicable effort to de-
18 velop, evaluate, and make available to owners
19 and operators of fishing vessels such gear and
20 fishing method improvements as quickly as pos-
21 sible.

22 “(2) FISHING GEAR BUY-BACK PROGRAM.—

23 Subject to the availability of appropriations, the Sec-
24 retary may establish a voluntary fishing gear buy-
25 back program, if such action is specifically provided
26 for in a take reduction plan adopted pursuant to

1 section 118(f) or in regulations promulgated pursu-
2 ant to section 118 (f) or (g).

3 “(3) COORDINATION WITH OTHER COUN-
4 TRIES.—The Secretary may coordinate with other
5 countries to foster gear technology transfer initia-
6 tives to reduce to the maximum extent practicable
7 the incidental mortality and serious injury of marine
8 mammals throughout the full extent of their range.”.

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

10 “(e) GEAR RESEARCH MINI-GRANT PROGRAM.—

11 “(1) IN GENERAL.—Subject to the availability
12 of appropriations, the Secretary may establish a
13 grant program to provide financial assistance for de-
14 veloping, manufacturing, testing, or designing new
15 types of fishing gear designed to eliminate or reduce
16 to the maximum extent practicable the incidental
17 taking (including incidental mortality and serious in-
18 jury) of marine mammals.

19 “(2) GRANT AMOUNT AND PURPOSES.—The
20 amount of a grant under this subsection may not ex-
21 ceed \$20,000.

22 “(3) GRANT APPLICATIONS.—To receive a
23 grant under this section, an applicant must submit
24 an application in such form and manner as the Sec-
25 retary may prescribe.

1 “(4) CONSULTATION REGARDING CRITERIA.—
 2 The Secretary shall consult with Marine Mammal
 3 Commission and other pertinent Federal agencies re-
 4 garding the development of criteria for the awarding
 5 of grants under this subsection.

6 “(5) ADMINISTRATIVE COSTS.—Of amounts
 7 available each fiscal year to carry out this sub-
 8 section, the Secretary may expend not more than
 9 \$40,000 to pay the administrative expenses nec-
 10 essary to carry out this subsection.”.

11 **SEC. 405. CLARIFICATION AND EXPANSION OF FISHERIES**
 12 **REQUIRED TO PARTICIPATE IN THE INCI-**
 13 **DENTAL TAKE PROGRAM TO BETTER AD-**
 14 **DRESS MARINE MAMMAL BYCATCH ASSOCI-**
 15 **ATED WITH FISHING.**

16 (a) LISTED FISHERY DEFINED.—Section 3 of the
 17 Marine Mammal Protection Act of 1972 (16 U.S.C. 1362)
 18 is amended by adding at the end the following:

19 “(30) The term ‘listed fishery’ means a fishery
 20 included on the list of fisheries published pursuant
 21 to section 118(c)(1).”.

22 (b) OTHER CLARIFICATIONS.—Section 118 of such
 23 Act (16 U.S.C. 1387) is amended—

1 (1) in subsection (a)(1) by striking “commercial
2 fishing operations” and inserting “engaging in a list-
3 ed fishery”;

4 (2) in subsection (c)(1) by striking “, within 90
5 days after the date of enactment of this section”;

6 (3) in subsection (c)(1)(A)—

7 (A) by striking “commercial” the first
8 place it appears; and

9 (B) by striking “commercial fisheries that
10 have”;

11 (4) in subsection (c)(1)(A)(i) by inserting “fish-
12 eries that have” before “frequent incidental mor-
13 tality”;

14 (5) in subsection (c)(1)(A)(ii) by inserting
15 “fisheries that have” before “occasional incidental
16 mortality”;

17 (6) in subsection (c)(1)(A)(iii) by inserting
18 “commercial fisheries that have” before “a remote
19 likelihood”;

20 (7) in subsection (c)(2)(A) by striking “com-
21 mercial”; and

22 (8) in subsection (e)—

23 (A) by striking “commercial” each place it
24 appears; and

1 (B) by striking “Act” and inserting “sec-
2 tion”.

3 **SEC. 406. CONFORMING AMENDMENTS TO INCIDENTAL**
4 **TAKE PROGRAM.**

5 (a) MORATORIUM EXCEPTIONS.—Section 101 of the
6 Marine Mammal Protection Act of 1972 (16 U.S.C. 1371)
7 is amended—

8 (1) in subsection (a)(2) by striking “commer-
9 cial” after “permitted in the course of”;

10 (2) in subsection (a)(5)(A) by striking “com-
11 mercial fishing” and inserting “engaging in a listed
12 fishery”;

13 (3) in subsection (a)(5)(D)(i) by striking “com-
14 mercial fishing” and inserting “engaging in a listed
15 fishery”;

16 (4) in subsection (a)(5)(E)(i) by striking “com-
17 mercial fishing operations” and inserting “a listed
18 fishery”;

19 (5) in subsection (a)(5)(E)(i)(I) by striking
20 “commercial” and inserting “such”; and

21 (6) in subsection (a)(5)(E)(iii)—

22 (A) by striking the word “commercial”
23 each place it appears; and

24 (B) by inserting “those” after “serious in-
25 jury from”.

1 (b) PROHIBITIONS.—Section 102(a)(5) of such Act
2 (16 U.S.C. 1372(a)(5)) is amended by striking “commer-
3 cial”.

4 (c) PERMITS.—Section 104(a) of such Act (16 U.S.C.
5 1374(a)) is amended by striking “commercial”.

6 (d) FEDERAL COOPERATION WITH STATES.—Sec-
7 tion 109(b)(3)(B)(i) of such Act (16 U.S.C.
8 1379(b)(3)(B)(i)) is amended—

9 (1) by striking “commercial”; and

10 (2) by striking “(4)” and inserting “or section
11 118”.

12 (e) GEAR DEVELOPMENT.—Section 111 of such Act
13 (16 U.S.C. 1381) is further amended—

14 (1) by striking the section heading and insert-
15 ing the following: “**FISHERIES GEAR DEVELOP-**
16 **MENT**”; and

17 (2) in subsection (d)—

18 (A) by striking “commercial”; and

19 (B) by striking “documented under the
20 laws of the United States” and inserting “en-
21 gaged in a listed fishery”.

22 **SEC. 407. AUTHORIZATIONS FOR POPULATION STOCK AS-**
23 **SESSMENTS AND OBSERVER PROGRAMS.**

24 (a) POPULATION STOCK ASSESSMENT.—There are
25 authorized to be appropriated a total of \$25,000,000, or

1 \$5,000,000 per region for each of the fiscal years 2006,
 2 2007, 2008, 2009, and 2010, for purposes of collecting
 3 data of sufficient quality and quantity to permit a reliable
 4 assessment of the status of each population stock pursu-
 5 ant to section 117 of the Marine Mammal Protection Act
 6 of 1972 (16 U.S.C. 1386).

7 (b) OBSERVER PROGRAMS.—There are to be author-
 8 ized to be appropriated a total of \$25,000,000, or
 9 \$5,000,000 per region for each of the fiscal years 2006,
 10 2007, 2008, 2009, and 2010, for purposes of providing
 11 greater marine mammal observer coverage levels for fish-
 12 eries listed under section 118(c)(1)(A) of the Marine
 13 Mammal Protection Act of 1972 (16 U.S.C.
 14 1387(c)(1)(A)).

15 **TITLE V—COASTAL HABITAT**
 16 **PROTECTION AND RESTORA-**
 17 **TION**

18 **Subtitle A—Coastal and Estuarine**
 19 **Land Protection**

20 **SEC. 501. ESTABLISHMENT OF COASTAL AND ESTUARINE**
 21 **LAND PROTECTION PROGRAM.**

22 (a) IN GENERAL.—The Administrator shall establish
 23 a Coastal and Estuarine Land Protection Program, in co-
 24 operation with appropriate State, regional, local, and other
 25 units of government for the purposes of protecting the en-

1 vironmental integrity of important coastal and estuarine
2 areas, including wetlands and forests, that have significant
3 conservation, recreation, ecological, historical, or aesthetic
4 values, and that are threatened by conversion from their
5 natural, undeveloped, or recreational state to other uses.
6 The program shall be administered by the National Ocean
7 Service of NOAA through the Office of Ocean and Coastal
8 Resource Management.

9 (b) PROPERTY ACQUISITION GRANTS.—The Admin-
10 istrator shall make grants under the program to coastal
11 States, except coastal States that have lost less than 1
12 percent of their wetlands to development or conversion to
13 other land uses prior to the date of enactment of this Act,
14 with approved coastal zone management plans or National
15 Estuarine Research Reserve units for the purpose of ac-
16 quiring property or interests in property described in sub-
17 section (a) that will further the goals of—

18 (1) a Coastal Zone Management Plan or Pro-
19 gram approved under the Coastal Zone Management
20 Act of 1972 (16 U.S.C. 1451 et seq.);

21 (2) a National Estuarine Research Reserve
22 management plan; or

23 (3) a regional or State watershed protection
24 plan involving coastal States with approved coastal
25 zone management plans.

1 (c) GRANT PROCESS.—The Administrator shall allo-
2 cate funds to coastal States or National Estuarine Re-
3 search Reserves under this section through a competitive
4 grant process in accordance with guidelines that meet the
5 following requirements:

6 (1) The Administrator shall consult with the
7 State’s coastal zone management program, any Na-
8 tional Estuarine Research Reserve in that State, and
9 the lead agency designated by the Governor for co-
10 ordinating the establishment and implementation of
11 this Act (if different from the coastal zone manage-
12 ment program).

13 (2) Each participating State shall identify pri-
14 ority conservation needs within the State, the values
15 to be protected by inclusion of lands of the program,
16 and the threats to those values that should be avoid-
17 ed.

18 (3) Each participating State shall evaluate how
19 the acquisition of property or easements might im-
20 pact waterfront working needs.

21 (4) The applicant shall identify the values to be
22 protected by inclusion of the lands in the program,
23 management activities that are planned and the
24 manner in which they may affect the values identi-
25 fied, and any other information from the landowner

1 relevant to administration and management of the
2 land.

3 (5) Awards shall be based on demonstrated
4 need for protection and ability to successfully lever-
5 age funds among participating entities, including
6 Federal programs, regional organizations, State and
7 other governmental units, landowners, corporations,
8 or private organizations.

9 (6) Applications must be determined to be con-
10 sistent with the State's or territory's approved coast-
11 al zone plan, program and policies prior to submittal
12 to the Administrator.

13 (7) Priority shall be given to lands described in
14 subsection (a) that can be effectively managed and
15 protected and that have significant ecological or wa-
16 tershed protection value, including lands within the
17 Coastal Barrier Resources System that may be avail-
18 able for acquisition.

19 (8) In developing guidelines under this section,
20 the Secretary shall consult with other Federal agen-
21 cies and non-governmental entities expert in land ac-
22 quisition and conservation procedures.

23 (9) Eligible States or National Estuarine Re-
24 search Reserves may allocate grants to local govern-
25 ments or agencies eligible for assistance under sec-

1 tion 306A(e) of the Coastal Zone Management Act
2 of 1972 (16 U.S.C. 1455a(e)) and may acquire
3 lands in cooperation with nongovernmental entities
4 and Federal agencies.

5 (10) The Administrator shall develop perform-
6 ance measures that will allow periodic evaluation of
7 the program's effectiveness in meeting the purposes
8 of this section and such evaluation shall be reported
9 to Congress.

10 (d) MATCHING REQUIREMENTS.—

11 (1) IN GENERAL.—The Administrator may not
12 make a grant under the program unless the Federal
13 funds are matched by non-Federal funds in accord-
14 ance with this subsection.

15 (2) MAXIMUM FEDERAL SHARE.—

16 (A) 75 PERCENT FEDERAL FUNDS.—No
17 more than 75 percent of the funding for any
18 grant under this section shall be derived from
19 Federal sources, unless such requirement is
20 specifically waived by the Administrator.

21 (B) WAIVER OF REQUIREMENT.—The Ad-
22 ministrator may grant a waiver of the limitation
23 in subparagraph (A) for underserved commu-
24 nities, communities that have an inability to
25 draw on other sources of funding because of the

1 small population or low income of the commu-
2 nity, or for other reasons the Administrator
3 deems appropriate.

4 (3) SOURCE OF MATCHING COST SHARE.—For
5 purposes of paragraph (2)(A), the non-Federal cost
6 share for a project may be determined by taking into
7 account the following:

8 (A) Land value may be used as non-Fed-
9 eral match if the lands are identified in project
10 plans and acquired within three years prior to
11 the submission of the project application or
12 after the submission of a project application
13 until the project grant is closed (not to exceed
14 3 years). The appraised value of the land at the
15 time of project closing will be considered the
16 non-Federal cost share.

17 (B) Costs associated with land acquisition,
18 land management planning, remediation, res-
19 toration, and enhancement may be used as non-
20 Federal match if the activities are identified in
21 the plan and expenses are incurred within the
22 period of the grant award. These costs may in-
23 clude either cash or in-kind contributions.

24 (e) LIMIT ON ADMINISTRATIVE COSTS.—No more
25 than 5 percent of the funds made available to the Adminis-

1 trator under this section shall be used by the Adminis-
2 trator for planning or administration of the program. The
3 Administrator shall provide a report to Congress with an
4 account of all expenditures under this section for fiscal
5 year 2006 and triennially thereafter.

6 (f) TITLE AND MANAGEMENT OF ACQUIRED PROP-
7 ERTY.—

8 (1) IN GENERAL.—If any property is acquired
9 in whole or in part with funds made available
10 through a grant under this section, the grant recipi-
11 ent shall provide such assurances as the Adminis-
12 trator may require that—

13 (A) the title to the property will be held by
14 the grant recipient or other appropriate public
15 agency designated by the recipient in per-
16 petuity; and

17 (B) the property will be managed in a
18 manner that is consistent with the purposes for
19 which the land entered into the program and
20 shall not convert such property to other uses.

21 (2) CONSERVATION EASEMENT.—In this sub-
22 section, the term “conservation easement” includes
23 an easement, recorded deed, or interest deed where
24 the grantee acquires all rights, title, and interest in
25 a property, that do not conflict with the goals of this

1 Act except those rights, title, and interests that may
2 run with the land that are expressly reserved by a
3 grantor and are agreed to at the time of purchase.

4 (g) DEFINITIONS.—In this section, the term “coastal
5 State” has the meaning given that term by section 304(4)
6 of the Coastal Zone Management Act of 1972 (16 U.S.C.
7 1453(4)), and any other term used in this section that
8 is defined in section 304 of that Act has the meaning given
9 that term in that section.

10 (h) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated to the Administrator
12 \$500,000,000 for each of the fiscal years 2006 through
13 2010 to carry out this section.

14 **SEC. 502. ASSISTANCE FROM OTHER AGENCIES.**

15 Section 310(a) of the Coastal Zone Management Act
16 of 1972 (16 U.S.C. 1456c(a)) is amended by striking “any
17 qualified person for the purposes of carrying out this sub-
18 section.” and inserting “any other Federal agencies (in-
19 cluding interagency financing of Coastal America activi-
20 ties) and any other qualified person for the purposes of
21 carrying out this section.”.

1 **Subtitle B—Coastal Barrier**
2 **Resources System**

3 **SEC. 511. PACIFIC COASTAL BARRIERS.**

4 Not later than 3 years after the date of the enact-
5 ment of this Act, the Secretary of the Interior shall—

6 (1) reexamine the matters relating to undevel-
7 oped coastal barriers that were required to be exam-
8 ined under section 6(1) of the Coastal Barrier Im-
9 provement Act of 1990 (Public Law 101–591; 104
10 Stat. 2936; 16 U.S.C. 3503 note) including a re-
11 vised definition of the term “coastal barrier” to take
12 into account the unique topography and geography
13 of the Pacific coast and the land formations that
14 function as coastal barriers;

15 (2) prepare or update maps identifying the
16 boundaries of those undeveloped coastal barriers in
17 light of the results of the reexamination carried out
18 under paragraph (1); and

19 (3) submit such maps to Congress.

20 **Subtitle C—Community-Based Res-**
21 **toration Program for Fishery**
22 **and Coastal Habitats**

23 **SEC. 521. ESTABLISHMENT, PURPOSE, AND ACTIVITIES.**

24 (a) **IN GENERAL.**—The Administrator shall establish
25 a Community-Based Restoration Program.

1 (b) PURPOSE.—The purpose of the Community-
2 Based Restoration Program is to implement and support
3 the restoration of fishery and coastal habitats.

4 (c) ACTIVITIES.—The Community-Based Restoration
5 Program is authorized to carry out activities to fulfill the
6 purpose of the Program, including—

7 (1) providing funds and technical expertise to
8 assist communities in restoring fishery and coastal
9 habitat;

10 (2) advancing the science and monitoring of
11 coastal habitat restoration;

12 (3) transferring restoration technologies to the
13 private sector, the public, and government agencies;

14 (4) developing partnerships to accomplish sound
15 coastal restoration projects;

16 (5) promoting significant community support
17 and volunteer participation;

18 (6) promoting stewardship and an abiding con-
19 servation ethic; and

20 (7) leveraging resources through national, re-
21 gional, and local partnerships.

22 **SEC. 522. AUTHORIZATION OF APPROPRIATIONS.**

23 There is authorized to be appropriated \$50,000,000
24 for each of the fiscal years 2006 through 2010 to carry
25 out this subtitle.

1 **Subtitle D—National Flood**
2 **Insurance Program**

3 **SEC. 531. PERIODIC UPDATING OF FLOODPLAIN AREAS**
4 **AND FLOOD RISK ZONES.**

5 (a) **REQUIRED UPDATING EVERY 5 YEARS.**—Sub-
6 section (e) of section 1360 of the National Flood Insur-
7 ance Act of 1968 (42 U.S.C. 4101) is amended—

8 (1) by striking “(e) **REVIEW OF FLOOD**
9 **MAPS.—Once**” and inserting the following:

10 “(e) **PERIODIC UPDATE OF FLOOD MAPS.—Once**”;

11 (2) by striking “assess the need to”; and

12 (3) by inserting before the period at the end the
13 following: “and changes in floodplain contours and
14 resulting risks caused by storm, flooding, erosion,
15 rise in the general level of oceans, and any other dif-
16 ferent circumstances”.

17 (b) **CONFORMING AMENDMENT.**—Subsection (f) is
18 amended by striking “(f)” and all that follows through
19 “(2) upon” and inserting the following:

20 “(f) **REQUESTED UPDATES.**—The Director of the
21 Federal Emergency Management Agency (referred to in
22 this title as ‘Director’) shall also revise and update any
23 floodplain areas and flood risk zones upon”.

1 **SEC. 532. CRITERIA FOR LAND MANAGEMENT AND USE.**

2 Subsection (c) of section 1361 of the National Flood
3 Insurance Act of 1968 (42 U.S.C. 4102) is amended to
4 read as follow:

5 “(c)(1) The Director shall develop criteria designed
6 to help prevent development and substantial redevelop-
7 ment in, and the relocation of repetitive claims improve-
8 ments from, the following areas:

9 “(A) Erosion zones in coastal areas.

10 “(B) Coastal habitat areas, including—

11 “(i) wetlands;

12 “(ii) estuarine shorelines;

13 “(iii) any other coastal area that is des-
14 igned under a Federal Government or State
15 program as protected habitat.

16 “(2) In developing criteria under this subsection, the
17 Director shall consult with local government representa-
18 tives and administrators of State coastal zone manage-
19 ment programs.

20 “(3) In this subsection:

21 “(A) The term ‘substantial redevelopment’
22 means any reconstruction of a damaged improve-
23 ment to real property if the extent of the damage in-
24 volved exceeds 40 percent of the improvement.

25 “(B) The term ‘repetitive claims improvement’
26 means any improvement to real property for which

1 more than 3 separate claims for losses are submitted
2 for payment under this Act.”.

3 **SEC. 533. LOSSES FROM EROSION AND UNDERMINING OF**
4 **SHORELINES.**

5 (a) REENACTMENT OF FINDINGS AND PURPOSES.—
6 Section 1302 of the National Flood Insurance Act of 1968
7 (42 U.S.C. 4001) is amended by adding at the end the
8 following new subsection (g):

9 “(g) The Congress also finds that (1) the damage and
10 loss which may result from the erosion and undermining
11 of shorelines by waves or currents in lakes and other bod-
12 ies of water exceeding anticipated cyclical levels is related
13 in cause and similar in effect to that which results directly
14 from storms, deluges, overflowing waters, and other forms
15 of flooding, and (2) the problems involved in providing
16 protection against this damage and loss, and the possibili-
17 ties for making such protection available through a Fed-
18 eral or federally-sponsored program, are similar to those
19 which exist in connection with efforts to provide protection
20 against damage and loss caused by such other forms of
21 flooding. It is therefore the further purpose of this title
22 to make available, by means of the methods, procedures,
23 and instrumentalities which are otherwise established or
24 available under this title for purposes of the flood insur-
25 ance program, protection against damage and loss result-

1 ing from the erosion and undermining of shorelines by
 2 waves or currents in lakes and other bodies of water ex-
 3 ceeding anticipated cyclical levels.”.

4 (b) DELINEATION OF EROSION ZONES ON MAPS.—
 5 Subsection (g) of section 1360 of such Act (42 U.S.C.
 6 4101) is amended—

7 (1) by striking “(g) AVAILABILITY OF FLOOD
 8 MAPS.—To promote” and inserting the following:

9 “(g) AVAILABILITY OF FLOOD MAPS.—

10 “(1) REQUIREMENT FOR MAPS.—To promote”;

11 and

12 (2) by adding at the end the following new
 13 paragraphs:

14 “(2) DELINEATION OF EROSION ZONES.—

15 “(A) REQUIREMENT FOR DELINEATION.—

16 The maps and other information provided
 17 under paragraph (1) shall include a delineation
 18 of erosion zones as follows:

19 “(i) 30-YEAR EROSION ZONES.—Zones
 20 in which land erodes over 30 years at an
 21 average annual rate of erosion sufficient to
 22 undermine physical improvements to the
 23 land over such 30-year period.

24 “(ii) 60-YEAR EROSION ZONES.—

25 Zones in which land erodes over 60 years

1 at an average annual rate of erosion suffi-
2 cient to undermine physical improvements
3 to the land over such 60-year period.

4 “(B) CONSULTATION REQUIREMENT.—In
5 delineating erosion zones for the purposes of
6 this paragraph, the Director shall consult with
7 administrators of State coastal zone manage-
8 ment programs and other appropriate officials
9 of State governments, as well as with appro-
10 priate officials of the Federal Government.

11 “(3) RELATIONSHIP TO UPDATING REQUIRE-
12 MENTS.—Subsections (e) and (f) apply to the maps
13 made available under this section.”.

14 (c) INELIGIBILITY OF PROPERTIES IN EROSION
15 ZONES.—Section 1305 of such Act (42 U.S.C. 4012) is
16 amended by adding at the end the following new sub-
17 section:

18 “(d) PROPERTIES IN EROSION ZONES.—

19 “(1) INELIGIBILITY FOR INSURANCE COV-
20 ERAGE.—The following properties in areas delin-
21 eated under section 1360(g) as erosion zones may
22 not be insurable under this Act:

23 “(A) New residential construction, includ-
24 ing new development and substantial redevelop-
25 ment, in 30-year erosion zones as so delineated.

1 “(B) New commercial construction, includ-
2 ing new development and substantial redevelop-
3 ment, in 60-year erosion zones as so delineated.

4 “(2) SUBSTANTIAL REDEVELOPMENT DE-
5 FINED.—In this subsection, the term ‘substantial re-
6 development’ means any reconstruction of a dam-
7 aged improvement to real property if the extent of
8 the damage involved exceeds 40 percent of the im-
9 provement.”.

10 **SEC. 534. SPECIAL UPDATES OF MAPS.**

11 Not later than 3 years after the date of the enact-
12 ment of this Act, the Director shall publish under the Na-
13 tional Flood Insurance Program updated floodplain maps
14 and flood risk insurance rate maps that accurately reflect
15 flood and erosion risks.

16 **TITLE VI—OCEAN EDUCATION**

17 **SEC. 601. NATIONAL OCEANIC AND ATMOSPHERIC ADMIN-**

18 **ISTRATION NATIONAL OFFICE OF EDU-**

19 **CATION.**

20 (a) IN GENERAL.—The Administrator shall conduct,
21 develop, support, promote, and coordinate national edu-
22 cation activities described in section 177 that enhance
23 public awareness and understanding of the science, serv-
24 ice, and stewardship missions of NOAA. In planning ac-
25 tivities under this section, the Administrator shall consult

1 with the Subcommittee and build upon the educational
2 programs and activities of the National Sea Grant College
3 Program, the National Marine Sanctuaries Program, the
4 National Estuarine Research Reserve System, and Coastal
5 Zone Management programs. Authorized activities shall
6 include education of the general public, teachers, students
7 at all levels, and ocean and coastal managers and stake-
8 holders. In carrying out educational activities, the Admin-
9 istrator may enter into grants, contracts, cooperative
10 agreements, resource sharing agreements, or interagency
11 financing with Federal, State, and regional agencies,
12 tribes, commercial organizations, educational institutions,
13 nonprofit organizations, or other persons.

14 (b) ESTABLISHMENT.—The Administrator shall es-
15 tablish a national Office of Education to provide inter-
16 agency and intraagency coordination of the education ac-
17 tivities of NOAA and to ensure full participation in the
18 ocean and coastal education program established under
19 section 177. The Office of Education shall promote and
20 provide oversight of agency education activities and
21 shall—

22 (1) integrate agency science into high-quality
23 educational materials;

24 (2) improve access to NOAA educational re-
25 sources;

1 (3) support educator professional development
2 programs to improve understanding and use of agen-
3 cy sciences;

4 (4) promote participation in agency-related
5 sciences and careers, particularly by members of
6 underrepresented groups;

7 (5) leverage partnerships to enhance formal and
8 informal environmental science education;

9 (6) build capability within the agency for edu-
10 cational excellence;

11 (7) create and implement effective approaches
12 to disseminate agency products and ocean informa-
13 tion to the general public; and

14 (8) encourage public involvement in coastal and
15 ocean stewardship.

16 (c) EDUCATIONAL PARTNERSHIP PROGRAM.—The
17 Administrator shall establish an educational partnership
18 with minority-serving institutions to provide support for
19 cooperative science centers, an environmental entrepre-
20 neurship program, a graduate sciences program, and an
21 undergraduate scholarship program.

1 **SEC. 602. AMENDMENT TO THE NATIONAL SEA GRANT COL-**
2 **LEGE PROGRAM ACT.**

3 Section 212(a) of the National Sea Grant College
4 Program Act (33 U.S.C. 1131(a)) is amended by adding
5 at the end the following new paragraph:

6 “(3) MARINE AND AQUATIC SCIENCE EDU-
7 CATION.—In addition to the amounts authorized for
8 each fiscal year under paragraphs (1) and (2), there
9 are authorized to be appropriated for marine and
10 aquatic science education for each of fiscal years
11 2006 through 2010—

12 “(A) \$6,000,000 in increased funding for
13 the educational activities of Sea Grant pro-
14 grams;

15 “(B) \$4,000,000 for competitive grants for
16 projects and research that target national and
17 regional marine and aquatic science literacy;

18 “(C) \$5,000,000 for competitive grants to
19 support educational partnerships under the
20 ocean and coastal education program estab-
21 lished under section 177 of the National Oceans
22 Protection Act of 2005 or other appropriate
23 mechanism; and

24 “(D) \$10,000,000 for graduate fellowships
25 and competitive distinguished professorships in
26 marine science.”.

1 **SEC. 603. NATIONAL OCEAN AWARENESS MEDIA CAMPAIGN.**

2 (a) IN GENERAL.—The Administrator shall conduct
3 a national media campaign in accordance with this section
4 for the purpose of increasing public awareness and inter-
5 est in the oceans, through mass media advertising.

6 (b) COORDINATION WITH STATE, REGIONAL, AND
7 LOCAL EFFORTS.—To the extent practicable, the cam-
8 paign shall coordinate with existing State, regional, and
9 local education efforts.

10 (c) USE OF FUNDS.—

11 (1) IN GENERAL.—Amounts made available to
12 carry out this section for the media campaign may
13 only be used for the following:

14 (A) The purchase of media time and space.

15 (B) Creative and talent costs.

16 (C) Advertising production costs.

17 (D) Testing and evaluation of advertising.

18 (E) Evaluation of the effectiveness of the
19 media campaign.

20 (F) The negotiated fees for the winning
21 bidder on requests for proposals issued either
22 by the Administrator or a designee for purposes
23 otherwise authorized in this section.

24 (G) Partnerships with community, civic,
25 and professional groups and government organi-
26 zations related to the media campaign.

1 (H) Entertainment industry outreach,
2 interactive outreach, media projects and activi-
3 ties, public information, news media outreach,
4 and corporate sponsorship and participation.

5 (I) Operational and management expenses.

6 (2) SPECIFIC REQUIREMENTS.—

7 (A) CREATIVE SERVICES.—In using
8 amounts for creative and talent costs under
9 paragraph (1)(B), the Administrator shall use
10 creative services donated at no cost to the Gov-
11 ernment wherever feasible and may only pro-
12 cure creative services for advertising—

13 (i) responding to high-priority or
14 emergent campaign needs that cannot
15 timely be obtained at no cost; or

16 (ii) intended to reach a minority, eth-
17 nic, or other special audience that cannot
18 reasonably be obtained at no cost.

19 (B) TESTING AND EVALUATION OF ADVER-
20 TISING.—In using amounts for testing and eval-
21 uation of advertising under paragraph (1)(D),
22 the Administrator shall test all advertisements
23 prior to use in the media campaign to ensure
24 that the advertisements are effective and meet
25 industry-accepted standards. The Administrator

1 may waive this requirement for advertisements
2 using no more than 10 percent of the purchase
3 of advertising time purchased under this section
4 in an fiscal year and no more than 10 percent
5 of the advertising space purchased under this
6 section in a fiscal year, if the advertisements re-
7 spond to emergent and time-sensitive campaign
8 needs or the advertisements will not be widely
9 utilized in the media campaign.

10 (C) EVALUATION OF EFFECTIVENESS OF
11 MEDIA CAMPAIGN.—In using amounts for the
12 evaluation of the effectiveness of the media
13 campaign under paragraph (1)(E), the Admin-
14 istrator shall—

15 (i) designate an independent entity to
16 evaluate annually the effectiveness of the
17 national media campaign based on data
18 from—

19 (I) public feedback; and

20 (II) other relevant studies or
21 publications, as determined by the Ad-
22 ministrator, including tracking and
23 evaluation data collected according to
24 marketing and advertising industry
25 standards; and

1 (ii) ensure that the effectiveness of
2 the media campaign is evaluated in a man-
3 ner that enables consideration of whether
4 the media campaign has contributed to in-
5 creasing the ocean literacy of the public
6 and such other measures of evaluation as
7 the Director determines are appropriate.

8 (3) PURCHASE OF ADVERTISING TIME AND
9 SPACE.—For each fiscal year, not less than 77 per-
10 cent of the amounts appropriated under this section
11 shall be used for the purchase of advertising time
12 and space for the media campaign.

13 (d) ADVERTISING.—In carrying out this section, the
14 Administrator shall devote sufficient funds to the adver-
15 tising portion of the national media campaign to meet the
16 goals of the campaign.

17 (e) PROHIBITIONS.—None of the amounts made
18 available under subsection (c) may be obligated or ex-
19 pended for any of the following:

20 (1) To supplant current oceans community-
21 based coalitions.

22 (2) To supplant pro bono public service time
23 donated by national and local broadcasting networks
24 for other public service campaigns.

1 (3) For partisan political purposes, or express
2 advocacy in support of or to defeat any clearly iden-
3 tified candidate, clearly identified ballot initiative, or
4 clearly identified legislative or regulatory proposal.

5 (4) To fund advertising that features any elect-
6 ed officials, persons seeking elected office, cabinet
7 level officials, or other Federal officials employed
8 pursuant to section 213 of schedule C of title 5,
9 Code of Federal Regulations.

10 (5) To fund advertising that does not contain a
11 primary message intended to increase awareness and
12 promote the protection, maintenance, and restora-
13 tion of marine ecosystem health.

14 (6) To fund advertising containing a primary
15 message intended to promote support for the media
16 campaign or private sector contributions to the
17 media campaign.

18 (f) FINANCIAL AND PERFORMANCE ACCOUNT-
19 ABILITY.—The Administrator shall cause to be per-
20 formed—

21 (1) audits and reviews of costs of the media
22 campaign pursuant to section 304C of the Federal
23 Property and Administrative Services Act of 1949
24 (41 U.S.C. 254d); and

1 (2) an audit of the cost of the media campaign
2 described in section 306 of such Act (41 U.S.C.
3 256).

4 (g) STRATEGIC ADVISOR.—

5 (1) IN GENERAL.—The Administrator shall se-
6 lect a primary outside strategic advisor for the
7 media campaign to be responsible for coordinating
8 donations of creative and other services to the cam-
9 paign, except with respect to advertising created
10 using funds permitted in subsection (c).

11 (2) SELECTION.—The Administrator shall se-
12 lect the strategic advisor based solely on merit and
13 the demonstrated success and experience of the can-
14 didates. The Administrator may consider the Na-
15 tional Marine Sanctuaries Foundation, the National
16 Fish and Wildlife Foundation, or any other entity
17 for the strategic advisor.

18 (3) ROLE OF STRATEGIC ADVISOR.—The Ad-
19 ministrator shall inform the advisor of the strategic
20 goals of the campaign and consider such advice of
21 the selected advisor on media campaign strategy.

22 (h) REPORT TO CONGRESS.—The Administrator
23 shall submit on an annual basis a report to Congress that
24 describes—

1 (1) the strategy of the media campaign and
2 whether specific objectives of the media campaign
3 were accomplished;

4 (2) steps taken to ensure that the media cam-
5 paign operates in an effective and efficient manner
6 consistent with the overall strategy and focus of the
7 media campaign;

8 (3) plans to purchase advertising time and
9 space;

10 (4) policies and practices implemented to ensure
11 that Federal funds are used responsibly to purchase
12 advertising time and space and eliminate the poten-
13 tial for waste, fraud, and abuse; and

14 (5) all contracts entered into with a corpora-
15 tion, partnership, or individual working on behalf of
16 the media campaign.

17 (i) **LOCAL TARGET REQUIREMENT.**—The Adminis-
18 trator shall, to the maximum extent feasible, use amounts
19 made available under this section for media that focuses
20 on, or includes specific information on, prevention or
21 treatment resources for consumers within specific local
22 areas.

23 **SEC. 604. AUTHORIZATION OF APPROPRIATIONS.**

24 (a) **NATIONAL OCEANIC AND ATMOSPHERIC ADMIN-**
25 **ISTRATION.**—

1 (1) OFFICE OF EDUCATION.—In addition to the
2 amounts authorized under subsections (a) and (b)
3 and under the National Sea Grant College Program
4 Act, there are authorized to be appropriated to the
5 Administrator \$25,000,000 for each of the fiscal
6 years 2006 through 2010 for educational activities
7 under section 601(b).

8 (2) EDUCATIONAL PARTNERSHIP PROGRAM.—
9 There are authorized to be appropriated to the Ad-
10 ministrator \$15,000,000 for each of fiscal years
11 2006 through 2010 for educational activities under
12 section 601(b).

13 (b) NATIONAL OCEAN AWARENESS MEDIA CAM-
14 PAIGN.—Of the amounts authorized annually to NOAA,
15 there are authorized to be appropriated to carry out sec-
16 tion 603, \$2,000,000 for each of fiscal years 2006 through
17 2008.

18 (c) AVAILABILITY.—Sums appropriated under this
19 section shall remain available until expended.

1 **TITLE VII—NONINDIGENOUS**
2 **AQUATIC NUISANCE PREVEN-**
3 **TION**

4 **Subtitle A—Ballast Water**
5 **Management**

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

7 This subtitle may be cited as the “Ballast Water
8 Management Act of 2005”.

9 **SEC. 702. FINDINGS.**

10 Congress finds the following:

11 (1) The introduction of aquatic invasive species
12 into the Nation’s waters is one of the most urgent
13 issues facing the marine environment in the United
14 States.

15 (2) The direct and indirect costs of aquatic
16 invasive species to the economy of the United States
17 amount to billions of dollars per year.

18 (3) Invasive species are thought to have been
19 involved in 70 percent of the last century’s
20 extinctions of native aquatic species.

21 (4) Invasive aquatic species are a significant
22 problem in all regions of the United States, includ-
23 ing Hawaii, Alaska, San Francisco Bay, the Great
24 Lakes, the Southeast, and the Chesapeake Bay.

1 (5) Ballast water from ships is one of the larg-
2 est pathways for the introduction and spread of
3 aquatic invasive species.

4 (6) It has been estimated that some 10,000
5 non-indigenous aquatic organisms travel around the
6 globe each day in the ballast water of cargo ships.

7 (7) Over 2,000,000,000 gallons of ballast water
8 are discharged in United States waters each year.
9 Ballast water may be the source of the largest vol-
10 ume of foreign organisms released on a daily basis
11 into American ecosystems.

12 (8) Ballast water has been found to transport
13 not only invasive plants and animals but human dis-
14 eases as well, such as cholera.

15 (9) Invasive species may also be introduced by
16 other vessel conduits, including the hulls of ships.

17 (10) Invasive aquatic species may originate in
18 other countries, or from distinct regions in the
19 United States.

20 (11) An average of 72 percent of all fish species
21 introduced in the Southeast have become estab-
22 lished, many of which are native to the United
23 States but transplanted outside their native ranges.

1 (12) The introduction of non-indigenous species
2 has been closely correlated with the disappearance of
3 indigenous species in Hawaii and other islands.

4 (13) Despite the efforts of more than 20 State,
5 Federal, and private agencies, unwanted alien pests
6 are entering Hawaii at an alarming rate, approxi-
7 mately 2,000,000 times more rapid than the natural
8 rate.

9 (14) Current Federal programs are insufficient
10 to effectively address this growing problem.

11 (15) Preventing aquatic invasive species from
12 being introduced is the most cost-effective approach
13 for addressing this issue, because once established,
14 they are costly and sometimes impossible to control.

15 **SEC. 703. BALLAST WATER MANAGEMENT.**

16 (a) IN GENERAL.—Section 1101 of the Nonindige-
17 nous Aquatic Nuisance Prevention and Control Act of
18 1990 (16 U.S.C. 4711) is amended to read as follows:

19 **“SEC. 1101. BALLAST WATER MANAGEMENT.**

20 “(a) VESSELS TO WHICH SECTION APPLIES.—

21 “(1) IN GENERAL.—This section applies to a
22 vessel that is designed or constructed to carry bal-
23 last water; and

1 “(A) is a vessel of the United States (as
2 defined in section 2101(46) of title 46, United
3 States Code); or

4 “(B) is a foreign vessel that—

5 “(i) is en route to a United States
6 port; or

7 “(ii) has departed from a United
8 States port and is within the exclusive eco-
9 nomic zone.

10 “(2) EXCEPTIONS.—Notwithstanding para-
11 graph (1), this section does not apply to—

12 “(A) permanent ballast water in a sealed
13 tank on a vessel that is not subject to dis-
14 charge;

15 “(B) a vessel of the Armed Forces; or

16 “(C) a vessel, or category of vessels, ex-
17 empted by the Administrator of the National
18 Oceanic and Atmospheric Administration under
19 paragraph (4).

20 “(3) STANDARDS FOR VESSELS OF THE ARMED
21 FORCES.—With respect to a vessel of the Armed
22 Forces that is designed or constructed to carry bal-
23 last water, the Secretary of Defense, after consulta-
24 tion with the Administrator of the Environmental
25 Protection Agency and the Administrator of the Na-

1 tional Oceanic and Atmospheric Administration,
2 shall promulgate ballast water and sediment man-
3 agement standards for such vessels that, so far as
4 is reasonable and practicable, achieve environmental
5 results that are comparable to those achieved by the
6 requirements of this section in waters subject to the
7 jurisdiction of the United States. In promulgating
8 those standards, the Secretary of Defense may take
9 into account the standards promulgated for such
10 vessels under section 312 of the Clean Water Act
11 (33 U.S.C. 1322) to the extent that compliance with
12 those standards would meet the requirements of this
13 Act.

14 “(4) VESSEL EXEMPTIONS BY SECRETARY.—
15 The Administrator of the National Oceanic and At-
16 mospheric Administration (referred to in this section
17 as the ‘Administrator’) may exempt a vessel, or cat-
18 egory of vessels, from the application of this section
19 if the Administrator determines, after consultation
20 with the Administrator of the Environmental Protec-
21 tion Agency, that ballast water discharge from the
22 vessel or category of vessels will not have an adverse
23 impact (as defined in section 1003(1) of this Act),
24 based on factors including the origin and destination

1 of the voyages undertaken by such vessel or category
2 of vessels.

3 “(5) COAST GUARD ASSESSMENT AND RE-
4 PORT.—Within 180 days after the date of enactment
5 of the Ballast Water Management Act of 2005, the
6 Commandant of the Coast Guard shall transmit a
7 report to the Senate Committee on Commerce,
8 Science, and Transportation and the House of Rep-
9 resentatives Committee on Transportation and In-
10 frastructure containing—

11 “(A) an assessment of the magnitude of
12 ballast water operations from vessels designed
13 or constructed to carry ballast water that are
14 not described in paragraph (1) that are
15 transiting waters subject to the jurisdiction of
16 the United States; and

17 “(B) recommendations, including legisla-
18 tive recommendations if appropriate, of options
19 for addressing such ballast water operations.

20 “(b) UPTAKE AND DISCHARGE OF BALLAST WATER
21 AND SEDIMENT.—

22 “(1) PROHIBITION.—The operator of a vessel to
23 which this section applies may not conduct the up-
24 take or discharge of ballast water and sediment ex-
25 cept as provided in this section.

1 “(2) EXCEPTIONS.—Paragraph (1) does not
2 apply to the uptake or discharge of ballast water
3 and sediment in the following circumstances:

4 “(A) The uptake or discharge is solely for
5 the purpose of—

6 “(i) ensuring the safety of vessel in an
7 emergency situation; or

8 “(ii) saving a life at sea.

9 “(B) The uptake or discharge is accidental
10 and the result of damage to the vessel or its
11 equipment and—

12 “(i) all reasonable precautions to pre-
13 vent or minimize ballast water and sedi-
14 ment discharge have been taken before and
15 after the damage occurs, the discovery of
16 the damage, and the discharge; and

17 “(ii) the owner or officer in charge of
18 the vessel did not willfully or recklessly
19 cause the damage.

20 “(C) The uptake or discharge is solely for
21 the purpose of avoiding or minimizing the dis-
22 charge of pollution from the vessel.

23 “(D) The uptake and subsequent discharge
24 on the high seas of the same ballast water and
25 sediment.

1 “(E) The uptake or discharge of ballast
2 water and sediment occurs at the same location
3 where the whole of the ballast water and sedi-
4 ment that is discharged was taken up and there
5 is no mixing with unmanaged ballast water and
6 sediment from another area.

7 “(3) SPECIAL RULE FOR THE GREAT LAKES.—
8 Paragraph (2) does not apply to a vessel subject to
9 the regulations under subsection (e)(2) until the ves-
10 sel is required to conduct ballast water treatment in
11 accordance with subsection (f) of this section.

12 “(c) VESSEL BALLAST WATER MANAGEMENT
13 PLAN.—

14 “(1) IN GENERAL.—A vessel to which this sec-
15 tion applies shall conduct all its ballast water man-
16 agement operations in accordance with a ballast
17 water management plan that—

18 “(A) meets the requirements prescribed by
19 the Administrator by regulation; and

20 “(B) is approved by the Administrator.

21 “(2) APPROVAL CRITERIA.—The Administrator
22 may not approve a ballast water management plan
23 unless the Administrator determines that the plan—

1 “(A) describes in detail safety procedures
2 for the vessel and crew associated with ballast
3 water management;

4 “(B) describes in detail the actions to be
5 taken to implement the ballast water manage-
6 ment requirements established under this sec-
7 tion;

8 “(C) describes in detail procedures for dis-
9 posal of sediment at sea and on shore;

10 “(D) designates the officer on board the
11 vessel in charge of ensuring that the plan is
12 properly implemented;

13 “(E) contains the reporting requirements
14 for vessels established under this section; and

15 “(F) meets all other requirements pre-
16 scribed by the Administrator.

17 “(3) COPY OF PLAN ON BOARD VESSEL.—The
18 owner or operator of a vessel to which this section
19 applies shall maintain a copy of the vessel’s ballast
20 water management plan on board at all times.

21 “(d) VESSEL BALLAST WATER RECORD BOOK.—

22 “(1) IN GENERAL.—The owner or operator of a
23 vessel to which this section applies shall maintain a
24 ballast water record book on board the vessel in
25 which—

1 “(A) each operation involving ballast water
2 is fully recorded without delay, in accordance
3 with regulations promulgated by the Secretary;
4 and

5 “(B) each such operation is described in
6 detail, including the location and circumstances
7 of, and the reason for, the operation.

8 “(2) AVAILABILITY.—The ballast water record
9 book—

10 “(A) shall be kept readily available for ex-
11 amination by the Administrator at all reason-
12 able times; and

13 “(B) notwithstanding paragraph (1), may
14 be kept on the towing vessel in the case of an
15 unmanned vessel under tow.

16 “(3) RETENTION PERIOD.—The ballast water
17 record book shall be retained—

18 “(A) on board the vessel for a period of 2
19 years after the date on which the last entry in
20 the book is made; and

21 “(B) under the control of the vessel’s
22 owner for an additional period of 3 years.

23 “(4) REGULATIONS.—In the regulations pre-
24 scribed under this section, the Secretary shall re-
25 quire, at a minimum, that—

1 “(A) each entry in the ballast water record
2 book be signed and dated by the officer in
3 charge of the ballast water operation recorded;
4 and

5 “(B) each completed page in the ballast
6 water record book be signed and dated by the
7 master of the vessel.

8 “(5) ALTERNATIVE MEANS OF RECORD-
9 KEEPING.—The Administrator may provide by regu-
10 lation for alternative methods of recordkeeping, in-
11 cluding electronic recordkeeping, to comply with the
12 requirements of this subsection.

13 “(e) BALLAST WATER EXCHANGE REQUIRE-
14 MENTS.—

15 “(1) IN GENERAL.—Until a vessel conducts bal-
16 last water treatment in accordance with the require-
17 ments of subsection (f) of this section, the operator
18 of a vessel to which this section applies may not con-
19 duct the uptake or discharge of ballast water unless
20 the operator conducts ballast water exchange, in ac-
21 cordance with regulations prescribed by the Adminis-
22 trator, in a manner that results in an efficiency of
23 at least 95 percent volumetric exchange of the bal-
24 last water for each ballast water tank.

1 “(2) SPECIAL RULE FOR VESSELS IN THE
2 GREAT LAKES.—

3 “(A) IN GENERAL.—Notwithstanding any
4 other provision of this subsection, under regula-
5 tions prescribed by the Administrator to pre-
6 vent the introduction and spread of aquatic nui-
7 sance species into the Great Lakes through the
8 ballast water of vessels, operators of vessels
9 equipped with ballast water tanks that enter a
10 United States port on the Great Lakes after op-
11 erating on the waters beyond the exclusive eco-
12 nomic zone shall—

13 “(i) carry out exchange of ballast
14 water on the waters beyond the exclusive
15 economic zone prior to entry into any port
16 within the Great Lakes; or

17 “(ii) carry out an exchange of ballast
18 water in other waters where the exchange
19 does not pose a threat of infestation or
20 spread of aquatic nuisance species in the
21 Great Lakes and other waters of the
22 United States, as recommended by the
23 Task Force under section 1102(a)(1).

24 “(B) ADDITIONAL MATTERS COVERED BY
25 THE REGULATIONS.—The regulations shall—

1 “(i) not affect or supersede any re-
2 quirements or prohibitions pertaining to
3 the discharge of ballast water into waters
4 of the United States under the Federal
5 Water Pollution Control Act (33 U.S.C.
6 1251 et seq.);

7 “(ii) provide for sampling procedures
8 to monitor compliance with the require-
9 ments of the regulations;

10 “(iii) prohibit the operation of a vessel
11 in the Great Lakes if the master of the
12 vessel has not certified to the Secretary or
13 the Secretary’s designee by not later than
14 the departure of that vessel from the first
15 lock in the St. Lawrence Seaway that the
16 vessel has complied with the requirements
17 of the regulations;

18 “(iv) protect the safety of—

19 “(I) each vessel; and

20 “(II) the crew and passengers of
21 each vessel;

22 “(v) take into consideration different
23 operating conditions; and

24 “(vi) be based on the best scientific
25 information available.

1 “(C) HUDSON RIVER PORT.—The regula-
2 tions under this paragraph also apply to vessels
3 that enter a United States port on the Hudson
4 River north of the George Washington Bridge.

5 “(D) EDUCATION AND TECHNICAL ASSIST-
6 ANCE PROGRAMS.—The Administrator may
7 carry out education and technical assistance
8 programs and other measures to promote com-
9 pliance with the regulations issued under this
10 paragraph.

11 “(3) EXCHANGE AREAS.—

12 “(A) IN GENERAL.—Except as provided in
13 subparagraphs (B), (C), and (D), the operator
14 of a vessel to which this section applies shall
15 conduct ballast water exchange in accordance
16 with regulations prescribed by the Adminis-
17 trator—

18 “(i) at least 200 nautical miles from
19 the nearest land; and

20 “(ii) in water at least 200 meters in
21 depth.

22 “(B) MINIMUM DISTANCE AND DEPTH.—

23 “(i) IN GENERAL.—Except as pro-
24 vided in subparagraph (C), if the operator
25 of a vessel is unable to conduct ballast

1 water exchange in accordance with sub-
2 paragraph (A), the ballast water exchange
3 shall be conducted in water that is—

4 “(I) as far as possible from land;

5 “(II) at least 50 nautical miles
6 from land; and

7 “(III) in water of at least 200
8 meters in depth.

9 “(ii) LIMITATION.—The operator of a
10 vessel may not conduct ballast water ex-
11 change in accordance with clause (i) in any
12 area with respect to which the Adminis-
13 trator has determined, after consultation
14 with the Administrator of the Environ-
15 mental Protection Agency, that ballast
16 water exchange in the area will have an
17 adverse impact, notwithstanding the fact
18 that the area meets the distance and depth
19 criteria of clause (i).

20 “(C) EXCHANGE IN DESIGNATED AREA.—

21 “(i) IN GENERAL.—If the operator of
22 a vessel is unable to conduct ballast water
23 exchange in accordance with subparagraph
24 (B), the operator of the vessel may conduct
25 ballast water exchange in an area that

1 does not meet the distance and depth cri-
2 teria of subparagraph (B) in such areas as
3 may be designated by the Administrator,
4 determined in consultation with the Sec-
5 retary and the Administrator of the Envi-
6 ronmental Protection Agency, for that pur-
7 pose.

8 “(ii) CHARTING.—The Administrator,
9 in consultation with the Secretary, shall
10 designate such areas on nautical charts.

11 “(iii) LIMITATION.—The Adminis-
12 trator may not designate an area under
13 clause (i) if a ballast water exchange in
14 that area could have an adverse impact, as
15 determined by the Secretary in consulta-
16 tion with the Administrator of the Envi-
17 ronmental Protection Agency.

18 “(D) SAFETY OR STABILITY EXCEPTION.—

19 “(i) IN GENERAL.—Subparagraphs
20 (A), (B), and (C) do not apply to the dis-
21 charge or uptake of ballast water if the
22 master of a vessel determines that compli-
23 ance with subparagraph (A), (B), or (C),
24 whichever applies, would threaten the safe-
25 ty or stability of the vessel, its crew, or its

1 passengers because of adverse weather,
2 ship design or stress, equipment failure, or
3 any other relevant condition.

4 “(ii) NOTIFICATION REQUIRED.—

5 Whenever the master of a vessel conducts
6 a ballast water discharge or uptake under
7 the exception described in clause (i), the
8 master of the vessel shall notify the Ad-
9 ministrator as soon as practicable there-
10 after but no later than 24 hours after the
11 ballast water discharge or uptake com-
12 menced.

13 “(iii) LIMITATION ON VOLUME.—The

14 volume of any ballast water taken up or
15 discharged under the exception described
16 in clause (i) may not exceed the volume
17 necessary to ensure the safe operation of
18 the vessel.

19 “(iv) REVIEW OF CIRCUMSTANCES.—

20 If the master of a vessel conducts a ballast
21 water discharge or uptake under the excep-
22 tion described in clause (i) on more than 2
23 out of 6 sequential voyages, the Adminis-
24 trator shall review the circumstances to de-
25 termine whether those ballast water dis-

1 charges or uptakes met the requirements
2 of this subparagraph. The review under
3 this clause shall be in addition to any other
4 enforcement activity by the Administrator.

5 “(E) INABILITY TO COMPLY WITH EX-
6 CHANGE AREA REQUIREMENTS.—

7 “(i) DEVIATION OR DELAY OF VOY-
8 AGE.—In determining the ability of the op-
9 erator of a vessel to conduct ballast water
10 exchange in accordance with the require-
11 ments of subparagraph (A) or (B), a vessel
12 is not required to deviate from its intended
13 voyage or unduly delay its voyage to com-
14 ply with those requirements.

15 “(ii) PARTIAL COMPLIANCE.—An op-
16 erator of a vessel that is unable to comply
17 fully with the requirements of subpara-
18 graph (A) or (B), shall conduct ballast
19 water exchange to the maximum extent
20 feasible in compliance with those subpara-
21 graphs.

22 “(F) SPECIAL RULE FOR THE GREAT
23 LAKES.—This paragraph does not apply to ves-
24 sels subject to the regulations under paragraph
25 (2).

1 “(f) BALLAST WATER TREATMENT REQUIRE-
2 MENTS.—

3 “(1) IN GENERAL.—Subject to the implementa-
4 tion schedule in paragraph (3), before discharging
5 ballast water in waters subject to the jurisdiction of
6 the United States a vessel to which this section ap-
7 plies shall conduct ballast water treatment so that
8 the ballast water discharged will contain—

9 “(A) less than 0.1 living organisms per
10 cubic meter that are 50 or more micrometers in
11 minimum dimension;

12 “(B) less than 0.1 living organisms per
13 milliliter that are less than 50 micrometers in
14 minimum dimension and more than 10 microm-
15 eters in minimum dimension;

16 “(C) concentrations of indicator microbes
17 that are less than—

18 “(i) 1 colony-forming unit of
19 Toxicogenic vibrio cholera (O1 and O139)
20 per 100 milliliters, or less than 1 colony-
21 forming unit of that microbe per gram of
22 wet weight of zoological samples;

23 “(ii) 126 colony-forming units of
24 escherichi coli per 100 milliliters; and

1 “(iii) 33 colony-forming units of intes-
2 tinal enterococci per 100 milliliters; and

3 “(D) concentrations of such indicator mi-
4 crobes as may be specified in regulations pro-
5 mulgated by the Secretary that are less than
6 the amount specified in those regulations.

7 “(2) RECEPTION FACILITY EXCEPTION.—Para-
8 graph (1) does not apply to a vessel that discharges
9 ballast water into a reception facility that meets
10 standards prescribed by the Administrator, in con-
11 sultation with the Administrator of the Environ-
12 mental Protection Agency, for the reception of bal-
13 last water that provide for the reception of ballast
14 water and its disposal or treatment in a way that
15 does not impair or damage the environment, human
16 health, property, or resources. The Administrator
17 may not prescribe such standards that are less strin-
18 gent than any otherwise applicable Federal, State, or
19 local law requirements.

20 “(3) IMPLEMENTATION SCHEDULE.—Para-
21 graph (1) applies to vessels in accordance with the
22 following schedule:

23 “(A) FIRST PHASE.—Beginning January
24 1, 2009, for vessels constructed on or after that

1 date with a ballast water capacity of less than
2 5,000 cubic meters.

3 “(B) SECOND PHASE.—Beginning January
4 1, 2012, for vessels constructed on or after that
5 date with a ballast water capacity of 5,000
6 cubic meters or more.

7 “(C) THIRD PHASE.—Beginning January
8 1, 2014, for vessels constructed before January
9 1, 2009, with a ballast water capacity of 1,500
10 cubic meters or more but not more than 5,000
11 cubic meters.

12 “(D) FOURTH PHASE.—Beginning Janu-
13 ary 1, 2016, for vessels constructed—

14 “(i) before January 1, 2009, with a
15 ballast water capacity of less than 1,500
16 cubic meters or 5,000 cubic meters or
17 more; or

18 “(ii) on or after January 1, 2009, and
19 before January 1, 2012, with a ballast
20 water capacity of 5,000 cubic meters or
21 more.

22 “(4) REVIEW OF STANDARDS.—

23 “(A) IN GENERAL.—In December, 2012,
24 and in every third year thereafter, the Adminis-
25 trator and the Administrator shall review the

1 treatment standards established in paragraph
2 (1) to determine, in consultation with the Ad-
3 ministrator of the Environmental Protection
4 Agency, if the standards should be revised to
5 reduce the amount of organisms or microbes al-
6 lowed to be discharged using the best available
7 technology economically available. The Sec-
8 retary shall revise such standards as necessary
9 by regulation.

10 “(B) APPLICATION OF ADJUSTED STAND-
11 ARDS.—In the regulations, the Administrator
12 shall provide for the prospective application of
13 the adjusted standards prescribed under this
14 paragraph to vessels constructed after the date
15 on which the adjusted standards apply and for
16 an orderly phase-in of the adjusted standards to
17 existing vessels.

18 “(5) DELAY OF APPLICATION FOR VESSEL PAR-
19 TICIPATING IN PROMISING TECHNOLOGY EVALUA-
20 TIONS.—

21 “(A) IN GENERAL.—If a vessel participates
22 in a program approved by the Administrator to
23 test and evaluate promising ballast water treat-
24 ment technologies with the potential to result in
25 treatment technologies achieving a standard

1 that is the same as or more stringent than the
2 standard that applies under paragraph (1) be-
3 fore the first date on which paragraph (1) ap-
4 plies to that vessel, the Administrator may
5 postpone the date on which paragraph (1)
6 would otherwise apply to that vessel for not
7 more than 5 years.

8 “(B) VESSEL DIVERSITY.—The Adminis-
9 trator—

10 “(i) shall seek to ensure that a wide
11 variety of vessel types and voyages are in-
12 cluded in the program; but

13 “(ii) may not grant a delay under this
14 paragraph to more than 1 percent of the
15 vessels to which subparagraph (A), (B),
16 (C), or (D) of paragraph (3) applies.

17 “(C) TERMINATION OF POSTPONEMENT.—
18 The Administrator may terminate the 5-year
19 postponement period if participation of the ves-
20 sel in the program is terminated without the
21 consent of the Administrator.

22 “(6) FEASIBILITY REVIEW.—

23 “(A) IN GENERAL.—Not less than 2 years
24 before the date on which paragraph (1) applies
25 to vessels under each subparagraph of para-

1 graph (3), the Administrator shall complete a
2 review to determine whether appropriate tech-
3 nologies are available to achieve the standards
4 set forth in paragraph (1) for the vessels to
5 which they apply under the schedule set forth
6 in paragraph (3).

7 “(B) DELAY IN SCHEDULED APPLICA-
8 TION.—If the Administrator determines, on the
9 basis of the review conducted under subpara-
10 graph (A), that compliance with the standards
11 set forth in paragraph (1) in accordance with
12 the schedule set forth in any subparagraph of
13 paragraph (3) is not feasible, the Administrator
14 shall—

15 “(i) extend the date on which that
16 subparagraph first applies to vessels for a
17 period of not more than 36 months; and

18 “(ii) recommend action to ensure that
19 compliance with the extended date schedule
20 for that subparagraph is achieved.

21 “(7) TREATMENT SYSTEM APPROVAL RE-
22 QUIRED.—The operator of a vessel may not use a
23 ballast water treatment system to comply with the
24 requirements of this subsection unless the system is
25 approved by the Administrator. The Administrator

1 shall promulgate regulations establishing a process
2 for such approval.

3 “(g) WARNINGS CONCERNING BALLAST WATER UP-
4 TAKE.—

5 “(1) IN GENERAL.—The Secretary shall notify
6 mariners of any area in waters subject to the juris-
7 diction of the United States in which vessels should
8 not uptake ballast water due to known conditions.

9 “(2) CONTENTS.—The notice shall include—

10 “(A) the coordinates of the area; and

11 “(B) if possible, the location of alternative
12 areas for the uptake of ballast water.

13 “(h) SEDIMENT MANAGEMENT.—

14 “(1) IN GENERAL.—The operator of a vessel to
15 which this section applies may not remove or dispose
16 of sediment from spaces designed to carry ballast
17 water except in accordance with this subsection and
18 the ballast water management plan required under
19 subsection (c).

20 “(2) DESIGN REQUIREMENTS.—

21 “(A) NEW VESSELS.—No person may re-
22 move and dispose of such sediment from a ves-
23 sel to which this section applies in waters sub-
24 ject to the jurisdiction of the United States that
25 is constructed on or after January 1, 2009, un-

1 less the vessel is designed and constructed in a
2 manner that—

3 “(i) minimizes the uptake and entrap-
4 ment of sediment;

5 “(ii) facilitates removal of sediment;
6 and

7 “(iii) provides for safe access for sedi-
8 ment removal and sampling.

9 “(B) EXISTING VESSELS.—The operator of
10 a vessel to which this section applies that was
11 constructed before January 1, 2009, may not
12 remove and dispose of such sediment in waters
13 subject to the jurisdiction of the United States
14 unless—

15 “(i) the vessel has been modified, to
16 the extent practicable and in accordance
17 with regulations promulgated by the Ad-
18 ministrator, to achieve the objectives de-
19 scribed in clauses (i), (ii), and (iii) of sub-
20 paragraph (A); or

21 “(ii) the removal and disposal of the
22 sediment is conducted in such a manner as
23 to achieve those objectives to the greatest
24 extent practicable and in accordance with
25 those regulations.

1 “(C) REGULATIONS.—The Administrator
2 shall promulgate regulations establishing design
3 and construction standards to achieve the objec-
4 tives of subparagraph (A) and providing guid-
5 ance for modifications and practices under sub-
6 paragraph (B). The Administrator shall incor-
7 porate the standards and guidance in the regu-
8 lations governing the ballast water management
9 plan.

10 “(3) SEDIMENT RECEPTION FACILITIES.—

11 “(A) STANDARDS.—The Administrator of
12 the Environmental Protection Agency in con-
13 sultation with the Administrator, shall promul-
14 gate regulations governing facilities for the re-
15 ception of vessel sediment from spaces designed
16 to carry ballast water that provide for the dis-
17 posal of such sediment in a way that does not
18 impair or damage the environment, human
19 health, or property or resources of the disposal
20 area. The Administrator may not prescribe
21 standards under this subparagraph that are less
22 stringent than any otherwise applicable Federal,
23 State, or local law.

24 “(B) DESIGNATION.—The Administrator
25 shall designate facilities for the reception of ves-

1 sel sediment that meet the requirements of the
2 regulations promulgated under subparagraph
3 (A) at ports and terminals where ballast tanks
4 are cleaned or repaired.

5 “(i) EXAMINATIONS AND CERTIFICATIONS.—

6 “(1) INITIAL EXAMINATION.—

7 “(A) IN GENERAL.—The Administrator
8 shall examine vessels to which this section ap-
9 plies to determine whether—

10 “(i) there is a ballast water manage-
11 ment plan for the vessel; and

12 “(ii) the equipment used for ballast
13 water and sediment management in ac-
14 cordance with the requirements of this sec-
15 tion and the regulations promulgated here-
16 under is installed and functioning properly.

17 “(B) NEW VESSELS.—For vessels con-
18 structed on or after January 1, 2009, the Ad-
19 ministrator shall conduct the examination re-
20 quired by subparagraph (A) before the vessel is
21 placed in service.

22 “(C) EXISTING VESSELS.—For vessels con-
23 structed before January 1, 2009, the Adminis-
24 trator shall—

1 “(i) conduct the examination required
2 by subparagraph (A) before the date on
3 which subsection (f)(1) applies to the ves-
4 sel according to the schedule in subsection
5 (f)(3); and

6 “(ii) inspect the vessel’s ballast water
7 record book required by subsection (d).

8 “(2) SUBSEQUENT EXAMINATIONS.—The Ad-
9 ministrators shall examine vessels no less frequently
10 than once each year to ensure vessel compliance with
11 the requirements of this section.

12 “(3) INSPECTION AUTHORITY.—In order to
13 carry out the provisions of this section, the Adminis-
14 trator may take ballast water samples at any time
15 on any vessel to which this section applies to ensure
16 its compliance with this Act.

17 “(4) REQUIRED CERTIFICATE.—

18 “(A) IN GENERAL.—If, on the basis of an
19 initial examination under paragraph (1) the Ad-
20 ministrators find that a vessel complies with the
21 requirements of this section and the regulations
22 promulgated hereunder, the Administrator shall
23 issue a certificate under this paragraph as evi-
24 dence of such compliance. The certificate shall
25 be valid for a period of not more than 5 years,

1 as specified by the Administrator. The certifi-
2 cate or a true copy shall be maintained on
3 board the vessel.

4 “(B) FOREIGN CERTIFICATES.—The Ad-
5 ministrator may treat a certificate issued by a
6 foreign government as a certificate issued under
7 subparagraph (A) if the Administrator deter-
8 mines that the standards used by the issuing
9 government are equivalent to or more stringent
10 than the standards used by the Administrator
11 under subparagraph (A).

12 “(5) NOTIFICATION OF VIOLATIONS.—If the
13 Administrator finds, on the basis of an examination
14 under paragraph (1) or (2), sampling under para-
15 graph (3), or any other information, that a vessel is
16 being operated in violation of the requirements of
17 this section and the regulations promulgated here-
18 under, the Administrator shall—

19 “(A) notify—

20 “(i) the master of the vessel; and

21 “(ii) the captain of the port at the
22 vessel’s next port of call; and

23 “(B) take such other action as may be ap-
24 propriate.

25 “(j) DETENTION OF VESSELS.—

1 “(1) IN GENERAL.—The Administrator, by no-
2 tice to the owner, charterer, managing operator,
3 agent, master, or other individual in charge of a ves-
4 sel, may detain that vessel if the Administrator has
5 reasonable cause to believe that—

6 “(A) the vessel is a vessel to which this
7 section applies;

8 “(B) the vessel does not comply with the
9 requirements of this section or of the regula-
10 tions issued hereunder or is being operated in
11 violation of such requirements; and

12 “(C) the vessel is about to leave a place in
13 the United States.

14 “(2) CLEARANCE.—

15 “(A) IN GENERAL.—A vessel detained
16 under paragraph (1) may obtain clearance
17 under section 4197 of the Revised Statutes (46
18 U.S.C. App. 91) only if the violation for which
19 it was detained has been corrected.

20 “(B) WITHDRAWAL.—If the Administrator
21 finds that a vessel detained under paragraph
22 (1) has received a clearance under section 4197
23 of the Revised Statutes (46 U.S.C. App. 91) be-
24 fore it was detained under paragraph (1), the
25 Administrator shall request the Secretary of the

1 Treasury to withdraw the clearance. Upon re-
2 quest of the Administrator, the Secretary of the
3 Treasury shall withhold or revoke the clearance.

4 “(k) SANCTIONS.—

5 “(1) CIVIL PENALTIES.—Any person who vio-
6 lates a regulation promulgated under this section
7 shall be liable for a civil penalty in an amount not
8 to exceed \$25,000. Each day of a continuing viola-
9 tion constitutes a separate violation. A vessel oper-
10 ated in violation of the regulations is liable in rem
11 for any civil penalty assessed under this subsection
12 for that violation.

13 “(2) CRIMINAL PENALTIES.—Any person who
14 knowingly violates the regulations promulgated
15 under this section is guilty of a class C felony.

16 “(3) REVOCATION OF CLEARANCE.—Except as
17 provided in subsection (j)(2), upon request of the
18 Administrator, the Secretary of the Treasury shall
19 withhold or revoke the clearance of a vessel required
20 by section 4197 of the Revised Statutes (46 U.S.C.
21 App. 91), if the owner or operator of that vessel is
22 in violation of the regulations issued under this sec-
23 tion.

1 “(4) EXCEPTION TO SANCTIONS.—This sub-
2 section does not apply to a failure to exchange bal-
3 last water if—

4 “(A) the master of a vessel, acting in good
5 faith, decides that the exchange of ballast water
6 will threaten the safety or stability of the vessel,
7 its crew, or its passengers; and

8 “(B) the recordkeeping and reporting re-
9 quirements of the Act are complied with.

10 “(l) CONSULTATION WITH CANADA, MEXICO, AND
11 OTHER FOREIGN GOVERNMENTS.—In developing the
12 guidelines issued and regulations promulgated under this
13 section, the Administrator is encouraged to consult with
14 the Government of Canada, the Government of Mexico,
15 and any other government of a foreign country that the
16 Administrator, in consultation with the Task Force, deter-
17 mines to be necessary to develop and implement an effec-
18 tive international program for preventing the uninten-
19 tional introduction and spread of nonindigenous species.

20 “(m) INTERNATIONAL COOPERATION.—The Admin-
21 istrator, in cooperation with the International Maritime
22 Organization of the United Nations and the Commission
23 on Environmental Cooperation established pursuant to the
24 North American Free Trade Agreement, is encouraged to
25 enter into negotiations with the governments of foreign

1 countries to develop and implement an effective inter-
2 national program for preventing the unintentional intro-
3 duction and spread of nonindigenous species. The Admin-
4 istrator is particularly encouraged to seek bilateral or mul-
5 tilateral agreements with Canada, Mexico, and other na-
6 tions in the Wider Caribbean (as defined in the Conven-
7 tion for the Protection and Development of the Marine
8 Environment of the Wider Caribbean (Cartagena Conven-
9 tion) under this section.

10 “(n) NON-DISCRIMINATION.—The Administrator
11 shall ensure that vessels registered outside of the United
12 States do not receive more favorable treatment than ves-
13 sels registered in the United States when the Adminis-
14 trator performs studies, reviews compliance, determines
15 effectiveness, establishes requirements, or performs any
16 other responsibilities under this Act.

17 “(o) SUPPORT FOR FEDERAL BALLAST WATER DEM-
18 ONSTRATION PROJECT.—In addition to amounts other-
19 wise available to the Maritime Administration, the Na-
20 tional Oceanographic and Atmospheric Administration,
21 and the United States Fish and Wildlife Service for the
22 Federal Ballast Water Demonstration Project, the Admin-
23 istrator shall provide support for the conduct and expan-
24 sion of the project, including grants for research and de-
25 velopment of innovative technologies for the management,

1 treatment, and disposal of ballast water and sediment, for
2 ballast water exchange, and for other vessel vectors of
3 invasive aquatic species such as hull fouling. There are
4 authorized to be appropriated to the Administrator
5 \$25,000,000 for each fiscal year to carry out this sub-
6 section.

7 “(p) CONSULTATION WITH TASK FORCE.—The Ad-
8 ministrator shall consult with the Task Force in carrying
9 out this section.

10 “(q) RULEMAKING.—The Administrator may issue
11 such regulations as may be necessary to carry out this
12 section and the terms defined in section 1003 that are
13 used in this section.”.

14 (b) DEFINITIONS.—Section 1003 of the Nonindige-
15 nous Aquatic Nuisance Prevention and Control Act of
16 1990 (16 U.S.C. 4702) is amended—

17 (1) by redesignating—

18 (A) paragraphs (1), (2), and (3) as para-
19 graphs (2), (3), and (4), respectively;

20 (B) paragraphs (4), (5), (6), (7), and (8)
21 as paragraphs (8), (9), (10), (11), and (12), re-
22 spectively;

23 (C) paragraphs (9) and (10) as paragraphs
24 (14) and (15) respectively;

1 (D) paragraphs (11) and (12) as para-
2 graphs (17) and (18), respectively;

3 (E) paragraphs (13), (14), and (15) as
4 paragraphs (20), (21), and (22), respectively;

5 (F) paragraph (16) as paragraph (26); and

6 (G) paragraph (17) as paragraph (23) and
7 inserting it after paragraph (22), as redesign-
8 nated;

9 (2) by inserting before paragraph (2), as redes-
10 ignated, the following:

11 “(1) ‘adverse impact’ means the direct or indi-
12 rect result or consequence of an event or process
13 that—

14 “(A) creates a hazard to the environment,
15 human health, property, or a natural resource;

16 “(B) impairs biological diversity; or

17 “(C) interferes with the legitimate use of
18 waters subject to the jurisdiction of the United
19 States;”;

20 (3) by striking paragraph (4), as redesignated,
21 and inserting the following:

22 “(4) ‘ballast water’—

23 “(A) means water taken on board a vessel
24 to control trim, list, draught, stability, or

1 stresses of the vessel, including matter sus-
2 pended in such water; but

3 “(B) does not include potable or technical
4 water that does not contain harmful aquatic or-
5 ganisms or pathogens that is taken on board a
6 vessel and used for a purpose described in sub-
7 paragraph (A) if such potable or technical
8 water is discharged in compliance with section
9 312 of the Clean Water Act (33 U.S.C.
10 1322);”;

11 (4) by inserting after paragraph (4) the fol-
12 lowing:

13 “(5) ‘ballast water capacity’ means the total
14 volumetric capacity of any tanks, spaces, or com-
15 partments on a vessel that is used for carrying, load-
16 ing, or discharging ballast water, including any
17 multi-use tank, space, or compartment designed to
18 allow carriage of ballast water;

19 “(6) ‘ballast water management’ means me-
20 chanical, physical, chemical, and biological processes
21 used, either singularly or in combination, to remove,
22 render harmless, or avoid the uptake or discharge of
23 harmful aquatic organisms and pathogens within
24 ballast water and sediment;

1 “(7) ‘constructed’ means a state of construction
2 of a vessel at which—

3 “(A) the keel is laid;

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

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

10 “(D) the vessel undergoes a major conver-
11 sion;”;

12 (5) by inserting after paragraph (12), as redes-
13 igned, the following:

14 “(13) ‘harmful aquatic organisms and patho-
15 gens’ means aquatic organisms or pathogens that
16 have been determined by the Administrator of the
17 National Oceanographic and Atmospheric Adminis-
18 tration, after consultation with the Administrator of
19 the Environmental Protection Agency, to cause an
20 adverse impact if introduced into the waters subject
21 to the jurisdiction of the United States;”;

22 (6) by inserting after paragraph (15), as redes-
23 igned, the following:

24 “(16) ‘major conversion’ means a conversion of
25 a vessel, that—

1 “(A) changes its ballast water carrying ca-
2 capacity by at least 15 percent;

3 “(B) changes the vessel class;

4 “(C) is projected to prolong the vessel’s life
5 by at least 10 years (as determined by the Ad-
6 ministrators); or

7 “(D) results in modifications to the vessel’s
8 ballast water system, except—

9 “(i) component replacement-in-kind;

10 or

11 “(ii) conversion of a vessel to meet the
12 requirements of section 1101(e);”;

13 (7) by inserting after paragraph (18), as redes-
14 ignated, the following:

15 “(19) ‘sediment’ means matter that has settled
16 out of ballast water within a vessel;”;

17 (8) by inserting after paragraph (23), as redes-
18 ignated, the following:

19 “(24) ‘United States port’ means a port, river,
20 harbor, or offshore terminal under the jurisdiction of
21 the United States, including ports located in Puerto
22 Rico, Guam, the Northern Marianas, and the United
23 States Virgin Islands;

24 “(25) ‘vessel of the Armed Forces’ means—

1 “(A) any vessel owned or operated by the
2 Department of Defense, other than a time or
3 voyage chartered vessel; and

4 “(B) any vessel owned or operated by the
5 Department of Homeland Security that is des-
6 ignated by the Secretary of the department in
7 which the Coast Guard is operating as a vessel
8 equivalent to a vessel described in subparagraph
9 (A);”; and

10 (9) by inserting after paragraph (26), as redesi-
11 gnated, the following:

12 “(27) ‘waters subject to the jurisdiction of the
13 United States’ means navigable waters and the terri-
14 torial sea of the United States, the exclusive eco-
15 nomic zone, and the Great Lakes.”.

16 (c) GREAT LAKES REGULATIONS.—Until vessels de-
17 scribed in section 1101(e)(2) of the Nonindigenous Aquat-
18 ic Nuisance Prevention and Control Act of 1990 (16
19 U.S.C. 4711(e)(2)), as amended by this Act, are required
20 to conduct ballast water treatment in accordance with the
21 requirements of section 1101(f) of that Act (16 U.S.C.
22 1101(f)), as amended by this Act, the regulations promul-
23 gated by the Secretary of Transportation under section
24 1101 of the Nonindigenous Aquatic Nuisance Prevention
25 and Control Act of 1990 (16 U.S.C. 4711), as such regu-

1 lations were in effect on the day before the date of enact-
2 ment of this Act, shall remain in full force and effect for,
3 and shall continue to apply to, such vessels.

4 **SEC. 704. COAST GUARD REPORT ON OTHER VESSEL-RE-**
5 **LATED VECTORS OF INVASIVE SPECIES.**

6 (a) IN GENERAL.—Not later than 90 days after the
7 date of enactment of this Act, the Commandant of the
8 Coast Guard shall transmit a report to the Senate Com-
9 mittee on Commerce, Science, and Transportation and the
10 House of Representatives Committee on Transportation
11 and Infrastructure on vessel-related vectors of harmful
12 aquatic organisms and pathogens other than ballast water
13 and sediment, including vessel hulls and equipment, and
14 from vessels equipped with ballast tanks that carry no bal-
15 last water on board.

16 (b) BEST PRACTICES.—As soon as practicable, the
17 Coast Guard shall develop best practices standards and
18 procedures designed to reduce the introduction of invasive
19 species into and within the United States from vessels and
20 establish a timeframe for implementation of those stand-
21 ards and procedures by vessels, in addition to the manda-
22 tory requirements set forth in section 1101 of the Non-
23 indigenous Aquatic Nuisance Prevention and Control Act
24 of 1990 (16 U.S.C. 4711) for ballast water. Such stand-
25 ards and procedures should include designation of geo-

1 graphical locations for uptake and discharge of untreated
2 ballast water, as well as standards and procedures for
3 other vessel vectors of invasive aquatic species. The Com-
4 mandant shall transmit a report to the Committees de-
5 scribing the standards and procedures developed and the
6 implementation timeframe, together with any rec-
7 ommendations, including legislative recommendations if
8 appropriate, the Commandant deems appropriate. The
9 Secretary of the department in which the Coast Guard is
10 operating may promulgate regulations to incorporate and
11 enforce standards and procedures developed under this
12 subsection.

13 **Subtitle B—Early Detection; Rapid**
14 **Response; Control and Outreach**

15 **SEC. 711. EARLY DETECTION.**

16 Subtitle B of the Nonindigenous Aquatic Nuisance
17 Prevention and Control Act of 1990 (16 U.S.C. 4711 et
18 seq.) is amended by adding at the end the following:

19 **“SEC. 1105. EARLY DETECTION AND MONITORING.**

20 “(a) IN GENERAL.—Not later than 18 months after
21 the date of enactment of the National Oceans Protection
22 Act of 2005, in conjunction with the Council, the Task
23 Force shall (based on the standard protocol for early de-
24 tection surveys developed under this title), promulgate a
25 set of sampling protocols, a geographic plan, and budget

1 to support a national system of ecological surveys to rap-
2 idly detect recently-established aquatic invasive species in
3 waters of the United States.

4 “(b) CONTENTS.—The protocols, plan, and budget
5 shall, at a minimum—

6 “(1) address a diversity of aquatic ecosystems
7 of the United States (including inland and coastal
8 waters);

9 “(2) encourage State, local, port, and tribal
10 participation in monitoring;

11 “(3) balance scientific rigor with practicability,
12 timeliness, and breadth of sampling activity;

13 “(4) considers the pathways and organisms
14 identified under section 1210; and

15 “(5) include clear lines of communication with
16 appropriate Federal, State, and regional rapid re-
17 sponse authorities.

18 “(c) IMPLEMENTATION.—Not later than 3 years after
19 the date of enactment of the National Oceans Protection
20 Act of 2005, the Director of the United States Geological
21 Survey, the Administrator of the National Oceanic and At-
22 mospheric Administration, and the Administrator (in con-
23 sultation with the Invasive Species Council and in coordi-
24 nation with other agencies and organizations) shall imple-
25 ment a national system of ecological surveys that is—

1 “(1) carried out in cooperation with State,
2 local, port, tribal authorities, and other non-Federal
3 entities (such as colleges and universities); and

4 “(2) based on the protocols, plan, and budget
5 published under subsection (a) and any public com-
6 ment.”.

7 **SEC. 712. RAPID RESPONSE.**

8 Subtitle C of title I of the Nonindigenous Aquatic
9 Nuisance Prevention and Control Act of 1990 (16 U.S.C.
10 4721 et seq.) is amended by adding at the end the fol-
11 lowing:

12 **“SEC. 1210. RAPID RESPONSE.**

13 “(a) EMERGENCY RAPID RESPONSE FUND.—

14 “(1) ESTABLISHMENT.—There is established in
15 the Treasury of the United States a revolving fund
16 to assist States in implementing rapid response
17 measures for aquatic invasive species, to be known
18 as the ‘Emergency Rapid Response Fund’ (referred
19 to in this subsection as the ‘Fund’), consisting of—

20 “(A) such amounts as are appropriated to
21 the Fund under section 1301(g)(2)(A); and

22 “(B) any interest earned on investment of
23 amounts in the Fund under paragraph (3).

24 “(2) EXPENDITURES FROM FUND.—

1 “(A) IN GENERAL.—Subject to subpara-
2 graph (C), on request by the Secretary of the
3 Interior, the Secretary of the Treasury shall
4 transfer from the Fund to the Secretary of the
5 Interior such amounts as the Secretary of the
6 Interior determines are necessary to provide fi-
7 nancial assistance to a State or the Federal
8 rapid response team under subparagraph (B) to
9 assist in implementing rapid response measures
10 for aquatic invasive species.

11 “(B) STATE ASSISTANCE.—

12 “(i) IN GENERAL.—A State may sub-
13 mit to the Secretary of the Interior an ap-
14 plication for emergency response assistance
15 from the Fund.

16 “(ii) APPROVAL.—If the Secretary of
17 the Interior approves an application sub-
18 mitted under clause (i), the Secretary shall
19 use amounts provided to the Secretary
20 under subparagraph (A)—

21 “(I) in a case in which a State
22 has in effect a rapid response contin-
23 gency strategy that is approved under
24 subsection (b), to provide emergency
25 response assistance to the State; and

1 “(II) in a case in which the State
2 does not have a rapid response contin-
3 gency strategy approved under sub-
4 section (b) in effect, to provide emer-
5 gency response assistance to the Fed-
6 eral rapid response team established
7 under subsection (f).

8 “(iii) ADDITIONAL FUNDS.—If addi-
9 tional amounts are needed for the conduct
10 of emergency response activities in the
11 State, the Secretary of the Interior may
12 provide additional assistance to the State
13 or Federal rapid response team under this
14 paragraph.

15 “(C) ADMINISTRATIVE EXPENSES.—An
16 amount not to exceed 10 percent of the
17 amounts in the Fund shall be available for each
18 fiscal year to pay the administrative expenses
19 necessary to carry out this Act.

20 “(3) INVESTMENT OF AMOUNTS.—

21 “(A) IN GENERAL.—The Secretary of the
22 Treasury shall invest such portion of the Fund
23 as is not, in the judgment of the Secretary of
24 the Treasury, required to meet current with-
25 drawals.

1 “(B) INTEREST-BEARING OBLIGATIONS.—
2 Investments may be made only in interest-bear-
3 ing obligations of the United States.

4 “(C) ACQUISITION OF OBLIGATIONS.—For
5 the purpose of investments under subparagraph
6 (A), obligations may be acquired—

7 “(i) on original issue at the issue
8 price; or

9 “(ii) by purchase of outstanding obli-
10 gations at the market price.

11 “(D) SALE OF OBLIGATIONS.—Any obliga-
12 tion acquired by the Fund may be sold by the
13 Secretary of the Treasury at the market price.

14 “(E) CREDITS TO FUND.—The interest on,
15 and the proceeds from the sale or redemption
16 of, any obligations held in the Fund shall be
17 credited to and form a part of the Fund.

18 “(4) TRANSFERS OF AMOUNTS.—

19 “(A) IN GENERAL.—The amounts required
20 to be transferred to the Fund under this section
21 shall be transferred at least monthly from the
22 general fund of the Treasury to the Fund on
23 the basis of estimates made by the Secretary of
24 the Treasury.

1 “(B) ADJUSTMENTS.—Proper adjustment
2 shall be made in amounts subsequently trans-
3 ferred to the extent prior estimates were in ex-
4 cess of or less than the amounts required to be
5 transferred.

6 “(b) STATE RAPID RESPONSE CONTINGENCY STRAT-
7 EGIES.—The Task Force, in consultation with the
8 Invasive Species Council, shall approve a rapid response
9 contingency strategy of a State if the strategy—

10 “(1) identifies all key governmental and non-
11 governmental partners to be involved in carrying out
12 the strategy;

13 “(2) clearly designates the authorities and re-
14 sponsibilities of each partner, including the authority
15 of any State or government of an Indian tribe to dis-
16 tribute emergency funds;

17 “(3) specifies criteria for rapid response meas-
18 ures, including a diagnostic system that—

19 “(A) distinguishes cases in which rapid re-
20 sponse has a likelihood of success and cases in
21 which rapid response has no likelihood of suc-
22 cess;

23 “(B) distinguishes rapid response meas-
24 ures from ongoing management and control of

1 established populations of aquatic invasive spe-
2 cies; and

3 “(C) distinguishes instances in which the
4 rate and probability of organism dispersal is
5 significantly altered by vessel movements;

6 “(4) includes an early detection strategy that
7 supports or complements the early detection and
8 monitoring system developed under section 1108;

9 “(5) provides for a monitoring capability to as-
10 sess—

11 “(A) the extent of infestations; and

12 “(B) the effectiveness of rapid response ef-
13 forts;

14 “(6) to the maximum extent practicable, is inte-
15 grated into the State aquatic invasive species man-
16 agement plan approved under section 1204;

17 “(7) to the maximum extent practicable, in-
18 cludes rapid response tools that meet environmental
19 criteria developed under subsection (f)(4);

20 “(8) includes a public education and outreach
21 component directed at—

22 “(A) potential pathways for spread of
23 aquatic invasive species; and

1 “(B) persons involved in industries and
2 recreational activities associated with those
3 pathways; and

4 “(9) to the extent that the strategy involves
5 vessels, conforms with guidelines issued by the Sec-
6 retary under subsection (d)(2).

7 “(c) REGIONAL RAPID RESPONSE CONTINGENCY
8 STRATEGIES.—The Task Force, with the concurrence of
9 the Invasive Species Council and in consultation with the
10 regional panels of the Task Force established under sec-
11 tion 1203, shall encourage the development of regional
12 rapid response contingency strategies that—

13 “(1) provide a consistent and coordinated ap-
14 proach to rapid response; and

15 “(2) are approved by—

16 “(A) the Secretary; and

17 “(B) the Governors and Indian tribes hav-
18 ing jurisdiction over areas within a region.

19 “(d) MODEL RAPID RESPONSE CONTINGENCY
20 STRATEGIES.—Not later than 18 months after the date
21 of enactment of the National Oceans Protection Act of
22 2005—

23 “(1) the Task Force, with the concurrence of
24 the Invasive Species Council and the regional panels

1 of the Task Force established under section 1203,
2 shall develop—

3 “(A) a model State rapid response contin-
4 gency strategy (including rapid assessment ca-
5 pability) for aquatic invasive species that meets,
6 to the maximum extent practicable, the require-
7 ments of paragraphs (1) through (9) of sub-
8 section (b); and

9 “(B) a model regional rapid response con-
10 tingency strategy (including rapid assessment
11 capability) for aquatic invasive species; and

12 “(2) the Secretary, in concurrence with the
13 Task Force and the regional panels of the Task
14 Force, shall issue guidelines that describe vessel-re-
15 lated requirements that may be used in a rapid re-
16 sponse contingency strategy approved under this sec-
17 tion.

18 “(e) COST SHARING.—

19 “(1) STATE RAPID RESPONSE CONTINGENCY
20 STRATEGIES.—The Federal share of the cost of ac-
21 tivities carried out under a State rapid response con-
22 tingency strategy approved under subsection (b)
23 shall be not less than 50 percent.

24 “(2) REGIONAL RAPID RESPONSE CONTINGENCY
25 STRATEGIES.—The Federal share of the cost of ac-

1 activities carried out under a regional rapid response
2 contingency strategy approved under subsection (c)
3 shall be not less than 75 percent.

4 “(3) FORM OF NON-FEDERAL SHARE.—The
5 non-Federal share required under paragraph (1) or
6 (2) may be in the form of in-kind contributions.

7 “(f) FEDERAL RAPID RESPONSE TEAMS.—

8 “(1) ESTABLISHMENT OF TEAMS.—Not later
9 than 1 year after the date of enactment of the Na-
10 tional Oceans Protection Act of 2005, the Invasive
11 Species Council, in coordination with the Task Force
12 and the heads of appropriate Federal agencies, shall
13 establish a Federal rapid response team for each of
14 the 10 Federal regions that comprise the Standard
15 Federal Regional Boundary System.

16 “(2) DUTIES OF TEAMS.—Each Federal rapid
17 response team shall, at a minimum—

18 “(A) implement rapid eradication or con-
19 trol responses for newly detected aquatic
20 invasive species on Federal and tribal land;

21 “(B) carry out, or assist in carrying out,
22 rapid responses for newly detected aquatic
23 invasive species on non-Federal land at the re-
24 quest of a State, Indian tribe, or group of
25 States or Indian tribes;

1 “(C) provide training and expertise for
2 State, tribal, or regional rapid responders;

3 “(D) provide central sources of informa-
4 tion for rapid responders;

5 “(E) maintain a list of researchers and
6 rapid response volunteers; and

7 “(F) in carrying out any rapid response
8 activity with respect to an aquatic noxious weed
9 listed under section 412(f) of the Plant Protec-
10 tion Act (7 U.S.C. 7712(f)), include representa-
11 tives of the Animal and Plant Health Inspection
12 Service.

13 “(3) CRITERIA FOR IDENTIFYING CASES OF
14 RAPID RESPONSE WARRANTING FEDERAL ASSIST-
15 ANCE.—Not later than 1 year after the date of en-
16 actment of the National Oceans Protection Act of
17 2005, the Task Force, with the concurrence of the
18 Invasive Species Council, shall develop criteria to
19 identify cases warranting Federal assistance for
20 rapid assessment and response under this sub-
21 section, including indicative criteria relating to, at a
22 minimum—

23 “(A) the extent to which infestations of
24 aquatic invasive species may be managed suc-
25 cessfully by rapid response;

1 “(B) the extent to which rapid response ef-
2 forts may differ from ongoing management and
3 control; and

4 “(C) the extent to which infestations of
5 nonindigenous aquatic invasive species are con-
6 sidered to be an acute or chronic threat to—

7 “(i) biodiversity of native aquatic or-
8 ganisms;

9 “(ii) habitats of native fish and wild-
10 life; or

11 “(iii) human health.

12 “(4) ENVIRONMENTAL CRITERIA.—Not later
13 than 1 year after the date of enactment of the Na-
14 tional Oceans Protection Act of 2005, the Adminis-
15 trator, in consultation with the Invasive Species
16 Council, the Secretary of Transportation, the Task
17 Force (including regional panels of the Task Force
18 established under section 1203), the Director, and
19 the Director of the National Marine Fisheries Serv-
20 ice, shall develop environmental criteria to minimize
21 nontarget environmental impacts of rapid responses
22 carried out pursuant to this section.”.

1 **SEC. 713. DISPERSAL BARRIERS.**

2 Section 1202 of the Nonindigenous Aquatic Nuisance
3 Prevention and Control Act of 1990 (16 U.S.C. 4722) is
4 amended—

5 (1) by redesignating subsections (j) and (k) as
6 subsections (l) and (m), respectively; and

7 (2) by inserting after subsection (i) the fol-
8 lowing:

9 “(j) NATIONAL DISPERSAL BARRIER PROGRAM.—

10 “(1) CHICAGO RIVER SHIP AND SANITARY
11 CANAL DISPERSAL BARRIER PROJECT.—

12 “(A) EXISTING BARRIER.—The Assistant
13 Secretary shall upgrade and make permanent,
14 at full Federal expense, the existing Chicago
15 sanitary and ship canal dispersal barrier in Chi-
16 cago, Illinois, constructed as a demonstration
17 project under subsection (i)(3).

18 “(B) NEW BARRIER.—Notwithstanding the
19 project cooperation agreement with the State of
20 Illinois dated November 21, 2003, the Secretary
21 shall construct, at full Federal expense, the
22 Chicago sanitary and ship canal dispersal bar-
23 rier authorized by section 1135 of the Water
24 Resources Development Act of 1986 (33 U.S.C.
25 2309a).

1 “(C) OPERATION AND MAINTENANCE.—

2 The Chicago sanitary and ship canal dispersal
3 barriers described in subparagraphs (A) and
4 (B) shall be operated and maintained as a sys-
5 tem by the Corps of Engineers, at full Federal
6 expense, in such a manner as the Chief Engi-
7 neer determines optimizes the effectiveness of
8 the barriers.

9 “(D) CREDIT.—

10 “(i) IN GENERAL.—The Assistant
11 Secretary shall provide to each State a
12 credit in an amount equal to the propor-
13 tion that—

14 “(I) the amount of funds contrib-
15 uted by the State toward the author-
16 ized dispersal barriers described in
17 subparagraphs (A) and (B); bears to

18 “(II) the amount of funds con-
19 tributed by all States toward the au-
20 thorized dispersal barriers described
21 in subparagraphs (A) and (B).

22 “(ii) USE OF CREDIT.—A State may
23 apply a credit received under clause (i) to
24 any existing or future project of the Corps
25 of Engineers in that State.

1 “(E) FEASIBILITY STUDY OF CHICAGO
2 RIVER SHIP AND SANITARY CANAL.—

3 “(i) IN GENERAL.—Not later than 3
4 years after the date of enactment of the
5 National Oceans Protection Act of 2005,
6 the Assistant Secretary, in consultation
7 with appropriate Federal, State, local, and
8 non-governmental entities, shall conduct a
9 feasibility study of the full range of options
10 available to prevent the spread of aquatic
11 invasive species through the Chicago River
12 Ship and Sanitary Canal dispersal barrier.

13 “(ii) MATTERS TO BE STUDIED.—The
14 study shall—

15 “(I) provide recommendations
16 concerning additional measures and
17 long-term measures necessary to im-
18 prove the performance of the Chicago
19 River Ship and Sanitary Canal dis-
20 persal barrier; and

21 “(II) examine methods and meas-
22 ures necessary to achieve, to the max-
23 imum extent practicable—

1 “(aa) 100 percent efficacy of
2 the barrier with respect to aquat-
3 ic invasive species of fish; and

4 “(bb) maximum efficacy of
5 the barrier with respect to other
6 taxa of aquatic invasive species.

7 “(F) REIMBURSEMENT.—The State of Illi-
8 nois shall be reimbursed for all State funds ex-
9 pended on the planning, design, construction,
10 and operation and maintenance of the project
11 identified, along with any subsequent modifica-
12 tions, in the report entitled ‘Aquatic Nuisance
13 Species Dispersal Barrier II’, dated December
14 2002, issued under section 1135 of the Water
15 Resources Development Act of 1986 (33 U.S.C.
16 2294 note; 100 Stat. 4251).

17 “(2) MONITORING PROGRAM.—

18 “(A) ESTABLISHMENT.—Not later than 1
19 year after the date of enactment of the Na-
20 tional Oceans Protection Act of 2005, the Sec-
21 retary of the Interior shall establish an
22 interbasin and intrabasin monitoring program.

23 “(B) REQUIRED ELEMENTS.—The moni-
24 toring program shall—

1 “(i) track aquatic invasive species
2 moving through—

3 “(I) the Chicago River Ship and
4 Sanitary Canal;

5 “(II) the Lake Champlain Canal;

6 “(III) other interbasin water-
7 ways; and

8 “(IV) major river systems (such
9 as the Mississippi River), as rec-
10 ommended by regional panels con-
11 vened under section 1203, in which
12 interbasin transfers of aquatic
13 invasive species have been shown to
14 pose a significant threat to fish and
15 wildlife resources;

16 “(ii) assess the efficacy of dispersal
17 barriers and other measures in preventing
18 the spread of aquatic invasive species
19 through the waterways; and

20 “(iii) identify waterways suitable for
21 dispersal barrier demonstration projects, in
22 addition to the waterways at which dis-
23 persal barrier demonstration projects were
24 carried out before the date of enactment of

1 the National Oceans Protection Act of
2 2005.

3 “(C) REPORTS.—The Secretary of the In-
4 terior shall issue biennial reports describing the
5 findings of the monitoring program.

6 “(3) PREVENTION AND MITIGATION PLANS FOR
7 CORPS PROJECTS.—In developing projects involving
8 interbasin waterways or other hydrologic alterations
9 that could create pathways for aquatic invasive spe-
10 cies, the Assistant Secretary shall develop adequate
11 prevention and mitigation plans for controlling the
12 dispersal of the aquatic invasive species.

13 “(4) TECHNICAL ASSISTANCE.—The Adminis-
14 trator of the National Oceanic and Atmospheric Ad-
15 ministration, acting through the Great Lakes Envi-
16 ronmental Research Laboratory, shall provide tech-
17 nical assistance to appropriate entities to assist in
18 the research conducted under this subsection.

19 “(5) ADDITIONAL WATERWAYS.—The Assistant
20 Secretary, with the concurrence of the Adminis-
21 trator, and other relevant Federal agencies, shall—

22 “(A) identify additional waterways suitable
23 for the construction of new dispersal barriers
24 (based on the monitoring program established
25 under paragraph (2));

1 “(B) determine the feasibility of a dis-
2 persal barrier project at the Lake Champlain
3 Canal and in the Upper Mississippi River and,
4 if feasible, establish a plan for a dispersal bar-
5 rier at the Lake Champlain Canal and in the
6 Upper Mississippi River; and

7 “(C) construct, maintain, and operate such
8 dispersal barriers as necessary.

9 “(6) REPORTS.—Not later than 3 years after
10 the date of enactment of the National Oceans Pro-
11 tection Act of 2005, the Assistant Secretary and the
12 Director shall jointly submit to Congress a report
13 that describes—

14 “(A) the efficacy of the Chicago River Ship
15 and Sanitary Canal dispersal barrier project;
16 and

17 “(B) a plan to provide for additional dis-
18 persal barrier demonstration projects and re-
19 lated research projects.”.

20 **SEC. 714. ENVIRONMENTAL SOUNDNESS.**

21 Section 1202 of the Nonindigenous Aquatic Nuisance
22 Prevention and Control Act of 1990 (16 U.S.C. 4722) (as
23 amended by section 713) is amended by inserting after
24 subsection (j) the following:

1 “(k) IMPROVEMENT OF TREATMENT METHODS FOR
2 AQUATIC INVASIVE SPECIES.—

3 “(1) CRITERIA TO EVALUATE ENVIRONMENTAL
4 SOUNDNESS OF TREATMENT METHODS.—

5 “(A) IN GENERAL.—Not later than 1 year
6 after the date of enactment of the National
7 Oceans Protection Act of 2005, the Adminis-
8 trator, in consultation with the Secretary, the
9 Invasive Species Council, and the Task Force
10 (including any regional panels of the Task
11 Force) shall promulgate criteria to evaluate the
12 treatment methods described in subparagraph
13 (B) for the purpose of ensuring that the treat-
14 ment methods pose no significant threat of ad-
15 verse effect on human health, public safety, or
16 the environment (including air quality and the
17 aquatic environment) that is acute, chronic, cu-
18 mulative, or collective.

19 “(B) TREATMENT METHODS.—The treat-
20 ment methods referred to in subparagraph (A)
21 are all mechanical, physical, chemical, biologi-
22 cal, and other treatment methods used in bodies
23 of water of the United States (regardless of
24 whether the bodies of water are navigable and
25 regardless of the origin of the waters), to pre-

1 vent, treat, or respond to the introduction of
2 aquatic invasive species.

3 “(C) CONSULTATION.—In carrying out
4 subparagraph (A), the Administrator shall con-
5 sult with—

6 “(i) the Secretary of Transportation;

7 “(ii) the Task Force (including the re-
8 gional panels of the Task Force established
9 under section 1203);

10 “(iii) the Director;

11 “(iv) the Assistant Secretary;

12 “(v) the Director of the National Ma-
13 rine Fisheries Service; and

14 “(vi) relevant State agencies.

15 “(2) PUBLICATION OF INFORMATION ON ENVI-
16 RONMENTALLY SOUND TREATMENT METHODS.—The
17 Administrator, in consultation with the Invasive Spe-
18 cies Council, shall publish (not later than 1 year
19 after the date of enactment of the National Oceans
20 Protection Act of 2005) and update annually—

21 “(A) a list of environmentally sound treat-
22 ment methods that may apply to a potential
23 aquatic invasive species response effort;

1 “(B) accompanying research that supports
2 the environmental soundness of each approved
3 treatment method; and

4 “(C) explicit guidelines under which each
5 treatment method can be used in an environ-
6 mentally sound manner.

7 “(3) **REPORTS.**—The Invasive Species Council
8 and Task Force shall include the information de-
9 scribed in paragraph (2) in the reports submitted
10 under section 1201(f)(2)(B).”.

11 **SEC. 715. INFORMATION, EDUCATION, AND OUTREACH.**

12 Section 1202(h) of the Nonindigenous Aquatic Nui-
13 sance Prevention and Control Act of 1990 (16 U.S.C.
14 4722(h)) is amended—

15 (1) by striking “(h) **EDUCATION.**—The Task
16 Force” and inserting the following:

17 “(h) **INFORMATION, EDUCATION, AND OUTREACH.**—

18 “(1) **IN GENERAL.**—The Task Force”; and

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

20 “(2) **ACTIVITIES.**—

21 “(A) **IN GENERAL.**—The programs carried
22 out under paragraph (1) shall include the ac-
23 tivities described in this paragraph.

24 “(B) **PUBLIC OUTREACH.**—

1 “(i) PUBLIC WARNINGS.—Not later
2 than 180 days after the date of enactment
3 of the National Oceans Protection Act of
4 2005, each Federal officer of an agency
5 that provides Federal funds to States for
6 building or maintaining public access
7 points to United States water bodies shall
8 amend the guidelines of the agency, in con-
9 sultation with relevant State agencies, to
10 encourage the posting of regionally-specific
11 public warnings or other suitable informa-
12 tional and educational materials at the ac-
13 cess points regarding—

14 “(I) the danger of spread of
15 aquatic invasive species through the
16 transport of recreational watercraft;
17 and

18 “(II) methods for removing orga-
19 nisms prior to transporting a
20 watercraft.

21 “(ii) CLEANING OF WATERCRAFT AT
22 MARINAS.—Not later than 1 year after the
23 date of enactment of the National Oceans
24 Protection Act of 2005, the Under Sec-
25 retary and the Director (in cooperation

1 with the Task Force and in consultation
2 with the States, relevant industry groups,
3 and Indian tribes) shall develop an edu-
4 cation, outreach, and training program di-
5 rected toward marinas and marina opera-
6 tors regarding—

7 “(I) checking watercraft for live
8 organisms;

9 “(II) removing live organisms
10 from the watercraft before the
11 watercraft are commercially or
12 recreationally trailered;

13 “(III) encouraging regular hull
14 cleaning and maintenance, avoiding
15 in-water hull cleaning; and

16 “(IV) other activities, as identi-
17 fied by the Secretary.

18 “(iii) PROPER DISPOSAL OF NON-
19 INDIGENOUS LIVE AQUATIC ORGANISMS IN
20 TRADE.—The Task Force shall—

21 “(I) not later than 1 year after
22 the date of enactment of the National
23 Oceans Protection Act of 2005, de-
24 velop (in consultation with industry
25 and other affected parties) guidelines

1 for proper disposal of live nonindige-
2 nous aquatic organisms in trade; and

3 “(II) use the guidelines in appro-
4 priate public information and out-
5 reach efforts.

6 “(C) 100TH MERIDIAN PROGRAM.—

7 “(i) IN GENERAL.—Not later than 1
8 year after the date of enactment of the
9 National Oceans Protection Act of 2005,
10 the Task Force shall expand the informa-
11 tion and education program directed at
12 recreational boaters in States from which
13 watercraft are transported westward across
14 the 100th meridian.

15 “(ii) ACTIVITIES.—In carrying out the
16 program, the task force shall—

17 “(I) survey owners of watercraft
18 transported westward across the
19 100th meridian to determine the
20 States of origin of most such owners;

21 “(II) provide information directly
22 to watercraft owners concerning the
23 importance of cleaning watercraft car-
24 rying live organisms before trans-
25 porting the watercraft; and

1 “(III) support education and in-
2 formation programs of the States of
3 origin to ensure that the State pro-
4 grams address westward spread.

5 “(D) INFORMATION AND EDUCATION PRO-
6 GRAM BY NATIONAL PARK SERVICE.—The Sec-
7 retary of the Interior, acting through the Direc-
8 tor of the National Park Service, shall develop
9 a program to provide public outreach and other
10 educational activities to prevent the spread of
11 aquatic invasive species by recreational
12 watercraft in parkland or through events spon-
13 sored by the National Park Service.

14 “(3) OUTREACH TO INDUSTRY.—The Task
15 Force, in conjunction with the Invasive Species
16 Council, shall carry out activities to inform and pro-
17 mote voluntary cooperation and regulatory compli-
18 ance by members of the national and international
19 maritime, horticultural, aquarium, aquaculture, pet
20 trade, and other appropriate industries with screen-
21 ing, monitoring, and control of the transportation of
22 aquatic invasive species.

23 “(4) PUBLIC ACCESS TO MONITORING INFORMA-
24 TION.—The Task Force, the Invasive Species Coun-

1 cil, and other relevant agencies, shall maintain infor-
 2 mation on the Internet regarding—

3 “(A) the best approaches for the public
 4 and private interests to use in assisting with
 5 national early detection and monitoring of
 6 aquatic invasive species in waters of the United
 7 States;

8 “(B) contact locations for joining a na-
 9 tional network of monitoring stations;

10 “(C) approved State Management Plans
 11 under section 1204(a) and Rapid Response
 12 Contingency Strategies under subsections (b)
 13 and (c) of section 1211; and

14 “(D) the list of potential invaders under
 15 section 1201(a)(4).”.

16 **Subtitle C—Aquatic Invasive**
 17 **Species Research**

18 **SEC. 721. ECOLOGICAL, PATHWAY, AND EXPERIMENTAL RE-**
 19 **SEARCH.**

20 (a) IN GENERAL.—Subtitle B of the Nonindigenous
 21 Aquatic Nuisance Prevention and Control Act of 1990 (16
 22 U.S.C. 4711 et seq.) (as amended by section 711) is
 23 amended by adding at the end the following:

1 **“SEC. 1106. ECOLOGICAL, PATHWAY, AND EXPERIMENTAL**
2 **RESEARCH.**

3 “(a) DEFINITION OF ADMINISTERING AGENCIES.—

4 “(1) IN GENERAL.—In this section and section
5 1107, the term ‘administering agencies’ means—

6 “(A) the Smithsonian Environmental Re-
7 search Center;

8 “(B) the United States Geological Survey;
9 and

10 “(C) the National Oceanic and Atmos-
11 pheric Administration (including the Great
12 Lakes Environmental Research Laboratory).

13 “(2) MEMORANDUM OF UNDERSTANDING.—The
14 administering agencies shall enter into an agreement
15 regarding implementation of this subtitle.

16 “(3) CONSULTATION.—In carrying out this sec-
17 tion, the administering agencies shall consult with—

18 “(A) the Task Force;

19 “(B) the Environmental Protection Agen-
20 cy;

21 “(C) the United States Fish and Wildlife
22 Service; and

23 “(D) other appropriate Federal and State
24 agencies.

25 “(4) COOPERATION.—In carrying out this sec-
26 tion, the administering agencies shall contract, as

1 appropriate, or otherwise cooperate with academic
2 researchers.

3 “(b) PROGRAM.—The administering agencies shall
4 develop (not later than 18 months after the date of enact-
5 ment of the National Oceans Protection Act of 2005) and
6 conduct a marine and freshwater research program (in-
7 cluding ecological and pathway surveys and experimen-
8 tation) to assess rates of, patterns of, and conditions sur-
9 rounding introductions of nonindigenous aquatic species
10 in aquatic ecosystems.

11 “(c) PURPOSE.—The purpose of the program is to
12 support efforts to prevent the introduction of, and detect
13 and eradicate, invasive species by—

14 “(1) providing information for—

15 “(A) early detection and rapid response ef-
16 forts; and

17 “(B) relevant policy questions; and

18 “(2) assessing the effectiveness of implemented
19 policies (including any standard) to prevent the in-
20 troduction and spread of aquatic invasive species.

21 “(d) PROTOCOL DEVELOPMENT.—The administering
22 agencies shall—

23 “(1) establish standardized protocols for con-
24 ducting surveys that are integrated and produce
25 comparable data, and, as practicable, build on exist-

1 ing protocols and data collection methods (including
2 surveys required under subsection (b)), including—

3 “(A) protocols to support early detection
4 surveys of nonindigenous aquatic species con-
5 ducted by Federal, State, or local agencies in-
6 volved in the management of invasive species,
7 including surveys carried out pursuant to sec-
8 tion 1105;

9 “(B) protocols to support comprehensive
10 ecological surveys conducted under this section
11 for purposes of research and analysis of rates
12 and patterns of invasions; and

13 “(C) protocols to support pathway surveys;

14 “(2) recommend a standardized approach for
15 classifying species;

16 “(3) when proposing protocols, consider rec-
17 ommendations made at the workshop conducted
18 under subsection (h);

19 “(4) subject the protocols to peer review;

20 “(5) complete the protocols not later than 1
21 year after the date of enactment of the National
22 Oceans Protection Act of 2005;

23 “(6) revise protocols as necessary; and

1 “(7) disseminate the protocols to the Task
2 Force and other Federal, State, and local stake-
3 holders.

4 “(e) ECOLOGICAL AND PATHWAY SURVEY REQUIRE-
5 MENTS.—

6 “(1) IN GENERAL.—Each comprehensive eco-
7 logical survey conducted under this section shall, at
8 a minimum—

9 “(A) document baseline ecological informa-
10 tion of the aquatic ecosystem, including—

11 “(i) to the maximum extent prac-
12 ticable, a comprehensive inventory of na-
13 tive species, nonindigenous species, and
14 species of unknown origin, present in the
15 ecosystem; and

16 “(ii) the chemical and physical charac-
17 teristics of water and underlying substrate
18 in the ecosystem;

19 “(B) in the case of nonindigenous species,
20 gather information to assist in identifying—

21 “(i) the life history of the species;

22 “(ii) the environmental requirements
23 and tolerances of the species;

24 “(iii) the native ecosystems of the spe-
25 cies; and

1 “(iv) the history of the species spread
2 from the native ecosystems of the species;

3 “(C) track the establishment of nonindige-
4 nous species, including information about the
5 estimated population of nonindigenous orga-
6 nisms to allow an analysis of the probable date
7 of introduction of the species; and

8 “(D) identify the likely pathway of entry of
9 nonindigenous species.

10 “(2) MINIMUM REQUIREMENTS.—Each pathway
11 survey conducted under this section shall, at a min-
12 imum—

13 “(A) identify which nonindigenous aquatic
14 species are being introduced, or have the poten-
15 tial to be introduced, through the pathways
16 under consideration;

17 “(B) determine the rate of organism intro-
18 duction through the pathways under consider-
19 ation; and

20 “(C) determine the practices that contrib-
21 uted to or could contribute to the introduction
22 of nonindigenous aquatic species through the
23 pathways under consideration.

24 “(f) NUMBER AND LOCATION OF SURVEY SITES.—

1 “(1) REQUIRED SITES.—The administering
2 agencies shall designate the number and location of
3 survey sites necessary to carry out marine and fresh-
4 water research required under this section.

5 “(2) EMPHASIS.—In carrying out paragraph
6 (1) and subsection (g), the administering agencies
7 shall give particular consideration to—

8 “(A) the geographic diversity of sites; and

9 “(B) the diversity of human uses and bio-
10 logical characteristics of sites.

11 “(g) COMPETITIVE GRANT PROGRAM.—

12 “(1) IN GENERAL.—In order to assist in car-
13 rying out subsections (b) and (i), the administering
14 agencies (acting through the National Oceanic and
15 Atmospheric Administration) shall administer a pro-
16 gram to award grants to academic institutions, State
17 agencies, and other appropriate groups.

18 “(2) ADMINISTRATION.—The program required
19 under this section shall be competitive, peer-re-
20 viewed, and merit-based.

21 “(h) WORKSHOP.—Not later than 120 days after the
22 date of enactment of the National Oceans Protection Act
23 of 2005, to assist in the development of the protocols and
24 design for the surveys under this section, the admin-
25 istering agencies shall—

1 “(1) convene a workshop among researchers
2 from Federal and State agencies and academic insti-
3 tutions to obtain recommendations for the develop-
4 ment of the protocols and surveys; and

5 “(2) make the results of the workshop widely
6 available to the public.

7 “(i) EXPERIMENTATION.—The administering agen-
8 cies shall conduct (at existing field stations and such other
9 sites as may be appropriate) coordinated experiments on
10 a range of taxonomic groups to identify—

11 “(1) the relationship between the introduction
12 and establishment of nonindigenous aquatic species;
13 and

14 “(2) the circumstances necessary for the species
15 to survive and thrive.

16 “(j) NATIONAL PATHWAYS AND ECOLOGICAL SUR-
17 VEYS DATABASE.—

18 “(1) IN GENERAL.—The United States Geologi-
19 cal Survey shall develop, maintain, and update, in
20 consultation and cooperation with the Smithsonian
21 Environmental Research Center and the National
22 Oceanic and Atmospheric Administration, a central
23 national database of information concerning infor-
24 mation collected under subsection (b).

1 “(2) REQUIREMENT.—The United States Geo-
2 logical Survey shall—

3 “(A) make the database widely available to
4 the public;

5 “(B) update the database not less often
6 than once every 90 days;

7 “(C) coordinate the database with existing
8 databases collecting similar information; and

9 “(D) to the maximum extent practicable,
10 format the databases in a manner such that the
11 data is useful for researchers and Federal and
12 State employees managing relevant invasive
13 species programs.”.

14 (b) VESSEL PATHWAY SURVEYS.—Section
15 1102(b)(2)(B) of Nonindigenous Aquatic Nuisance Pre-
16 vention and Control Act of 1990 (16 U.S.C.
17 4712(b)(2)(B)) is amended by striking clause (ii) and in-
18 serting the following:

19 “(ii) examine other potential modes
20 for the introduction of nonindigenous
21 aquatic species by vessel, including hull
22 fouling.”.

23 **SEC. 722. ANALYSIS.**

24 (a) IN GENERAL.—Subtitle B of the Nonindigenous
25 Aquatic Nuisance Prevention and Control Act of 1990 (16

1 U.S.C. 4711 et seq.) (as amended by section 721(a)) is
2 amended by adding at the end the following:

3 **“SEC. 1107. ANALYSIS.**

4 “(a) INVASION ANALYSIS.—

5 “(1) IN GENERAL.—Not later than 3 years
6 after the date of enactment of the National Oceans
7 Protection Act of 2005, and annually thereafter, the
8 administering agencies shall analyze data collected
9 under section 1106 and other relevant research, for
10 the purpose of preventing the introduction of, detect-
11 ing, and eradicating invasive species by—

12 “(A) providing information for early detec-
13 tion and rapid response efforts;

14 “(B) providing information for relevant
15 policy questions; and

16 “(C) assessing the effectiveness of imple-
17 mented policies to prevent the introduction and
18 spread of invasive species.

19 “(2) CONTENTS.—The analysis required under
20 paragraph (1) shall include, with respect to aquatic
21 invasive species—

22 “(A) an analysis of pathways to—

23 “(i) identify, and characterize as
24 high-, medium-, or low-risk, regional and
25 national pathways for the introduction of

1 nonindigenous aquatic species into aquatic
2 ecosystems;

3 “(ii) identify new and expanding path-
4 ways through which nonindigenous aquatic
5 species may be introduced into aquatic eco-
6 systems;

7 “(iii) identify handling practices that
8 contribute to the introduction of species in
9 pathways; and

10 “(iv) assess the risk that species cur-
11 rently used in commerce pose for introduc-
12 tion into aquatic ecosystems;

13 “(B) include patterns and rates of invasion
14 and susceptibility to invasion of various types of
15 bodies of water;

16 “(C) consider the ways in which the risk of
17 establishment of an aquatic invasive species
18 through a pathway is related to the identity and
19 number of organisms transported;

20 “(D) consider rates of spread and numbers
21 and types of pathways of spread of new popu-
22 lations of the aquatic invasive species and esti-
23 mate the potential for the spread and distribu-
24 tion of newly introduced invasive species based

1 on the environmental requirements and histor-
2 ical distribution of the species;

3 “(E) document factors that influence the
4 vulnerability of an ecosystem to invasion by a
5 nonindigenous aquatic species;

6 “(F) include a description of the potential
7 for, and impacts of, pathway management pro-
8 grams on invasion rates;

9 “(G) provide recommendations for im-
10 provements on the effectiveness of pathway
11 management;

12 “(H) to the extent practicable, determine
13 the level of reduction in live organisms of var-
14 ious taxonomic groups required to reduce to an
15 acceptable level the risk of establishment to re-
16 ceiving aquatic ecosystems; and

17 “(I) evaluate the effectiveness of manage-
18 ment actions (including any standard) at reduc-
19 ing species introductions and establishment.

20 “(3) REPORT.—The administering agencies
21 shall submit to the Task Force a report on analyses
22 conducted under this section.

23 “(b) RESEARCH TO ASSESS THE POTENTIAL OF THE
24 ESTABLISHMENT OF INTRODUCED SPECIES.—

1 “(1) IN GENERAL.—Not later than 2 years
2 after the date of enactment of the National Oceans
3 Protection Act of 2005, the administering agencies
4 shall develop, conduct peer review of, and submit to
5 the Task Force a profile of the general characteris-
6 tics of invasive species, in order to predict, to the ex-
7 tent practicable, whether a species planned for im-
8 portation is likely to invade a particular aquatic eco-
9 system if introduced.

10 “(2) RESEARCH.—In developing the profile, the
11 administering agencies shall analyze the research
12 conducted under section 1106 and other research as
13 necessary to determine—

14 “(A) characteristics of general species and
15 ecosystems (taking into account the opportunity
16 for introduction into any ecosystem); and

17 “(B) circumstances that may lead to estab-
18 lishment of a nonindigenous aquatic organism.

19 **“SEC. 1108. DISSEMINATION.**

20 “(a) IN GENERAL.—The Invasive Species Council, in
21 coordination with the Task Force, and the administering
22 agencies shall disseminate the information collected under
23 this Act to Federal, State, and local entities (including rel-
24 evant policymakers and private researchers with responsi-
25 bility over or interest in aquatic invasive species).

1 “(b) REPORTS.—The Invasive Species Council
2 shall—

3 “(1) not later than 3 years after the date of en-
4 actment of the National Oceans Protection Act of
5 2005, submit to Congress a report that describes the
6 actions and findings carried out under this Act; and

7 “(2) at least once every 3 years thereafter or
8 more often as necessary, update the report.

9 “(c) RESPONSE STRATEGY.—To enable Federal,
10 State, and local entities having responsibility for respond-
11 ing to the introduction of potentially harmful nonindige-
12 nous aquatic species to better and more rapidly respond
13 to those introductions, the Invasive Species Council, in co-
14 ordination with the Task Force, the administering agen-
15 cies, and other appropriate Federal and State agencies,
16 shall implement a national strategy for the sharing of in-
17 formation collected under this Act with those entities.

18 “(d) PATHWAY PRACTICES.—The Invasive Species
19 Council, in coordination with the Task Force, and the ad-
20 ministering agencies shall disseminate information to, and
21 develop an ongoing educational program for, pathway
22 users (including vendors and customers) to inform those
23 users about means by which users can prevent the inten-
24 tional or unintentional introduction of nonindigenous
25 aquatic species into aquatic ecosystems.

1 **“SEC. 1109. TECHNOLOGY DEVELOPMENT DEMONSTRATION**
2 **AND VERIFICATION.**

3 “(a) ENVIRONMENTALLY SOUND TECHNOLOGY DE-
4 VELOPMENT, DEMONSTRATION AND VERIFICATION.—

5 “(1) IN GENERAL.—Not later than 1 year after
6 the date of enactment of the National Oceans Pro-
7 tection Act of 2005, the Administrator, in consulta-
8 tion with the Army Corps of Engineers and the ad-
9 ministering agencies, shall develop and implement a
10 grant program to fund research, development, dem-
11 onstration, and verification of environmentally sound
12 cost-effective technologies and methods to control
13 and eradicate aquatic invasive species.

14 “(2) PURPOSES.—Proposals funded under this
15 program shall—

16 “(A) provide funds to support on-going ef-
17 forts of Federal, State, or local officials to con-
18 trol and eradicate aquatic invasive species in an
19 environmentally sound manner;

20 “(B) increase the number of environ-
21 mentally sound technologies or methods Fed-
22 eral, State, or local officials may use to control
23 or eradicate aquatic invasive species;

24 “(C) provide for the demonstration or dis-
25 semination of the technologies or methods to
26 potential end-users; and

1 “(D) verify that any technology or practice
2 meets any appropriate criteria developed for ef-
3 fectiveness and environmental soundness that
4 are established by the Administrator.

5 “(3) PREFERENCE.—In making grants under
6 this subsection, the Administrator shall give pref-
7 erence to proposals that meet criteria developed for
8 environmental soundness that are established by the
9 Administrator.

10 “(4) MERIT REVIEW.—Grants awarded through
11 this subsection shall be awarded through a competi-
12 tive, peer-reviewed process and shall be merit-based.

13 “(5) REPORT.—Not later than 3 years after the
14 date of enactment of the National Oceans Protection
15 Act of 2005, the Administrator shall submit to Con-
16 gress a report on the program conducted under this
17 subsection, including findings and recommendations
18 of the Secretary with respect to technologies and
19 methods described in paragraph (1).

20 “(b) DISPERSAL BARRIER RESEARCH PROGRAM.—
21 Not later than 1 year after the date of enactment of the
22 National Oceans Protection Act of 2005, the Assistant
23 Secretary, in conjunction with the Director and other ap-
24 propriate Federal agencies and academic researchers, shall

1 establish a research, development, and demonstration pro-
2 gram—

3 “(1) to study environmentally sound methods
4 and technologies to reduce dispersal of aquatic
5 invasive species through interbasin waterways; and

6 “(2) to assess the potential for using those
7 methods and technologies in other waterways.”.

8 (b) EXPANSION OF VESSEL PATHWAY TECHNOLOGY
9 DEMONSTRATION PROGRAM.—Section 1104(b) of the
10 Nonindigenous Aquatic Nuisance Prevention and Control
11 Act of 1990 (16 U.S.C. 4712(b)) is amended—

12 (1) by redesignating paragraphs (4) and (5) as
13 paragraphs (7) and (8), respectively; and

14 (2) by inserting after paragraph (3) the fol-
15 lowing:

16 “(4) ADDITIONAL PURPOSES.—The Secretary
17 of the Interior and the Secretary of Commerce may
18 demonstrate and verify technologies under this sub-
19 section to monitor and control pathways of organism
20 transport on vessels other than through ballast
21 water.

22 “(5) PRIORITY.—In making grants under this
23 subsection, the Secretary of the Interior and the
24 Secretary of Commerce shall give priority to tech-
25 nologies that meet criteria established in any testing

1 protocol developed under the Environmental Tech-
 2 nology Verification program of the Administrator.

3 “(6) WORKSHOP.—The Secretary of the Inte-
 4 rior and the Secretary of Commerce shall—

5 “(A) hold an annual workshop to encour-
 6 age the exchange of information between and
 7 among—

8 “(i) principal investigators for which
 9 funds are made available under this sub-
 10 section; and

11 “(ii) researchers conducting research
 12 directly relating to vessel pathway tech-
 13 nology development; and

14 “(B) make the results of the proceedings
 15 widely available to the public.”.

16 **SEC. 723. VESSEL PATHWAY STANDARDS RESEARCH.**

17 Subtitle B of the Nonindigenous Aquatic Nuisance
 18 Prevention and Control Act of 1990 (16 U.S.C. 4711 et
 19 seq.) (as amended by section 722(a)) is amended by add-
 20 ing at the end the following:

21 **“SEC. 1110. VESSEL PATHWAY STANDARDS RESEARCH.**

22 “(a) RESEARCH PROGRAM.—

23 “(1) IN GENERAL.—The Secretary and the Ad-
 24 ministrator (in coordination with the National Oce-
 25 anic and Atmospheric Administration, the Task

1 Force, and other appropriate Federal agencies and
2 academic researchers) shall develop and conduct a
3 coordinated research program to support the estab-
4 lishment and implementation of standards to prevent
5 the introduction and spread of aquatic invasive spe-
6 cies by vessels.

7 “(2) COMPONENTS.—The research program
8 shall include programs to—

9 “(A) characterize physical, chemical, and
10 biological harbor conditions relevant to ballast
11 discharge into waters of the United States to
12 provide information for the design and imple-
13 mentation of vessel vector control technologies
14 and practices;

15 “(B) develop testing protocols for deter-
16 mining the effectiveness of vector monitoring
17 and control technologies and practices;

18 “(C) research and demonstrate methods
19 for mitigating the spread of aquatic invasive
20 species by coastal voyages, including the explo-
21 ration of the effectiveness of alternative ex-
22 change zones in the near coastal areas and
23 other methods proposed to reduce the transfers
24 of organisms;

1 “(D) verify the practical effectiveness of
2 any type approval process to ensure that the
3 process produces repeatable and accurate as-
4 sessments of treatment effectiveness; and

5 “(E) evaluate the effectiveness and resid-
6 ual risk and environmental impacts associated
7 with any standard established with respect to a
8 ship pathway through experimental research.

9 “(b) PERFORMANCE TEST.—Not later than 1 year
10 after the date of enactment of the National Oceans Protec-
11 tion Act of 2005, the Secretary, in conjunction with the
12 National Institute of Standards and Technology and the
13 Maritime Administration, shall design a performance test
14 for ballast water exchange (such as a dye study) to meas-
15 ure the effectiveness of ballast water exchange.

16 “(c) NATIONAL ACADEMY OF SCIENCES STUDY.—

17 “(1) IN GENERAL.—The Secretary shall enter
18 into an agreement with the National Academy of
19 Sciences under which the Academy shall—

20 “(A) identify the relative risk of transfer of
21 various taxonomic groups of invasive species by
22 different vessel modes;

23 “(B)(i) assess the extent to which a ballast
24 water standard that virtually eliminates the risk
25 of introduction of invasive species by ballast

1 water may relate to the risk of introductions by
2 all vessel modes; and

3 “(ii) explain the degree of uncertainty in
4 such an assessment; and

5 “(C)(i) recommend methods for reducing
6 the transfers of invasive species by vessels by
7 addressing all parts and systems of vessels and
8 all related modes of transport of invasive orga-
9 nisms; and

10 “(ii) identify the research, development,
11 and demonstration needed to improve the infor-
12 mation base to support those methods, includ-
13 ing economic information.

14 “(2) REPORT.—Not later than 2 years after the
15 date of enactment of the National Oceans Protection
16 Act of 2005, the Secretary shall submit to Congress
17 a report that describes the results of the study
18 under paragraph (1).

19 “(3) IMPLEMENTATION OF RECOMMENDA-
20 TIONS.—Not later than the later of the date that is
21 1 year after the date of submission of the report
22 under paragraph (2) or the date that is 3 years after
23 the date of enactment of the National Oceans Pro-
24 tection Act of 2005, the Task Force, in conjunction
25 with the Administrator, administering agencies, and

1 other appropriate Federal agencies, shall submit to
2 the Secretary a report that describes recommenda-
3 tions for—

4 “(A) a vessel pathway treatment standard
5 that incorporates all potential modes of transfer
6 by vessel; and

7 “(B) methods for type approval and accu-
8 rate monitoring of treatment performance that
9 are simple and streamlined and follow estab-
10 lished protocols.

11 “(d) WORKING GROUP.—

12 “(1) IN GENERAL.—Not later than 2 years
13 after the date of issuance by the Secretary of any
14 standard relating to the introduction by vessels of
15 invasive species, the Secretary shall convene a work-
16 ing group (including the Administrator, the admin-
17 istering agencies, and other appropriate Federal and
18 State agencies and academic researchers) to evaluate
19 the effectiveness of that standard and accompanying
20 implementation protocols.

21 “(2) DUTIES.—The duties of the working group
22 shall include, at a minimum—

23 “(A) reviewing the effectiveness of the
24 standard in reducing the establishment of
25 invasive species in aquatic ecosystems, taking

1 into consideration the data collected under sec-
2 tion 1106; and

3 “(B) submitting recommendations to the
4 Secretary (who shall make the recommenda-
5 tions widely available to the public) for the revi-
6 sion of the standard and type approval process
7 in order to ensure—

8 “(i) effectiveness in reducing introduc-
9 tions of invasive species; and

10 “(ii) the effectiveness of accurate
11 shipboard monitoring of treatment per-
12 formance in a simple and streamlined man-
13 ner.”.

14 **SEC. 724. GRADUATE EDUCATION IN SYSTEMATICS AND**
15 **TAXONOMY.**

16 Subtitle B of the Nonindigenous Aquatic Nuisance
17 Prevention and Control Act of 1990 (16 U.S.C. 4711 et
18 seq.) (as amended by section 723) is amended by adding
19 at the end the following:

20 **“SEC. 1111. RESEARCH IN SYSTEMATICS AND TAXONOMY.**

21 “(a) IN GENERAL.—The National Science Founda-
22 tion shall establish a program to award grants to research-
23 ers at institutions of higher education and museums to
24 carry out research in systematics and taxonomy.

1 “(b) PURPOSES.—The purposes of the program
2 are—

3 “(1) to encourage scientists to pursue careers
4 in systematics and taxonomy to ensure a continuing
5 knowledge base in those disciplines;

6 “(2) to ensure that there will be adequate ex-
7 pertise in systematics and taxonomy to meet Fed-
8 eral, State, and local needs to identify invasive spe-
9 cies;

10 “(3) to develop that expertise throughout the
11 United States with an emphasis on regional diver-
12 sity; and

13 “(4) to draw on existing expertise in system-
14 atics and taxonomy at institutions of higher edu-
15 cation and museums to train the next generation of
16 systematists and taxonomists.

17 “(c) ADMINISTRATION.—

18 “(1) MERIT REVIEW.—Grants awarded through
19 this section shall be awarded through a competitive,
20 peer-reviewed process and shall be merit-based.

21 “(2) PREFERENCES.—In making grants under
22 this section, the National Science Foundation shall
23 provide a preference for—

24 “(A) projects in a diverse set of ecosystems
25 and geographic locations;

1 “(B) if applicable, projects that are inte-
2 grated with the Long Term Ecological Research
3 Network created by the National Science Foun-
4 dation;

5 “(C) projects that include student partici-
6 pation; and

7 “(D) projects carried out by institutions of
8 higher education and museums that actively
9 train students to become experts in systematics
10 and taxonomy.”.

11 **Subtitle D—Coordination**

12 **SEC. 731. PROGRAM COORDINATION.**

13 (a) MEMBERSHIP OF TASK FORCE.—Section 1201(b)
14 of the Nonindigenous Aquatic Nuisance Prevention and
15 Control Act of 1990 (16 U.S.C. 4721) is amended—

16 (1) in paragraph (6), by striking “and” at the
17 end;

18 (2) by redesignating paragraph (7) as para-
19 graph (12); and

20 (3) by inserting after paragraph (6) the fol-
21 lowing:

22 “(7) the Director of the United States Geologi-
23 cal Survey;

24 “(8) the Director of the Smithsonian Environ-
25 mental Research Center;

1 “(9) the Secretary of State;
2 “(10) the Secretary of Transportation;
3 “(11) the Secretary of Homeland Security;
4 and”.

5 (b) COORDINATION WITH INVASIVE SPECIES COUN-
6 CIL.—Section 1201(f) of the Nonindigenous Aquatic Nui-
7 sance Prevention and Control Act of 1990 (16 U.S.C.
8 4721(f)) is amended—

9 (1) by striking “Each Task Force member” and
10 inserting the following:

11 “(1) IN GENERAL.—Each member of the Task
12 Force”; and

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

14 “(2) INVASIVE SPECIES COUNCIL.—The
15 Invasive Species Council shall—

16 “(A) coordinate and cooperate with the
17 Task Force in carrying out the duties of the
18 Invasive Species Council relating to aquatic
19 invasive species;

20 “(B) not later than 2 years after the date
21 of enactment of the National Oceans Protection
22 Act of 2005, and every 3 years thereafter, sub-
23 mit to Congress a report that summarizes the
24 status of the conduct of activities authorized by
25 and required under this Act; and

1 “(C) establish any regional panels or task
2 forces in coordination with the regional panels
3 of the Task Force convened under section
4 1203.”.

5 (c) COORDINATION WITH OTHER PROGRAMS.—Sec-
6 tion 1202(c) of the Nonindigenous Aquatic Nuisance Pre-
7 vention and Control Act of 1990 (16 U.S.C. 4722(c)) is
8 amended by adding at the end the following:

9 “(3) RECOMMENDATIONS FOR LISTS.—

10 “(A) IN GENERAL.—The Task Force shall
11 annually recommend to Federal agencies of ju-
12 risdiction such additions of aquatic invasive
13 species as the Task Force determines to be ap-
14 propriate for inclusion on—

15 “(i) any list of species of wildlife cov-
16 ered by section 42 of title 18, United
17 States Code (including regulations); or

18 “(ii) any list of noxious weeds under
19 the Plant Protection Act (7 U.S.C. 7701 et
20 seq.) (including regulations promulgated
21 under that Act contained in part 360 of
22 title 7, Code of Federal Regulations (or
23 any successor regulations)).

24 “(B) PROCESS.—The Task Force may use
25 the screening process developed pursuant to

1 section 1105 to identify species pursuant to
2 subparagraph (A).”.

3 (d) REGIONAL COORDINATION.—Section 1203 of the
4 Nonindigenous Aquatic Nuisance Prevention and Control
5 Act of 1990 (16 U.S.C. 4723) is amended by adding at
6 the end the following:

7 “(d) ANNUAL INTER-REGIONAL MEETING.—The
8 Task Force shall annually convene all regional panels es-
9 tablished pursuant to this Act for the purpose of informa-
10 tion transfer between and among panels, and between the
11 panels and the Task Force, regarding aquatic invasive
12 species management.

13 “(e) ORGANIZATIONS.—

14 “(1) IN GENERAL.—An interstate organization
15 that has a Federal charter authorized by law or ex-
16 ecutive order for purposes of fisheries or natural re-
17 source management may develop and implement—

18 “(A) regional aquatic invasive species man-
19 agement plans; and

20 “(B) rapid response activities that are—

21 “(i) requested by the Governors of the
22 member States of the organization; and

23 “(ii) consistent with any relevant
24 State aquatic invasive species management
25 plans.

1 “(2) FUNDS.—The interstate organization may
2 receive funds under this Act to implement activities
3 under the regional aquatic invasive species manage-
4 ment plan of the organization.”.

5 (e) STATE AQUATIC INVASIVE SPECIES MANAGE-
6 MENT PLANS.—Section 1204(a) of the Nonindigenous
7 Aquatic Nuisance Prevention and Control Act of 1990 (16
8 U.S.C. 4724(a)) is amended—

9 (1) in paragraph (2)—

10 (A) in subparagraph (A), by inserting be-
11 fore the semicolon at the end the following: “,
12 including, in accordance with guidelines issued
13 by the Task Force under paragraph (5)—

14 “(i) rapid assessment and response
15 contingency strategies under section 1211;

16 “(ii) early detection strategies under
17 section 1211(b)(4); and

18 “(iii) aquatic plant control programs
19 conducted pursuant to other laws”; and

20 (B) in subparagraph (D), by inserting “in-
21 clude” after “(D)”; and

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

23 “(5) GUIDELINES.—

24 “(A) IN GENERAL.—Not later than 1 year
25 after the date of enactment of the National

1 Oceans Protection Act of 2005, the Task Force
2 shall amend the guidelines of the Task Force
3 for the development of plans under this sub-
4 section, including guidelines for reporting
5 progress in implementing the plans, to encour-
6 age consistency in implementation of and re-
7 porting under those plans.

8 “(B) GUIDELINES.—The guidelines pub-
9 lished under subparagraph (A) shall include, for
10 the purpose of paragraph (2)(A), guidelines
11 concerning—

12 “(i) rapid response contingency strate-
13 gies under section 1211;

14 “(ii) early detection strategies under
15 section 1211(b)(4);

16 “(iii) aquatic plant control programs
17 conducted pursuant to other laws; and

18 “(iv) the review and revision of re-
19 quirements of this subsection and the re-
20 approval process under this subsection.

21 “(6) RELATIONSHIP TO OTHER PLANS.—

22 “(A) IN GENERAL.—A plan approved
23 under paragraph (4) shall be deemed to meet
24 any State planning requirement of the program
25 established under section 104 of the River and

1 Harbor Act of 1958 (33 U.S.C. 610) for a plan
2 to control noxious aquatic plant growths.

3 “(B) ENFORCEMENT.—Funds provided to
4 States for implementation of plans pursuant to
5 section 1204 may be used by States to enforce
6 requirements relating to aquatic invasive species
7 under the Plant Protection Act (7 U.S.C. 7701
8 et seq.) (including regulations promulgated
9 under that Act contained in part 360 of title 7,
10 Code of Federal Regulations (or any successor
11 regulations)).

12 “(7) ELIGIBILITY OF EXISTING PLANS.—A plan
13 approved under this section as of the day imme-
14 diately before the date of enactment of the National
15 Oceans Protection Act of 2005 shall be eligible to re-
16 ceive a grant awarded under this section.

17 “(8) REVIEW AND REVISION.—

18 “(A) IN GENERAL.—Each State shall peri-
19 odically review and, as necessary, revise the
20 management plan of the State in accordance
21 with guidelines of the Task Force.

22 “(B) UPDATE OF EXISTING PLANS.—A
23 plan approved under this section as of the day
24 immediately before the date of enactment of the
25 National Oceans Protection Act of 2005 shall

1 be updated after the date of enactment of the
2 National Oceans Protection Act of 2005 to con-
3 form to the guidelines published under para-
4 graph (5).

5 “(9) OTHER STATE MANAGEMENT PLANS.—In
6 addition to the management plans required under
7 this subsection, the Director shall encourage each
8 State to develop and implement new, and expand ex-
9 isting, State management plans to improve State ac-
10 tions to prevent and control aquatic invasive spe-
11 cies.”.

12 (f) GRANT PROGRAM.—Section 1204(b)(1) of the
13 Nonindigenous Aquatic Nuisance Prevention and Control
14 Act of 1990 (16 U.S.C. 4724(b)(1)) is amended by strik-
15 ing “subsection (a) for the implementation of those
16 plans.” and inserting the following: “subsection (a)—

17 “(A) to develop those plans with a total
18 amount that does not exceed 10 percent of the
19 amounts made available for grants under this
20 section for each fiscal year; and

21 “(B) to implement those plans.”.

22 **SEC. 732. INTERNATIONAL COORDINATION.**

23 (a) IN GENERAL.—Subtitle E of the Nonindigenous
24 Aquatic Nuisance Prevention and Control Act of 1990 (16
25 U.S.C. 4751 et seq.) is amended—

1 (1) by striking the subtitle heading and insert-
2 ing the following:

3 **“Subtitle E—Administration”;**

4 and

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

6 **“SEC. 1402. INTERNATIONAL COORDINATION.**

7 “(a) IN GENERAL.—The Task Force, the Invasive
8 Species Council, and the Secretary of State shall, to the
9 maximum extent practicable, ensure that international ef-
10 forts to prevent, detect, monitor, assess, and control
11 aquatic invasive species (including through the Inter-
12 national Maritime Organization, the International Con-
13 vention on the Exploration of the Sea, the Global Invasive
14 Species Program, and other appropriate programs) are co-
15 ordinated with policies of the United States established by
16 this Act.

17 “(b) COORDINATION WITH NEIGHBORING COUN-
18 TRIES.—

19 “(1) IN GENERAL.—The Task Force, in con-
20 sultation with the Secretary of State, shall include in
21 the report required by section 1202(m) a description
22 of the means by which international agreements and
23 regulations with countries that share a border with
24 the United States will be implemented and enforced

1 by Federal agencies (including a clarification of the
2 roles and responsibilities of those agencies).

3 “(2) NEGOTIATIONS.—As soon as practicable
4 after the date of enactment of the National Oceans
5 Protection Act of 2005, the Secretary of State may
6 enter into negotiations with—

7 “(A) Canada to issue a request that the
8 International Joint Commission, not later than
9 18 months after the date of enactment of that
10 Act, review, research, conduct hearings on, and
11 submit to the parties represented on the Inter-
12 national Joint Commission a report that de-
13 scribes the success of current policies of govern-
14 ments in the United States and Canada having
15 jurisdiction over the Great Lakes in antici-
16 pating and preventing biological invasions of
17 the aquatic ecosystem in the Great Lakes, in-
18 cluding—

19 “(i) an analysis of current Federal,
20 State or Provincial, local, and international
21 laws, enforcement practices, and agree-
22 ments;

23 “(ii) an analysis of prevention efforts
24 relating to all likely pathways for biological

1 invasions of the aquatic ecosystem in the
2 Great Lakes; and

3 “(iii) recommendations of the Inter-
4 national Joint Commission for means by
5 which to improve and harmonize the poli-
6 cies and enforcement practices referred to
7 in clause (i); and

8 “(B) Mexico, to ensure coordination of ef-
9 forts of the United States with efforts of Mex-
10 ico to manage invasive species established in the
11 United States-Mexico border region.”.

12 **Subtitle E—Authorization of**
13 **Appropriations**

14 **SEC. 741. AUTHORIZATION OF APPROPRIATIONS.**

15 Section 1301 of the Nonindigenous Aquatic Nuisance
16 Prevention and Control Act of 1990 (16 U.S.C. 4741) is
17 amended to read as follows:

18 **“SEC. 1301. AUTHORIZATION OF APPROPRIATIONS.**

19 “(a) IN GENERAL.—Except as otherwise provided in
20 this section, there are authorized to be appropriated such
21 sums as are necessary to carry out this Act for each of
22 fiscal years 2006 through 2010.

23 “(b) TASK FORCE AND AQUATIC INVASIVE SPECIES
24 PROGRAM.—There are authorized to be appropriated for
25 each of fiscal years 2006 through 2010—

1 “(1) \$8,000,000, to carry out activities of the
2 Task Force under section 1202, of which—

3 “(A) \$4,000,000 shall be used by the Di-
4 rector;

5 “(B) \$3,000,000 shall be used by the Na-
6 tional Oceanic and Atmospheric Administration;
7 and

8 “(C) \$1,000,000 shall be used by the
9 Invasive Species Council;

10 “(2) \$30,000,000, to provide grants under sec-
11 tion 1204(b); and

12 “(3) \$3,000,000, to provide assistance to the
13 regional panels of the Task Force.

14 “(c) INTERNATIONAL COORDINATION.—There is au-
15 thorized to be appropriated to the Department of State
16 to carry out section 1403 \$1,000,000 for each of fiscal
17 years 2006 through 2010.

18 “(d) PREVENTION OF INTRODUCTION BY VESSELS
19 OF AQUATIC INVASIVE SPECIES INTO WATERS OF THE
20 UNITED STATES.—There are authorized to be appro-
21 priated for each of fiscal years 2006 through 2010—

22 “(1) \$6,000,000, to be used by the Secretary to
23 carry out section 1101;

24 “(2) \$2,500,000, to be used by the Adminis-
25 trator to carry out section 1101; and

1 “(3) \$2,750,000, to be used by the Task Force
2 to carry out section 1101, of which—

3 “(A) \$1,500,000 shall be used by the Di-
4 rector; and

5 “(B) \$1,250,000 shall be used by the Na-
6 tional Oceanic and Atmospheric Administration.

7 “(e) PREVENTION OF THE INTRODUCTION BY NON-
8 VESSEL PATHWAYS OF AQUATIC INVASIVE SPECIES INTO
9 WATERS OF THE UNITED STATES.—There are authorized
10 to be appropriated for each of fiscal years 2006 through
11 2010 \$5,000,000, to carry out the priority pathway man-
12 agement program under section 1210, of which—

13 “(1) \$2,000,000 shall be used by the National
14 Oceanic and Atmospheric Administration; and

15 “(2) \$3,000,000 shall be used by the Director.

16 “(f) EARLY DETECTION AND MONITORING.—There
17 is authorized to be appropriated, to carry out early detec-
18 tion, monitoring, and survey planning and implementation
19 under section 1106, \$2,000,000 for each of fiscal years
20 2006 and 2007 and \$10,000,000 for each of fiscal years
21 2008 through 2010, of which—

22 “(1) for each of fiscal years 2006 and 2007—

23 “(A) \$1,000,000 shall be used by the Na-
24 tional Oceanic and Atmospheric Administration;
25 and

1 “(B) \$1,000,000 shall be used by the Di-
2 rector; and

3 “(2) for each of fiscal years 2008 through
4 2010—

5 “(A) \$5,000,000 shall be used by the Na-
6 tional Oceanic and Atmospheric Administration;
7 and

8 “(B) \$5,000,000 shall be used by the Di-
9 rector.

10 “(g) CONTAINMENT AND CONTROL.—

11 “(1) DISPERSAL BARRIERS.—There are author-
12 ized to be appropriated for each of fiscal years 2006
13 through 2010—

14 “(A) \$300,000, to be used by the Assistant
15 Secretary in carrying out operation and mainte-
16 nance of the Chicago River Canal Dispersal
17 Barrier under section 1202(j)(1);

18 “(B) \$1,800,000, to be used by the Assist-
19 ant Secretary in carrying out the complete con-
20 struction of the Chicago River Canal Dispersal
21 Barrier;

22 “(C) \$8,000,000, to be used by the Assist-
23 ant Secretary for the construction of a second
24 long-service life barrier for the Chicago River
25 Canal;

1 “(D) \$500,000, to be used by the Assist-
2 ant Secretary to carry out a feasibility study for
3 the construction described in subparagraph (C);
4 and

5 “(E) \$2,150,000, to be used by the Direc-
6 tor to carry out the monitoring program under
7 section 1202(j)(2).

8 “(2) RAPID RESPONSE.—There are authorized
9 to be appropriated for each of fiscal years 2006
10 through 2010—

11 “(A) \$25,000,000, to the Emergency
12 Rapid Response Fund established under section
13 1211(a), to remain available until expended;

14 “(B) \$1,000,000, to be used by the
15 Invasive Species Council in developing the State
16 and regional rapid response contingency strat-
17 egy under section 1211; and

18 “(C) \$1,500,000, to be used for Federal
19 rapid response teams under section 1211(f), of
20 which—

21 “(i) \$500,000 shall be used by the
22 National Oceanic and Atmospheric Admin-
23 istration; and

24 “(ii) \$1,000,000 shall be used by the
25 Director.

1 “(3) ENVIRONMENTAL SOUNDNESS.—There is
2 authorized to be appropriated for establishment
3 under section 1202(k) of criteria for the improve-
4 ment of treatment methods for aquatic invasive spe-
5 cies \$600,000 for each of fiscal years 2006 through
6 2010.

7 “(h) INFORMATION, EDUCATION AND OUTREACH.—
8 There are authorized to be appropriated for each of fiscal
9 years 2006 through 2010—

10 “(1) \$500,000, to be used by the Secretary of
11 the Interior to carry out the information and edu-
12 cation program under section 1202(h)(2)(D);

13 “(2) \$750,000, to be used by the Director in
14 carrying out the 100th meridian program under sec-
15 tion 1202(h)(2)(C);

16 “(3) \$2,000,000, to be used to carry out infor-
17 mational and educational activities of the Task
18 Force under section 1202(h), of which—

19 “(A) \$1,000,000 shall be used by the Na-
20 tional Oceanic and Atmospheric Administration;
21 and

22 “(B) \$1,000,000 shall be used by the Di-
23 rector; and

1 “(4) \$500,000, to be used by the National Oce-
2 anic and Atmospheric Administration to carry out
3 section 1202(h)(2)(B)(ii).

4 “(i) RESEARCH.—

5 “(1) ECOLOGICAL AND PATHWAY RESEARCH
6 AND ANALYSIS.—There are authorized to be appro-
7 priated for each of fiscal years 2006 through 2010—

8 “(A) \$17,000,000, to be used by the Na-
9 tional Oceanic and Atmospheric Administration
10 to carry out sections 1106 and 1107, of which
11 \$13,000,000 shall be used to carry out the
12 grant program under section 1106(g));

13 “(B) \$4,000,000, to be used by the Smith-
14 sonian Environmental Research Center to carry
15 out sections 1106 and 1107;

16 “(C) \$4,500,000, to be used by the United
17 States Geological Survey to carry out sections
18 1106 and 1107, of which \$500,000 shall be
19 used to develop, maintain, and update the data-
20 base required under section 1106(j)); and

21 “(D) \$1,650,000, to be used by the Great
22 Lakes Environmental Research Laboratory to
23 carry out the demonstration program under sec-
24 tion 1202(i).

1 “(2) DISSEMINATION.—There is authorized to
2 be appropriated to provide for the dissemination of
3 information by the Invasive Species Council under
4 section 1108 \$500,000 for each of fiscal years 2006
5 through 2010.

6 “(3) TECHNOLOGY DEVELOPMENT, DEM-
7 ONSTRATION, AND VERIFICATION.—There are au-
8 thorized to be appropriated for each of fiscal years
9 2006 through 2010—

10 “(A) \$2,500,000, to be used by the Admin-
11 istrator for the purposes of environmental
12 soundness screening and improvement under
13 section 1109(a);

14 “(B) \$1,000,000, to be used by the Assist-
15 ant Secretary to carry out the program under
16 section 1109(b); and

17 “(C) \$7,500,000, to carry out vessel path-
18 way technology development under sections
19 1104 and 1301(e).

20 “(4) VESSEL PATHWAY STANDARDS RE-
21 SEARCH.—There are authorized to be appro-
22 priated—

23 “(A) for each of fiscal years 2006 through
24 2010, \$3,000,000, to be used for research in
25 support of vessels pathway standards and tech-

1 nology evaluation under section 1110(a) of
2 which—

3 “(i) \$1,500,000 shall be used by the
4 Administrator; and

5 “(ii) \$2,000,000 shall be used by the
6 Secretary of the Coast Guard;

7 “(B) for each of fiscal years 2006 through
8 2008, \$500,000, to be used by the Coast Guard
9 to carry out the performance test required
10 under section 1110(b); and

11 “(C) for fiscal year 2006, \$500,000, to be
12 used by the Secretary of the Coast Guard to
13 enter into an agreement with the National
14 Academy of Sciences to carry out the study re-
15 quired under section 1110(c).

16 “(5) RESEARCH IN SYSTEMATICS AND TAX-
17 ONOMY.—There is authorized to be appropriated for
18 the National Research Foundation to provide re-
19 search grants for systematics and taxonomy under
20 section 1111 \$2,500,000 for each of fiscal years
21 2006 through 2010.”.

1 **Subtitle F—Conforming**
2 **Amendments**

3 **SEC. 751. CONFORMING AMENDMENTS.**

4 (a) IN GENERAL.—The Nonindigenous Aquatic Nui-
5 sance Prevention and Control Act of 1990 is amended—

6 (1) in section 1102 (16 U.S.C. 4712)—

7 (A) in subsection (a), by striking the sub-
8 section heading and inserting the following:

9 “(a) STUDIES ON INTRODUCTION OF AQUATIC
10 INVASIVE SPECIES BY VESSELS.—”; and

11 (B) in subsection (b)—

12 (i) by striking paragraph (1); and

13 (ii) by redesignating paragraphs (2)
14 and (3) as paragraphs (1) and (2), respec-
15 tively;

16 (2) in subtitle C (16 U.S.C. 4721 et seq.), by
17 striking the subtitle heading and inserting the fol-
18 lowing:

19 **“Subtitle C—Prevention and Con-**
20 **trol of Aquatic Invasive Species**
21 **Dispersal”;**

22 (3) in section 1201(a) (16 U.S.C. 4721(a)), by
23 striking “Nuisance Species” and inserting “Invasive
24 Species”;

1 (4) in section 1202 (16 U.S.C. 4722), by strik-
2 ing the section heading and inserting the following:

3 **“SEC. 1202. AQUATIC INVASIVE SPECIES PROGRAM.”;**

4 (5) in section 1204 (16 U.S.C. 4724), by strik-
5 ing the section heading and inserting the following:

6 **“SEC. 1204. STATE AQUATIC INVASIVE SPECIES MANAGE-
7 MENT PLANS.”;**

8 and

9 (6) by striking “aquatic nuisance species” each
10 place it appears and inserting “aquatic invasive spe-
11 cies”.

12 (b) SHORT TITLE.—

13 (1) IN GENERAL.—Section 1001 of the Non-
14 indigenous Aquatic Nuisance Prevention and Control
15 Act of 1990 (16 U.S.C. 4701) is amended by strik-
16 ing “Nonindigenous Aquatic Nuisance” and insert-
17 ing “Nonindigenous Aquatic Invasive Species”.

18 (2) REFERENCES.—Any reference in a law,
19 map, regulation, document, paper, or other record of
20 the United States to the Nonindigenous Aquatic
21 Nuisance Prevention and Control Act of 1990 shall
22 be deemed to be a reference to the Nonindigenous
23 Aquatic Invasive Species Prevention and Control Act
24 of 1990.

1 **TITLE VIII—CONTAMINATED**
2 **SEDIMENTS**

3 **SEC. 801. DESIGNATION OF SITES.**

4 (a) CONSULTATION.—Section 102(c)(3) of the Ma-
5 rine Protection, Research, and Sanctuaries Act of 1972
6 (33 U.S.C. 1412(c)(3)) is amended in the second sentence
7 by inserting before the period at the end the following:
8 “and, not later than 3 years after the date of enactment
9 of the National Oceans Protection Act of 2005, consult
10 with each other concerning development and implementa-
11 tion of the plans”.

12 (b) DISPOSAL IMPACT EVALUATION AND RE-
13 PORTS.—Section 102(c)(4) of the Marine Protection, Re-
14 search, and Sanctuaries Act of 1972 (33 U.S.C.
15 1412(c)(4)) is amended—

16 (1) in the first sentence, by striking “After”
17 and inserting the following:

18 “(A) MANAGEMENT PLANS.—

19 “(i) IN GENERAL.—After”;

20 (2) in the second sentence, by striking “Begin-
21 ning” and inserting the following:

22 “(B) PROHIBITIONS.—

23 “(i) IN GENERAL.—Beginning”;

24 (3) in the last sentence, by striking “Begin-
25 ning” and inserting the following:

1 “(ii) NEWPORT BEACH, CALI-
2 FORNIA.—Beginning”;

3 (4) in subparagraph (A) (as designated by
4 paragraph (1)), by adding at the end the following:

5 “(ii) DISPOSAL IMPACT EVALUATION
6 AND REPORTS.—

7 “(I) IN GENERAL.—As part of
8 the management plan required for a
9 site, the Administrator shall evaluate
10 the impact of disposal at the site and
11 submit, as part of an annual report to
12 Congress, a report describing the im-
13 pact.

14 “(II) ADMINISTRATION.—In
15 making the evaluation and preparing
16 the report, the Administrator shall
17 consider the types of effects, and
18 make the determinations, required
19 under section 228.10 of title 40, Code
20 of Federal Regulations (or a successor
21 regulation).

22 “(III) MODIFICATION OR CLO-
23 SURE OF SITES.—As part of the re-
24 port, the Administrator shall list sites
25 that are or should be modified or

1 closed and describe remedial action
2 that is necessary for such sites.”.

3 **SEC. 802. SEDIMENT QUALITY SURVEY, MONITORING, CRI-**
4 **TERIA, AND STANDARDS.**

5 (a) IN GENERAL.—Section 304(a) of the Federal
6 Water Pollution Control Act (33 U.S.C. 1314(a)) is
7 amended by adding at the end the following:

8 “(10) SEDIMENT QUALITY SURVEY, MONI-
9 TORING, CRITERIA, AND STANDARDS.—

10 “(A) DEFINITION OF CONTAMINATED
11 SEDIMENT.—In this paragraph, the term ‘con-
12 taminated sediment’ means aquatic sediment
13 that—

14 “(i) contains a pollutant or naturally
15 occurring substance in excess of appro-
16 priate geochemical, toxicological, or sedi-
17 ment quality criteria or measures; or

18 “(ii) is otherwise considered by the
19 Administrator to pose a threat to human
20 health or the environment.

21 “(B) SURVEY.—

22 “(i) IN GENERAL.—The Adminis-
23 trator, in consultation with the Adminis-
24 trator of the National Oceanic and Atmos-
25 pheric Administration, the Secretary of the

1 Army, local agencies, and other interested
2 persons, shall—

3 “(I) conduct a comprehensive na-
4 tional survey of data regarding aquat-
5 ic sediment quality in the United
6 States;

7 “(II) compile all available infor-
8 mation on the quantity, chemical and
9 physical composition, and geographic
10 location of pollutants in aquatic sedi-
11 ment, including the probable sources
12 and nonpoint sources of the pollutants
13 and identification of those sediments
14 that are contaminated sediments; and

15 “(III) not later than October 31,
16 2006, submit to Congress the find-
17 ings, conclusions, and recommenda-
18 tions of the survey, including rec-
19 ommendations for actions necessary to
20 prevent contamination of aquatic sedi-
21 ments and to control sources of con-
22 tamination.

23 “(ii) UPDATE.—Not later than 2
24 years after the date of enactment of this
25 paragraph, the Administrator shall—

1 “(I) update the survey required
2 under clause (i)(I); and

3 “(II) submit to Congress a report
4 described in clause (i)(III) on the up-
5 dated survey.

6 “(C) MONITORING.—

7 “(i) IN GENERAL.—The Adminis-
8 trator, in consultation with the Adminis-
9 trator of the National Oceanic and Atmos-
10 pheric Administration and the Secretary of
11 the Army, shall conduct a comprehensive
12 and continuing program to monitor aquatic
13 sediment quality that, at a minimum—

14 “(I) identifies the location of pol-
15 lutants in aquatic sediment;

16 “(II) identifies the extent of pol-
17 lutants in sediment (including in con-
18 taminated sediment);

19 “(III) establishes methods and
20 protocols for monitoring the physical,
21 chemical, and biological effects of pol-
22 lutants in aquatic sediment and con-
23 taminated sediment;

24 “(IV) develops a system for the
25 management, storage, and dissemina-

1 tion of data concerning aquatic sedi-
2 ment quality;

3 “(V) provides an assessment of
4 aquatic sediment quality trends over
5 time;

6 “(VI) identifies locations at
7 which pollutants in sediment may pose
8 a threat to the quality of drinking
9 water supplies, fisheries resources,
10 and marine habitats; and

11 “(VII) establishes a clearing-
12 house for information on technology,
13 methods, and practices available for
14 the remediation, decontamination, and
15 control of sediment contamination.

16 “(ii) REPORT.—Not later than Octo-
17 ber 31, 2005, and biennially thereafter, the
18 Administrator shall submit to Congress a
19 report on the findings of the monitoring
20 under clause (i).

21 “(D) CRITERIA AND STANDARDS.—

22 “(i) IN GENERAL.—Not later than 3
23 years after the date of enactment of this
24 paragraph, in carrying out paragraph (1),
25 the Administrator, in consultation with the

1 Administrator of the National Oceanic and
2 Atmospheric Administration and after pub-
3 lic notice and comment, shall promulgate
4 sediment quality criteria and standards
5 that are fully protective of the most sen-
6 sitive aquatic species at their most sen-
7 sitive life stages.

8 “(ii) INFORMATION.—The criteria and
9 standards shall be based on the best avail-
10 able scientific information from Federal,
11 regional, State, and local agencies, the pri-
12 vate sector, and academic institutions.”.

13 (b) CONFORMING AMENDMENTS.—

14 (1) Section 503 of the Water Resources Devel-
15 opment Act of 1992 (33 U.S.C. 1271) is repealed.

16 (2) Section 501(b) of the Water Resources De-
17 velopment Act of 1992 (106 Stat. 4864) is amended
18 by striking “purposes of sections 502 and 503 of
19 this title” and inserting “purpose of section 502”.

20 **SEC. 803. NO PREEMPTION OF STATE OR LOCAL AUTHOR-**
21 **ITY.**

22 Nothing in this title or any amendment made by this
23 title preempts or otherwise affects the authority of a State
24 or local government to establish or enforce any standard

1 that is more stringent than a standard established under
2 this title or an amendment made by this title.

3 **TITLE IX—OCEANS AND WATER**
4 **QUALITY**

5 **SEC. 901. WATER QUALITY CRITERIA AND STANDARDS FOR**
6 **DISCHARGES OF NUTRIENTS.**

7 (a) EFFLUENT LIMITATIONS.—

8 (1) IN GENERAL.—Section 301(b) of the Fed-
9 eral Water Pollution Control Act (33 U.S.C.
10 1311(b)) is amended—

11 (A) in paragraph (2)(F), by striking the
12 period at the end and inserting a semicolon;

13 (B) in paragraph (3)(B), by striking the
14 period at the end and inserting “; and”; and

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

16 “(4) for any advanced wastewater treatment
17 standards in accordance with section 304(d)(5),
18 compliance as expeditiously as practicable, but in no
19 case later than 3 years after the date on which the
20 standards are promulgated under that section.”.

21 (2) CONFORMING AMENDMENTS.—

22 (A) Section 301(d) of the Federal Water
23 Pollution Control Act (33 U.S.C. 1311(d)) is
24 amended by striking “paragraph (2)” and in-
25 serting “paragraphs (2) and (4)”.

1 (B) Section 302 of the Federal Water Pol-
2 lution Control Act (33 U.S.C. 1312) is amend-
3 ed—

4 (i) in subsection (a), by striking “sec-
5 tion 301(b)(2) of this Act” and inserting
6 “paragraph (2) or (4) of section 301(b)”;
7 and

8 (ii) in subsection (b)(2)(B)(ii), by
9 striking “section 301(b)(2)” and inserting
10 “paragraph (2) or (4) of section 301(b)”.

11 (b) STANDARDS FOR NUTRIENTS.—Section 303(c)(2)
12 of the Federal Water Pollution Control Act (33 U.S.C.
13 1313(c)(2)) is amended—

14 (1) in subparagraph (B)—

15 (A) in the first sentence—

16 (i) by inserting “and, not later than 3
17 years after the date of promulgation of
18 standards for nutrients under paragraph
19 (5), for all criteria under section
20 304(a)(11) on which those standards for
21 nutrients are based,” after “304(a),”; and

22 (ii) by inserting “toxic pollutants or
23 nutrients” after “presence of which”;

24 (B) in the second sentence, by inserting
25 “and nutrients” after “pollutants”; and

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

2 “(C) WATER QUALITY STANDARDS FOR
3 NUTRIENTS.—Not later than 1 year after the
4 date of publication of water quality criteria for
5 nutrients under subparagraphs (A)(i) and
6 (B)(i) of section 304(a)(11), each State shall
7 establish, in accordance with this subsection,
8 water quality standards that implement the cri-
9 teria published under those subparagraphs in
10 the State.”.

11 (c) CRITERIA FOR NUTRIENTS.—Section 304(a) of
12 the Federal Water Pollution Control Act (33 U.S.C.
13 1314(a)) (as amended by section 802(a)) is amended by
14 adding at the end the following:

15 “(11) CRITERIA FOR NUTRIENTS.—

16 “(A) COASTAL AND ESTUARINE WATERS.—
17 Not later than 5 years after the date of enact-
18 ment of this paragraph, the Administrator shall
19 publish in the Federal Register final
20 ecoregional, numeric water quality criteria for
21 nutrients in coastal and estuarine waters of the
22 United States (including waters of the contig-
23 uous zone and the territorial seas).

24 “(B) FRESHWATER.—Not later than 1
25 year after the date of enactment of this para-

1 graph, the Administrator shall publish in the
2 Federal Register final ecoregional, numeric
3 water quality criteria for nutrients in bodies of
4 freshwater in the United States.”.

5 (d) ADVANCED WASTEWATER TREATMENT STAND-
6 ARDS FOR NUTRIENT REMOVAL.—Section 304(d) of the
7 Federal Water Pollution Control Act (33 U.S.C. 1314(d))
8 is amended by adding at the end the following:

9 “(5) ADVANCED WASTEWATER TREATMENT
10 STANDARDS FOR NUTRIENT REMOVAL.—

11 “(A) IN GENERAL.—As soon as prac-
12 ticable, but in no case later than 3 years, after
13 the date of enactment of this paragraph, based
14 on the best available technology, the Adminis-
15 trator, after consultation with appropriate Fed-
16 eral and State agencies and other interested
17 persons, shall promulgate advanced wastewater
18 treatment standards for the removal of nutri-
19 ents from discharges into marine and estuarine
20 water and freshwater.

21 “(B) DETERMINATION OF STANDARDS.—
22 In determining the standards referred to in
23 subparagraph (A), the Administrator shall take
24 into consideration the factors specified in sub-
25 section (b)(2)(B).”.

1 (e) PRETREATMENT STANDARDS FOR NUTRIENTS.—
 2 Section 307(d) of the Federal Water Pollution Control Act
 3 (33 U.S.C. 1317(d)) is amended by inserting “, nutrient
 4 standard,” after “effluent standard” each place it ap-
 5 pears.

6 **SEC. 902. CONTINUING PLANNING PROCESSES FOR TOTAL**
 7 **MAXIMUM DAILY LOADS.**

8 Section 303(e) of the Federal Water Pollution Con-
 9 trol Act (33 U.S.C. 1313(e)) is amended—

10 (1) by striking “(e)(1) Each State shall have a
 11 continuing planning process approved under para-
 12 graph (2) of this subsection which” and inserting
 13 the following:

14 “(e) CONTINUING PLANNING PROCESS.—

15 “(1) IN GENERAL.—Each State shall have a
 16 continuing planning process approved under para-
 17 graph (2) that”;

18 (2) in paragraph (2), by striking “(2) Each”
 19 and all that follows through the end of the first sen-
 20 tence and inserting the following:

21 “(2) SUBMISSION.—Not later than 120 days
 22 after the date of enactment of the Water Pollution
 23 Control Amendments of 1972, each State shall sub-
 24 mit to the Administrator, for approval, a plan de-

1 scribed in this subsection that is consistent with this
2 Act.”;

3 (3) in paragraph (3)—

4 (A) by striking “(3) The Administrator”
5 and inserting the following:

6 “(3) APPROVAL.—The Administrator”;

7 (B) by striking “to him” and inserting “to
8 the Administrator”;

9 (C) by striking “include the following:”
10 and inserting “include—”;

11 (D) in subparagraph (H), by striking the
12 period at the end and inserting a semicolon;

13 (E) by adjusting the indentation of sub-
14 paragraphs (A) through (H) so as to conform
15 to the amendments made by this subsection;
16 and

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

18 “(I) an implementation plan for each total
19 maximum daily load approved under this Act;

20 “(J) a description of measures to be taken
21 to ensure compliance with all applicable water
22 quality standards; and

23 “(K) a description of special measures to
24 be taken by the State to protect sole source
25 aquifers identified under the Safe Drinking

1 Water Act (42 U.S.C. 300f et seq.), and out-
2 standing national resource waters identified
3 under this Act, in the State.”; and

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

5 “(4) UPDATING OF CONTINUING PLANNING
6 PROCESS.—

7 “(A) IN GENERAL.—Not later than 3 years
8 after the date of enactment of this paragraph,
9 and triennially thereafter, each State shall up-
10 date, and submit to the Administrator the up-
11 dated version of, the continuing planning pro-
12 cess of the State under this subsection.

13 “(B) APPROVAL OR DISAPPROVAL.—Not
14 later than 1 year after the date on which the
15 Administrator receives an updated version of a
16 continuing planning process under subpara-
17 graph (A), the Administrator shall—

18 “(i) approve the version;

19 “(ii) disapprove the version; or

20 “(iii) conditionally approve the version
21 subject to approval by the Administrator of
22 additional revisions.

23 “(C) CONDITIONAL APPROVAL.—If the Ad-
24 ministrator conditionally approves an updated
25 version of a continuing planning process under

1 subparagraph (B)(iii), the Administrator
2 shall—

3 “(i) provide the State a period of
4 time, not to exceed 1 year after the date
5 of conditional approval of the version, dur-
6 ing which the State submitting the version
7 may revise and resubmit the version; and

8 “(ii) not later than 90 days after the
9 date on which the State resubmits the
10 version, approve or disapprove the resub-
11 mitted version.

12 “(D) FEDERAL INTERVENTION.—If the
13 Administrator disapproves an updated version
14 of a continuing planning process of a State
15 under subparagraph (B)(ii) or (C)(ii), the Ad-
16 ministrator shall, not later than 2 years after
17 the date of disapproval, develop an implementa-
18 tion plan for the State that—

19 “(i) includes each total maximum
20 daily load approved under this Act; and

21 “(ii) ensures compliance with all ap-
22 plicable water quality standards.

23 “(5) AUTHORIZATION OF APPROPRIATIONS.—
24 There is authorized to be appropriated to the Ad-
25 ministrator, for use in carrying out paragraph (4)

1 and assisting States in developing more protective
2 continuing planning processes under this subsection,
3 such sums as may be necessary for each of fiscal
4 years 2006 through 2010.”.

5 **SEC. 903. SANITARY SEWER OVERFLOWS.**

6 (a) DEFINITION OF SANITARY SEWER OVERFLOW.—
7 Section 502 of the Federal Water Pollution Control Act
8 (33 U.S.C. 1362) is amended by adding at the end the
9 following:

10 “(24) SANITARY SEWER OVERFLOW.—The term
11 ‘sanitary sewer overflow’ means an overflow, spill,
12 release, or diversion of wastewater from a sanitary
13 sewer system. The term includes an overflow or re-
14 lease of wastewater that reaches waters of the
15 United States, an overflow or release of wastewater
16 that does not reach waters of the United States, and
17 a wastewater backup into a building that is caused
18 by a blockage or flow conditions in a sanitary sewer
19 (including in a publicly owned building lateral). The
20 term does not include a combined sewer overflow or
21 other discharge from the combined portions of a
22 combined sewer system, or a wastewater backup into
23 a building caused by a blockage or other malfunction
24 of a building lateral that is privately owned.”.

25 (b) SANITARY SEWER OVERFLOWS.—

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

4 **“SEC. 321. SANITARY SEWER OVERFLOWS.**

5 “(a) IN GENERAL.—Not later than 1 year after the
6 date of enactment of this section, the owner or operator
7 of a publicly owned treatment works (as defined in section
8 212), under a permit issued under this section, shall—

9 “(1) institute and use a methodology, tech-
10 nology, or management program that will alert the
11 owner or operator to the occurrence of a sanitary
12 sewer overflow in a timely manner;

13 “(2) notify the public of a sanitary sewer over-
14 flow in any area in which the overflow has the po-
15 tential to affect human health;

16 “(3) notify the public as soon as practicable
17 within 24 hours of the time at which the owner or
18 operator becomes aware of the sanitary sewer over-
19 flow;

20 “(4) immediately notify public health authori-
21 ties and owners and operators of other affected enti-
22 ties, such as public water systems, of any sanitary
23 sewer overflow that may imminently and substan-
24 tially endanger human health;

1 “(5) provide to the Administrator (or the State,
2 in the case of a State that has a permit program ap-
3 proved under this section) an oral and a written or
4 electronic report as soon as practicable, but not later
5 than 24 hours, after the time at which the owner or
6 operator becomes aware of the sanitary sewer over-
7 flow;

8 “(6) provide to the Administrator or the State,
9 as the case may be, not later than 5 days after the
10 date on which the owner or operator becomes aware
11 of the sanitary sewer overflow a written report de-
12 scribing—

13 “(A) the magnitude, duration, and sus-
14 pected cause of the sanitary sewer overflow;

15 “(B) the steps taken or planned to reduce,
16 eliminate, and prevent recurrence of the sani-
17 tary sewer overflow; and

18 “(C) the steps taken or planned to miti-
19 gate the impact of the sanitary sewer overflow;

20 “(7) report all sanitary sewer overflows to wa-
21 ters of the United States on its monthly discharge
22 monitoring report to the Administrator or the State,
23 as the case may be; and

24 “(8) report to the Administrator or the State,
25 as the case may be, the total number of sanitary

1 sewer overflows (including sanitary sewer overflows
2 that do not reach any waters of the United States)
3 in a calendar year, including the details of—

4 “(A) the quantity of wastewater that was
5 released in each sanitary sewer overflow;

6 “(B) the duration of each sanitary sewer
7 overflow;

8 “(C) the location of the sanitary sewer
9 overflow and any potentially affected receiving
10 waters;

11 “(D) the responses taken to clean up the
12 sanitary sewer overflow; and

13 “(E) the actions taken to mitigate impacts
14 and avoid further sanitary sewer overflows at
15 the site.

16 “(b) DATABASE.—The Administrator shall establish,
17 maintain, and make available to the public by electronic
18 and other means a unified, national sewage spill occur-
19 rence database that—

20 “(1) permits full access from a single point of
21 entry; and

22 “(2) includes—

23 “(A) the information reported to the Ad-
24 ministrator under subsection (a)(8);

1 “(7) STORMWATER RUNOFF FROM CONSTRUC-
2 TION AND DEVELOPMENT ACTIVITY.—As soon as
3 practicable, but in no case later than 3 years, after
4 the date of enactment of this paragraph, the Admin-
5 istrator shall issue effluent limitation guidelines for
6 the construction and development industry that are
7 based on standards of performance for the construc-
8 tion and development industry under section 306.”.

9 **SEC. 905. BEACH WATER TESTING.**

10 Section 406 of the Federal Water Pollution Control
11 Act (33 U.S.C. 1346) is amended—

12 (1) in subsection (b)(3)(A)(i), by striking “sub-
13 section (c)” and inserting “subsections (c), (e), and
14 (f)”;

15 (2) by redesignating subsections (e) through (i)
16 as subsections (g) through (k);

17 (3) in subsection (j) (as redesignated by para-
18 graph (2))—

19 (A) by striking “subsection (g)(1)(B)” and
20 inserting “subsection (h)(1)(B)”; and

21 (B) by striking “subsection (i)” and insert-
22 ing “subsection (k)”;

23 (4) in subsection (k) (as redesignated by para-
24 graph (2)), by striking “subsection (h)” and insert-
25 ing “subsection (j)”; and

1 (5) by inserting after subsection (d) the fol-
2 lowing:

3 “(e) ROUTINE MONITORING.—

4 “(1) IN GENERAL.—Each Federal, State, and
5 local program for monitoring and notification shall
6 classify all recreational waters within the jurisdiction
7 of the program into high-, medium-, and low-risk
8 categories in accordance with the publication entitled
9 ‘National Beach Guidance and Required Perform-
10 ance Criteria for Grants’ (EPA-823-B-02-0041).

11 “(2) HIGH AND MEDIUM RISK WATERS.—Dur-
12 ing the recreational season of the area served by a
13 program described in paragraph (1), the Adminis-
14 trator (with respect to waters described in sub-
15 section (d)) or the State (in the case of waters de-
16 scribed in subsection (c)(1)) shall monitor any water
17 classified as high- or medium-risk under paragraph
18 (1).

19 “(3) CLOSINGS AND PUBLIC ADVISORIES.—If a
20 water sample is collected that does not meet applica-
21 ble water quality standards, the Administrator or
22 State shall close, or issue a public advisory relating
23 to, any affected beach—

24 “(A) as soon as practicable; but

1 “(B) not later than 48 hours after the
2 sample is collected.

3 “(4) REOPENING AND REMOVING PUBLIC
4 ADVISORIES.—Before reopening, or removing a pub-
5 lic advisory relating to, a beach described in para-
6 graph (3), the Administrator or State shall collect at
7 least 1 sample that meets applicable water quality
8 standards.

9 “(f) TESTING AND NOTIFICATION AFTER SIGNIFI-
10 CANT RAIN EVENTS.—

11 “(1) IN GENERAL.—Each Federal, State, and
12 local program for monitoring and notification
13 shall—

14 “(A) establish a definition of the term ‘sig-
15 nificant rain event’ relating to each beach with-
16 in the jurisdiction of the program; and

17 “(B) require the conduct of, at the option
18 of the program—

19 “(i) the testing and notification de-
20 scribed in paragraph (2); or

21 “(ii) the preemptive action and testing
22 described in paragraph (3).

23 “(2) TESTING AND NOTIFICATION.—

24 “(A) TESTING.—Not later than 8 hours
25 after the onset of a significant rain event, the

1 Administrator (with respect to waters described
2 in subsection (d)) or the State (in the case of
3 waters described in subsection (c)(1)) shall test
4 waters described in subsections (c)(1) and (d)
5 to determine whether the waters meet applica-
6 ble water quality standards.

7 “(B) PUBLIC ADVISORIES AND CLOS-
8 INGS.—As soon as practicable, but not later
9 than 48 hours after the onset of a significant
10 rain event, if the Administrator or a State de-
11 termines under subparagraph (A) that the wa-
12 ters fail to meet applicable water quality stand-
13 ards, the Administrator or State shall—

14 “(i) issue to the media and post on all
15 affected beaches an advisory that the wa-
16 ters failed to meet applicable water safety
17 standards; or

18 “(ii) close any affected beach.

19 “(C) REMOVAL OF ADVISORIES AND RE-
20 OPENINGS.—The Administrator or State may
21 remove an advisory under subparagraph (B)(i),
22 or reopen a beach closed under subparagraph
23 (B)(ii)—

24 “(i) as soon as practicable after the
25 Administrator or State collects at least 1

1 water sample that meets applicable water
2 quality standards; or

3 “(ii) 72 hours after the end of the sig-
4 nificant rain event, as determined by the
5 Administrator or State.

6 “(3) PREEMPTIVE ACTION AND TESTING.—

7 “(A) IN GENERAL.—If a Federal, State, or
8 local program for monitoring and notification
9 described in paragraph (1) elects not to require
10 the conduct of the testing and public advisories
11 described in paragraph (2), the program shall
12 require the issuance of preemptive beach clo-
13 sures or advisories for each significant rain
14 event described in paragraph (2)(A) that, as de-
15 termined in accordance with the model de-
16 scribed in subparagraph (B), is large enough to
17 pose a significant risk of violation of 1 or more
18 recreational water quality standards established
19 under section 304(a)(9).

20 “(B) MODELS.—

21 “(i) IN GENERAL.—Not later than 1
22 year after the date of enactment of this
23 subparagraph, and annually thereafter,
24 each Federal, State, and local program for
25 monitoring and notification described in

1 subparagraph (A) shall develop a predictive
 2 rainfall model in accordance with the pub-
 3 lication entitled ‘Review of Potential Mod-
 4 eling Tools and Approaches to Support the
 5 BEACH Program’ (Office of Science and
 6 Technology 823–R–99–002).

7 “(ii) REQUIREMENTS.—A model
 8 under this subparagraph shall—

9 “(I) be based on an evaluation of
 10 the beach closure and advisory records
 11 and causes for the preceding calendar
 12 year; and

13 “(II) be calibrated and statis-
 14 tically validated.”.

15 **SEC. 906. AGRICULTURAL BEST MANAGEMENT PRACTICES.**

16 Section 303 of the Federal Water Pollution Control
 17 Act (33 U.S.C. 1313) is amended by adding at the end
 18 the following:

19 “(j) AGRICULTURAL BEST MANAGEMENT PRAC-
 20 TICES.—

21 “(1) IN GENERAL.—Not later than 18 months
 22 after the date of enactment of this subsection, the
 23 National Research Council of the National Academy
 24 of Sciences (referred to in this subsection as the

1 ‘Council’) shall submit Congress and the Adminis-
2 trator a report that—

3 “(A) analyzes the effectiveness of best
4 management practices in use by agricultural
5 producers that use fertilizer or animal wastes in
6 agricultural operations, taking into account re-
7 gional differences, including soil composition
8 and weather conditions;

9 “(B) identifies the best management prac-
10 tices that are most effective in reducing nutri-
11 ent pollution of marine and estuarine water and
12 freshwater, including those practices that have
13 the potential to provide financial benefits to ag-
14 ricultural producers;

15 “(C) evaluates available information
16 sources and technologies used by agricultural
17 producers to estimate nutrient levels needed for
18 successful production of agricultural commod-
19 ities (as defined in section 102 of the Agricul-
20 tural Trade Act of 1978 (7 U.S.C. 5602)), in-
21 cluding information and technologies used to es-
22 timate nutrient inputs from soil, water, air, and
23 plant tissue;

24 “(D) identifies any outstanding needs; and

1 “(E) recommends best practices for devel-
2 oping a mass-based, balanced accounting ap-
3 proach to nutrient management.

4 “(2) NUTRIENT MANAGEMENT PLANS.—

5 “(A) IN GENERAL.—Not later than 2 years
6 after the date of submission of the report under
7 paragraph (1), the Administrator shall by regu-
8 lation require agricultural producers the oper-
9 ations of which cause nutrients to run off or be
10 discharged into waters identified under section
11 303(d)(1)(A) as failing to meet an applicable
12 water quality standard for nutrients (including
13 bodies of water that flow into those waters), as
14 determined by the Administrator, to develop or
15 update and implement a nutrient management
16 plan.

17 “(B) REQUIREMENTS.—A nutrient man-
18 agement plan under subparagraph (A) shall, at
19 a minimum—

20 “(i) include a mass-based, balanced
21 accounting of all available nutrient sources
22 (including soil, water, plant tissue, atmos-
23 pheric deposition, and nutrient applica-
24 tions);

1 “(ii) ensure that the aggregate mass
2 of all nutrients applied by the agricultural
3 producer does not exceed actual nutrient
4 needs of agricultural commodities (as de-
5 fined in paragraph (1)(C)) produced; and

6 “(iii) to the maximum extent prac-
7 ticable, as determined by the Adminis-
8 trator, use actual measurements rather
9 than estimates.”.

10 **SEC. 907. GRANTS TO STATES FOR ESTABLISHMENT OF RE-**
11 **VOLVING FUNDS.**

12 (a) IN GENERAL.—Section 601(a) of the Federal
13 Water Pollution Control Act (33 U.S.C. 1381(a)) is
14 amended—

15 (1) by striking “and (3)” and inserting “(3)”;

16 and

17 (2) by inserting before the period at the end the
18 following: “, and (4) implementation of measures to
19 reduce urban stormwater pollution.”.

20 (b) PROJECTS AVAILABLE FOR ASSISTANCE.—Sec-
21 tion 603(c) of the Federal Water Pollution Control Act
22 (33 U.S.C. 1383(c)) is amended—

23 (1) by striking “and (3)” and inserting “(3)”;

24 and

1 (2) by striking “of this Act.” and inserting “of
2 this Act, (4) to any municipality or intermunicipal,
3 interstate, or State agency for implementation of
4 measures to reduce urban stormwater pollution, and
5 (5) to any municipality or intermunicipal, interstate,
6 or State agency for capital or technology costs asso-
7 ciated with implementation of requirements to mon-
8 itor, report, and notify the public of sanitary sewer
9 overflows under section 402.”.

10 (c) **AUTHORIZATION OF APPROPRIATIONS.**—Section
11 607 of the Federal Water Pollution Control Act (33
12 U.S.C. 1387) is amended to read as follows:

13 **“SEC. 607. AUTHORIZATION OF APPROPRIATIONS.**

14 “There are authorized to be appropriated to carry out
15 this title \$9,200,000,000 for each of fiscal years 2006
16 through 2010.”.

17 **SEC. 908. AUTHORIZATION OF APPROPRIATIONS FOR SAFE**
18 **DRINKING WATER STATE REVOLVING FUND.**

19 Section 1452(m) of the Safe Drinking Water Act (42
20 U.S.C. 300j–12(m)) is amended by striking the first sen-
21 tence and inserting “There is authorized to be appro-
22 priated to carry out this section \$2,000,000,000 for each
23 of fiscal years 2006 through 2010.”.

1 **SEC. 909. NO PREEMPTION OF STATE OR LOCAL AUTHOR-**
2 **ITY.**

3 Nothing in this title or any amendment made by this
4 title preempts or otherwise affects the authority of a State
5 or local government to establish or enforce any standard
6 that is more stringent than a standard established under
7 this title or an amendment made by this title.

8 **TITLE X—MISCELLANEOUS**
9 **PROVISIONS**

10 **SEC. 1001. CITIZEN SUITS.**

11 (a) **SUITS AUTHORIZED.**—Any person may com-
12 mence a civil suit on the person’s own behalf—

13 (1) to enjoin any person, including the United
14 States or any other governmental instrumentality or
15 agency (to the extent permitted by the 11th amend-
16 ment to the Constitution), that is alleged to be in
17 violation of this Act; or

18 (2) against the Administrator for a failure of
19 the Administrator to perform any act or duty under
20 this Act that is not discretionary.

21 (b) **JURISDICTION.**—The district courts of the United
22 States shall have jurisdiction, without regard to the
23 amount in controversy or the citizenship of the parties,
24 to enforce this Act or any such regulation or to order the
25 Administrator to perform such Act or duty, as the case
26 may be.

1 (c) VENUE.—Any suit under this section shall be
2 brought in the Federal judicial district in which occurs
3 the violation or failure, as applicable.

4 (d) INTERVENTION BY UNITED STATES.—In any suit
5 under this section in which the United States is not a
6 party, the Attorney General, at the request of the Admin-
7 istrator, may intervene on behalf of the United States as
8 a matter of right.

9 (e) AWARD OF COSTS.—The court, in issuing any
10 final order in any suit brought under this section, may
11 award costs of litigation (including reasonable attorney
12 and expert witness fees) to any party, whenever the court
13 determines such award is appropriate.

14 (f) PRESERVATION OF OTHER RIGHTS.—This section
15 shall not restrict any right that any person or class of per-
16 sons may have under any statute or common law to seek
17 enforcement of any standard or limitation or to seek any
18 other relief, including relief against the Administrator or
19 a State agency.

20 **SEC. 1002. SAVINGS PROVISIONS.**

21 Except as specifically provided, nothing in this Act
22 may be construed to modify, limit, amend, or repeal any
23 provision of any other law or to limit the authority of a
24 local or State government or the Federal Government to
25 establish more stringent standards, requirements, or re-

- 1 strictions within their respective jurisdictions, in order to
- 2 provide greater protection of ocean and coastal waters or
- 3 resources, than the protection provided under this Act.

○