

who ensure the safety of the maritime industry prepare for these highly technical jobs by meeting requisite training standards. The bill also requires that as new liquefied natural gas (LNG) terminals are approved, all of the resources necessary to adequately secure these terminals are in place. I emphasize that these provisions will not impede the development of any new project. They will simply ensure that security requirements are met before new terminals become operational.

Further, H.R. 2830 will set new and increasingly stringent standards for the treatment of ballast water through which invasive species have been introduced to some of our Nation's most fragile marine environments, such as the Chesapeake Bay. It will also give mariners the right to have cases involving the potential suspension or revocation of their professional credentials heard by the National Transportation Safety Board's administrative law judge system.

These provisions respond to compelling testimony from former Coast Guard ALJs indicating that they did not work in an environment that supported their exercise of judicial independence. Mariners who are unsafe should not be on our Nation's waterways, but fair treatment must be assured to all individuals in any legal proceeding. And the transfer of the Coast Guard's ALJ function to the National Transportation Safety Board will avoid even the potential appearance of unfairness.

Finally, the amendment takes significant new steps to ensure that our Nation's "shield of freedom" resembles the nation it is defending. The bill would require applicants to the Coast Guard Academy to be nominated by Members of Congress or other authorities. This, in conjunction with expanded minority recruiting efforts, would draw students from all of our Nation's communities to the academy, beginning the process that the Commandant himself has said is needed to expand minorities at all ranks of the more than 6,000-member officer corps from the current number of 827.

As chairman of the Subcommittee on Coast Guard and Maritime Transportation, it is my honor to be an original cosponsor of H.R. 2830, which will set standards that will ensure the Coast Guard performs at the level it expects of itself while also providing the resources necessary to enable the service to fulfill all of its missions.

Mr. LATOURETTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 2830, and I'll tell you why in just a second, but just a couple of editorial notes. One is that it is my belief that this Coast Guard reauthorization is brought to the floor in the best traditions of the Transportation and Infrastructure Committee. And I want to commend the ranking member of our full committee, Mr. MICA, for his

diligence and work, and also for expressing his remaining concerns.

I also want to express my appreciation to the chairman of our subcommittee, Mr. CUMMINGS, who I've had the pleasure now of working with about a year and a half, and I will tell you there is no Member that is more dedicated to not only the mission of the Coast Guard, but the safety of those that they entrust with supervising. It is a pleasure to serve in the post of ranking member with Mr. CUMMINGS as the chairman.

And, also, a special affection for the chairman of the full committee. I made the observation at the beginning of this Congress, and I'll repeat it again today, that obviously, as a Republican, none of us were excited about being thrust after 12 years from the majority party to the minority party, but if there was to be a Democratic Chair of the House Transportation and Infrastructure Committee, there is no one more deserving, in my opinion, perhaps in the history of the institution, than the gentleman from Minnesota (Mr. OBERSTAR). He really takes our committee, no matter what the issue, above partisanship to the goals of the Transportation Committee, and that is, safeguarding our waterways and building America.

And, lastly, while I'm saying nice things about people, I am pleased, Mr. Chairman, that the Speaker of the House, Mrs. PELOSI, has installed you as the Chairman of the Committee of the Whole for the consideration of this piece of legislation.

I rise in strong support of this bill. And I am especially proud of the ballast water provisions and the marine safety provisions located within the bill.

This bill will establish national standards requiring the treatment of ballast water to minimize the introduction of invasive species into the Great Lakes and other U.S. waters. The bill will build on a lot of work that has already been done. Those of us that are from the Great Lakes know very well the importance of this issue.

I am disappointed that we'll have a colloquy later with the chairman of the full committee relative to an amendment that was offered at the Rules Committee that would protect millions of recreational boaters from falling under a discharge permitting program designed for large oceangoing vessels. In the absence of this language, come September recreational voters will be facing fines of up to \$32,500 a day for violations of program rules. For more than 30 years, Mr. Chairman, both recreational and commercial vehicles were exempted from these programs, and I hope that the majority will join us to develop language addressing these understandings.

As well, when we get to the amendment portion of the bill, I have an amendment that I'm offering with Mr. BOUSTANY of Louisiana that addresses some of the concerns raised by the

ranking member, Mr. MICA, relative to waterside security for liquefied natural gas facilities.

Again, I want to thank the Chair of the subcommittee and the full committee for working with us. I want to thank Mr. BOUSTANY for his dogged work to make sure that we come up with a resolution that not only fits with the reality of assets that are available, builds on a long tradition that we established in 2005, but also permits us to move forward with the goal of attaining cheaper energy for Americans through the form of natural gas.

With that, Mr. Chairman, I thank the Chair very much and would reserve the balance of my time.

The CHAIRMAN. The Committee will rise informally.

The SPEAKER pro tempore (Mrs. TAUSCHER) assumed the chair.

#### FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 2903. An act to amend Public Law 110-196 to provide for a temporary extension of programs authorized by the Farm Security and Rural Investment Act of 2002 beyond April 25, 2008.

The SPEAKER pro tempore. The Committee will resume its sitting.

#### COAST GUARD AUTHORIZATION ACT OF 2008

The Committee resumed its sitting.

Mr. OBERSTAR. I would like to inquire how much time remains on each side.

The CHAIRMAN. The gentleman from Minnesota has 2½ minutes remaining. The gentleman from Ohio has 9½ minutes remaining.

Mr. OBERSTAR. Mr. Chairman, I reserve the balance of my time.

Mr. LATOURETTE. Mr. Chairman, at this time, it is my pleasure to yield 3 minutes to a gentleman I mentioned in my opening remarks, the gentleman from Louisiana (Mr. BOUSTANY), who has been a true leader in the House of Representatives on this issue of shore-side and waterside security for LNG facilities.

Mr. BOUSTANY. I want to thank my colleague for yielding time and for his work with me on an amendment to this bill that I think will improve the bill.

I also want to thank the chairman and ranking member of the committee and the ranking member of the full committee for their work in bringing together a good bill.

I rise in support of the bill, but I want to emphasize that our Nation has a growing demand for natural gas, and this amendment that I'm going to offer with my colleague and friend, Mr. LATOURETTE, will help to ensure that we don't halt future domestic liquefied natural gas expansion.

Some localities have turned their backs on this promising energy solution. And if we're going to solve our energy problems in this country, we have to make sure that we diversify our sources to the fullest extent. In Louisiana, we have prided ourselves upon producing and delivering energy that all Americans rely upon, and liquefied natural gas is certainly no exception.

This past Monday, I was down in Cameron Parish on the coast of Louisiana in my district with Secretary Bodman for the opening of the first liquefied natural gas facility to be constructed in this country in over the past 25 years. And this facility, once fully operational, will be the largest liquefied natural gas facility in the world. It's going to supply approximately 5 percent of all U.S. natural gas needs when fully operational. It has two 42-inch pipelines that will connect to provide natural gas for 75 percent of all the markets in the United States. And within the next decade, 25 percent of all natural gas will run through my district.

So clearly, as we look at this bill, we should not have provisions that could potentially kill future liquefied natural gas expansion by arbitrarily legislating that no new facility can be certified unless the Coast Guard has the assets on hand to carry out the security measures. The Coast Guard does not need to do all of this. They have limited assets. And down in my district they have worked very well with local authorities, sheriff's department, other local authorities, to bring all assets to bear to provide the necessary security. The Coast Guard must be allowed to continue to have this ability to partner with local agencies and waterway users, state government, local law enforcement, to manage and protect our waterways.

The first delivery of natural gas into the newly constructed Sabine Pass facility that I just mentioned illustrates this point. The Sabine-Neches Navigation District manages the overall river maintenance. They help fund local law enforcement efforts. And the Jefferson County, Texas sheriff's department provides helicopter overflight security. Cameron Parish, just across the river in my district, provides the marine patrol supplement. And all of this is done under the approval and guidance of the Coast Guard. So we're not undermining what the Coast Guard does, we're merely enhancing what the Coast Guard is able to do to provide security.

□ 1100

A cooperative approach is working on the gulf coast. It allows the Coast Guard to work with Southwest Louisiana authorities and Texas authorities in this situation. We shouldn't handcuff these communities in this effort.

So I urge the adoption of the amendment as we go forward with this bill.

Mr. OBERSTAR. Mr. Chairman, could the gentleman yield 15 seconds?

The CHAIRMAN. The gentleman's time has expired.

Mr. LATOURETTE. I would be happy to yield 15 seconds to the distinguished gentleman from Minnesota.

Mr. OBERSTAR. Both gentlemen made a splendid statement on the issue and during the amendment process. Because of the persuasive case you've made, we are prepared to accept your amendment.

Mr. LATOURETTE. I thank the Chair.

At this time—if the gentleman is reserving his 2½ minutes—it's my pleasure to yield 3 minutes to the distinguished gentleman from Illinois (Mr. SHIMKUS).

(Mr. SHIMKUS asked and was given permission to revise and extend his remarks.)

Mr. SHIMKUS. I also want to commend the chairman, Mr. OBERSTAR, who is really interested in transportation issues, a good man of heart, and I applaud your leadership.

Mr. Chairman, this authorization bill brings 1,500 new Coast Guardsmen. We're proud of their service.

My debate, my concern, over the past 2 weeks, obviously, is energy and the increased cost of bringing on the 1,500 new Coast Guardsmen in addition to the burden on the government. It would be better if we had lower energy costs to help meet those needs, but we don't. We have higher costs.

Of course, the Coast Guard uses aviation fuel too, quite a bit of it. So does the United States Air Force. For every \$10 over a barrel, it costs our Air Force 600 million more dollars out of the budget. We know the burden on the Coast Guard helicopters. We know the cost to the Coast Guard ships that are diesel run. For every dollar increase in diesel fuel, it costs the Coast Guard \$26 million to operate.

And this is the kind of the charts I have been using over the past 3 weeks and will continue to use this ad infinitum until this country, which is the greatest country on the face of this Earth, does what other developing countries do: that we go and explore and use our own resources to meet our own needs.

We know that we are dependent upon imported crude oil. Shame on us. Shame on us when we have the ability to meet our energy needs.

And this is what happens: When this majority took over, the price of a barrel of crude oil was \$58.31. Today it dropped a dollar from last week, \$116. That's the problem. What's the problem at the pump? From \$2.33 to \$3.55. Bringing climate change legislation, 50 cents of additional tax on gasoline, we would be paying \$4.05.

What's the solution? One, use our abundant natural resources in our country, coal-to-liquid technologies. In Illinois alone we have 250 years' worth of energy just waiting to be brought on line, turned into liquefied fuel, lowering the cost of diesel to our Coast Guard, saving the taxpayers money.

But we won't move on any bill that brings on fossil fuels and expansion of fossil fuels on this floor. Shame on us.

What's another solution? The Coast Guard protects our coast. Look at the red area over there: the Outer Continental Shelf, ripe for exploration development, natural gas, crude oil. But, no, it's off-limits. We can't get there.

Think about Katrina. The Coast Guard performed admirably.

You know what we forget? Remember that big cloud that rolled up? Tell me the major ecological damage based upon all those oil platforms in the coast. Can you name one? No. Not a single one because we can do it safely. So we can do it safely in those areas. We should not have to burden the taxpayer with \$26 million of cost for allowing crude oil prices to go up. We shouldn't do that. And that's why it's important to lower our prices.

Mr. OBERSTAR. Mr. Chairman, I continue to reserve the balance of my time.

Mr. LATOURETTE. May I ask—I know the chairman has 2½ minutes—how much time do we have?

The CHAIRMAN. The gentleman from Ohio has 3¼ minutes.

Mr. LATOURETTE. I thank the Chair.

Mr. Chairman, I would yield myself such time as I may consume to engage in two short colloquies with the chairman of the full committee, if I may.

Mr. Chairman, first of all, would you be willing to enter into a colloquy regarding the withdrawal of funds from the seamen's accounts authorized under section 405?

Mr. OBERSTAR. I invite the gentleman to pursue this colloquy.

Mr. LATOURETTE. Thank you.

Mr. Chairman, it's my understanding that it is current practice for seamen on passenger vessels to be paid in cash. Section 405 authorizes the deposit of their pay into certain approved accounts. The section also requires that those funds be available for withdrawal. I understand that, as a practical matter, many seamen want to make sure that they can make those withdrawals in cash.

Would the chairman and the chairman of the subcommittee be willing to work with us in conference to clarify the amounts that can be withdrawn from those in cash up to the amount of a seaman's pay?

Mr. OBERSTAR. Most certainly. This is a 120-year-old practice in seafaring, and we ought to address that issue, as the gentleman has rightly raised it.

Mr. LATOURETTE. I thank the Chair.

The second colloquy, if you'd be kind enough to engage in a colloquy relative to the delegation of certain functions of the Coast Guard to classification societies.

Mr. OBERSTAR. Of course. Please proceed.

Mr. LATOURETTE. Mr. Chairman, the unnumbered section in your

amendment that replaces section 318 as reported by the Transportation and Infrastructure Committee adds a new subsection, subsection (d), to section 3316 of title 46 of the United States Code. Under paragraph (2) the Secretary may delegate the Coast Guard's authority to a foreign classification society "to the extent that" the government of the society's home country, one, accepts plan review, inspections, or examinations conducted by ABS, and, two, provides to ABS equivalent access to inspect, certify, and provide related services to offshore facilities under that country's jurisdiction.

I understand that some foreign countries do not use a delegation system but instead accept plan reviews, inspections, or examinations performed by classification societies as part of a comprehensive operating plan submitted by the offshore leaseholder. Concerns have been raised that the Secretary may construe acceptance of the ABS plan reviews, inspections, or examinations as part of those comprehensive plans to be something less than full acceptance of plan review, inspections, or examinations in the United States, thus limiting the work that classification societies headquartered in those companies could perform in the United States and limiting the work that ABS can perform in foreign offshore markets.

Would the Chair be willing to work in conference to clarify what constitutes fair and full access by ABS to work in foreign offshore markets and by foreign classification societies headquartered in countries which do not use delegation schemes to work domestic offshore markets?

Mr. OBERSTAR. I thank the gentleman for raising this very complex issue on which we've devoted an enormous amount of time and visited with the Norwegian Ambassador and other interests, the American Bureau of Shipping and others, and I'm committed to working with the gentleman to resolve this issue in an equitable and fair manner as we proceed forward with it.

Mr. LATOURETTE. I thank the Chair.

Mr. Chairman, at this time I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Chairman, I rise in strong support of H.R. 2830, the Coast Guard Authorization Act.

In November of last year, the container ship *COSCO BUSAN* collided with the San Francisco Bay Bridge and spilled 58,000 gallons of bunker fuel into San Francisco Bay. The spill was one of the worst environmental disasters in San Francisco Bay history.

I have included language in this bill that would require the Coast Guard to have marine pilots carry their own navigation devices, commonly known as Portable Pilot Units. These devices are an easy and practical way to im-

prove maritime safety and to protect our environment.

I want to thank the chairman of the subcommittee, Mr. CUMMINGS, and the chairman of the full committee, Mr. OBERSTAR, and the ranking member, Mr. LATOURETTE, for working with us to include this language. I think it's very important language that could prevent these kinds of accidents from happening in the future.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. RICHARDSON).

Ms. RICHARDSON. Mr. Chairman, there is no question that America entrusts the Coast Guard to secure and properly maintain and administer America's waterways and port facilities. The task before this Chamber today is not about oil prices. In fact, it's about the Coast Guard and their ability to quickly and effectively respond to intense demands.

Americans live along the coast, and they depend upon the Coast Guard to provide that layer of protection and security. In California, where the 11th District resides, 2,600 active and 3,500 volunteer auxiliaries have saved over 500 lives. Properly funding the Coast Guard's programs through this legislation of H.R. 2830 will not only enhance marine safety but reduce the risk of maritime terrorism on some of our Nation's most sensitive ports.

The CHAIRMAN. Each side has 30 seconds remaining.

Mr. LATOURETTE. Mr. Chairman, to close the debate on our side, and I hope that Homeland Security, if they don't use all their time, can give him more time, I yield 30 seconds to a distinguished member of the full committee, the gentleman from Michigan (Mr. EHLERS).

Mr. EHLERS. Today is a great day for the Great Lakes and the coastal areas. Today is a terrible day for the zebra mussels.

And I want to thank Chairman OBERSTAR and Ranking Member LATOURETTE for their good work on this bill, because it contains measures to inspect and treat and exchange ballast water to prevent any more of those nasty invasive alien species from getting into this country, and into its waters. It now costs us about \$13 billion every year for the damage caused by invasive species. This bill will help stop any future species from coming in, and I hope we will be able to develop methods of treating these critters so that we can get rid of them and once again enjoy the pure waters of this country the way we should.

So thanks again to both of you for doing this, and let's get out there and fight those nasty zebra mussels!

Mr. OBERSTAR. Mr. Chairman, I yield for the purpose of making a unanimous consent request to the gentleman from Washington (Mr. BAIRD).

(Mr. BAIRD asked and was given permission to revise and extend his remarks.)

Mr. BAIRD. I thank the Chairman for the time and applaud him for his leadership of the

Transportation and Infrastructure Committee. I also want to thank him and Subcommittee Chairman CUMMINGS for their work in bringing this bill to the floor.

I rise today in support of the Coast Guard Authorization Act. This bill makes important strides in strengthening the modern day mission of our Coast Guard and enhancing our national security.

Also included in this bill is language clarifying the rule related to the taxation of interstate waterway workers. Under current law, most employees whose jobs require them to work in multiple states, such as our rail and airline workers for example, are taxed only by their state of residence. This has previously not been true for waterway workers. In an effort to address the unsettled tax situation of waterway workers throughout the country, I authored legislation in the 106th Congress called the "Transportation Employment Fair Taxation Act." The legislation barred states from taxing a nonresident waterway worker "who performs regularly-assigned duties while engaged as a master, officer, or crewman on a vessel operating on the navigable waters of more than one state." As the House report for this legislation stated, the purpose of the legislation was to "prohibit any State from taxing the income of a non-resident interstate waterway worker." The Senate version of this legislation was signed into law on November 9, 2000.

Unfortunately, I have recently been made aware of a 2006 decision by one state's tax court that is inconsistent with the intent of the 2000 law. The court concluded that because the bill uses the word "of" instead of "in," it only applies the waterways that are owned jointly by more than one state. This was not the intent of the 2000 law. The legislative history at the time makes clear that it was not the intent of the law. And I know what the intent was because I authored the legislation.

The legislation before us today makes a slight wording change to the 2000 law to clarify that the law is intended to apply to all interstate waterway workers on all waterways, not just workers who work on waterways that are jointly owned by two or more states. It is my sincere hope that this minor change will, in no uncertain terms, make clear that states are prohibited from taxing the income of a non-resident interstate waterway worker. I want to make clear that this is the intent of the language in the bill before us today, and it remains the intent of the law I authored in 2000.

Mr. OBERSTAR. Mr. Chairman, I yield myself the balance of my time.

I first thank the gentleman from Ohio for his very generous and very kind and thoughtful remarks. I greatly appreciate the camaraderie we share and the partnership in doing the work of the committee.

And I want to thank the gentleman from Michigan, who gave most insightful comment on this whole bill. It is a bad day for zebra mussels and spiny echinoderms and a whole host of other invasive species that we're going to deal with severely as this bill moves to enactment.

I do want to observe that the gentlewoman from California (Ms. WOOLSEY) is concerned about five Bay Area light-houses, Point Montara, Alcatraz Island, Lime Point in Fort Baker, Point

Diablo, and Point Bonita, and we will work with the gentlewoman and the Coast Guard to expedite transfer of those Coast Guard facilities to the U.S. Park Service.

And, again, I want to say, as I did at the outset, we took our time all through last year and part of this year to craft a splendid bill in an inclusive manner, hearing out the concerns of the Coast Guard and addressing extensively the concerns of the Republican members of the committee to be thorough and produce the best bill possible, and we are happy to bring this bill in good time to the House floor today.

The CHAIRMAN. Pursuant to the Chair's prior announcement, the gentleman from Mississippi (Mr. THOMPSON) and the gentleman from California (Mr. LUNGREN) each will control 10 minutes.

The Chair recognizes the gentleman from Mississippi.

Mr. THOMPSON of Mississippi. Mr. Chairman, I believe the gentleman from California wants to engage in a colloquy, so I reserve the balance of my time.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I thank the gentleman from Mississippi, and before we begin our debate on the Coast Guard Authorization Act for 2008, I yield myself such time as I may consume for the purposes of a colloquy with Mr. THOMPSON.

Mr. THOMPSON, would you please join me in remembering the sacrifice of Damage Controlman Third Class Nathan B. Bruckenthal of the U.S. Coast Guard, who was killed off the coast of Iraq on this date in 2004? He was the first U.S. Coast Guardsman to have been killed in battle since the end of the Vietnam War.

I yield to the gentleman from Mississippi.

Mr. THOMPSON of Mississippi. I thank the gentleman for yielding.

Mr. Chairman, Petty Officer Bruckenthal and two Navy petty officers were killed during a coordinated suicide attack on the oil platforms off the coast of Iraq. These men offered what President Lincoln referred to as "the last full measure of devotion" for their country.

□ 1115

Mr. DANIEL E. LUNGREN of California. Reclaiming my time, Petty Officer Bruckenthal is survived by his wife Patricia and their daughter Harper. We all join in thanking them for their sacrifice. Petty Officer Bruckenthal represented the very best of the U.S. Coast Guard and what it has to offer.

With that, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 2830 is an important milestone in protecting our Nation's port and maritime security. It is the first bill to provide adequate resources to an agency that has been systematically underfunded for years. H.R. 2830 authorizes 1,500 additional

Service Members, more Maritime Security Response Teams, more Canine Detection Teams, and the Waterway Watch program.

This bill was favorably reported by my committee on a bipartisan basis last fall. Representative KING and I share a commitment to the Coast Guard. I am pleased that we were able to work together to give the Coast Guard the resources it needs. For too long, the Coast Guard has had to make do with aging assets that do not meet the challenges of a 9/11 world. The Coast Guard is actually still operating boats that were used during World War II. It is time that these boats were retired and newer assets brought into service. These boats, however, must work.

Unfortunately, the Coast Guard has accepted, under the Deepwater contract, boats that can't even float. That is unacceptable. The American public and the men and women of the Coast Guard deserve better. The Homeland Security Committee has added the Deepwater reform provisions during our markup to get this critical program back on course.

I would like to thank Chairman OBERSTAR and Chairman CUMMINGS for displaying a willingness to work with me to bring this bill to the floor. I urge passage of this important legislation that will significantly improve the security of our Nation's maritime environment.

I reserve the balance of my time.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I yield myself such time as I may consume.

First of all, let me thank Chairman THOMPSON for his and his staff's hard work in reporting a bill from our Committee on Homeland Security in September that I believe was the result of solid bipartisan compromise, and for Chairman THOMPSON's continued cooperation over the past several months as the committee worked to bring this bill to the floor.

Obviously, we have heard from those of the Transportation and Infrastructure Committee many of the good things in this bill. I must say, however, I am disappointed that the Transportation and Infrastructure Committee largely ignored the committee on Homeland Security's improvements, particularly to those provisions relating to LNG security.

While our committee's approach was reasonable and risk-based, as we have attempted to approach all of our problems with respect to homeland security, that is with a risk-based approach, the language adopted by the other committee, I fear, abandons the risk-based approach and assumes a cookie cutter, one-size-fits all approach.

My friend from Ohio (Mr. LATOURETTE) has an amendment that would clarify that State and local resources can be considered when identifying resources available to provide the newly mandated security patrols, and I would hope that his amendment would be adopted.

I am also very concerned about two entire titles that were added to the bill after they were considered by four committees of jurisdiction. A new title X shifts 80 percent of the Coast Guard's Administrative Law Judge resources and several of the Coast Guard's ALJ authorities to the National Transportation Safety Board. This is being proposed as over 1 million TWIC cards are being issued to our rail, truck, and port workers. These are those biometric cards that we have spent so much time developing and hoping that it would finally get in place.

The effect of this provision, I fear, could leave only two ALJs, that is Administrative Law Judges, to hear any appeals to TWIC denials. That has been one of the great concerns we have had. If we have this TWIC system set up, how can people appeal if they have been denied their TWIC cards. This would dramatically slow the appeals process, to the detriment of port security and our Nation's port workers, who are relying on a timely adjudication of a TWIC for their livelihood.

As a recent letter from TSA opposing this proposal states, "ALJs at the Coast Guard have built up expertise in transportation security matters, and I fear this provision will negatively impact not only TWIC, but other programs as well, including hazardous materials endorsement, and may result in even higher fees for these workers."

Mr. OBERSTAR. Would the gentleman yield?

Mr. DANIEL E. LUNGREN of California. I would be happy to yield, yes.

Mr. OBERSTAR. Just briefly to clarify that point. We do not transfer ALJs from the Coast Guard. We leave those in place, just transfer the venue, and we will provide both in this bill and in the subsequent NTSB authorization funding for additional ALJs at the NTSB, as we did in aviation.

Mr. DANIEL E. LUNGREN of California. I hope that is true, reclaiming my time.

Mr. OBERSTAR. I just tell the gentleman that is the case.

Mr. DANIEL E. LUNGREN of California. Well, the effect of the provision is to take 80 percent of the resources that are currently allocated to the ALJ, Administrative Law Judge program, and that in effect would make it very, very difficult for them to continue, since they have a total of seven ALJs, and if you take 80 percent of the funding, I believe that would leave us with about 20 percent.

I would like to include a copy of this letter from TSA in the RECORD.

U.S. DEPARTMENT OF HOMELAND SECURITY, TRANSPORTATION SECURITY ADMINISTRATION,

Arlington, VA.

Hon. PETER T. KING,  
Ranking Member, Committee on Homeland Security,  
House of Representatives, Washington, DC.

DEAR CONGRESSMAN KING: I am writing to express the Transportation Security Administration's (TSA) strong opposition to Title X—Appeals to National Transportation Safety Board (NTSB) of the manager's amendment to H.R. 2830, the "Coast Guard Authorization Act of 2007." Title X would transfer

Coast Guard Administrative Law Judge (ALJ) authority for review of merchant mariner documentation and 80 percent of the Coast Guard ALJ budget to the NTSB. This could have an adverse impact upon the adjudication of TSA's civil enforcement cases and anticipated cases dealing with the Transportation Worker Identification Credential (TWIC) program.

TSA questions whether sufficient legal, administrative, and budget resources will continue to be provided to the Coast Guard to support its remaining ALJ functions, including adjudication of TSA security cases.

For more than 5 years, TSA has been extremely well served by the Coast Guard ALJs as fair, impartial, and responsive adjudicators in security cases involving individuals in the transportation sector. Under an interagency agreement, Coast Guard ALJs play a major role in TSA's enforcement and security credentialing programs. They adjudicate aviation security civil penalty cases, Hazardous Materials Endorsement (HME) and TWIC denials of requests for waivers and appeals from individuals who have received a Final Determination of Threat Assessment; appeals by air cargo workers who have received a Final Determination of Threat Assessment; and appeals by individuals holding or applying for Federal Aviation Administration certificates, ratings, or authorizations who have received a Final Determination of Threat Assessment.

In the absence of sufficient ALJ legal and administrative resources at the Coast Guard, TSA does not regard NTSB ALJs as a good alternative. Coast Guard ALJs have substantial expertise in fair adjudication of security programs. NTSB ALJs do not have expertise in transportation security matters. As TSA continually expands the implementation of the TWIC program and the Coast Guard enforces it at our Nation's seaports, TSA and TWIC applicants will benefit from the substantial experience Coast Guard ALJs have in the maritime security environment.

In addition, Coast Guard ALJs have been sensitive to the challenges faced by individuals representing themselves in a formal administrative process and have worked with TSA to develop simplified procedures.

TSA and Coast Guard have worked together for years to establish caseload management procedures, agreements, and funding processes to efficiently handle TSA cases. For example, the Coast Guard serves as TSA's Docketing Center for its formal hearing process. Shifting the workload to ALJs of another agency would create a huge setback for TSA enforcement and administration. ALJ coverage, budgeting, processing time, and even geographic availability would have to be reassessed and reestablished, a process that may take several years.

In addition, TSA's HME and TWIC are fee-based programs. TSA developed its fee models based on Coast Guard cost estimates and processing models. If conditions necessitate TSA's seeking ALJ services outside Coast Guard, this could affect program costs, and consequently, fees for applicants.

I would appreciate your consideration of TSA's concerns about the potential adverse impact of Title X on the efficient adjudication of important TSA security cases.

Identical letters have been sent to the Chairman of the House Homeland Security Committee as well as the Chairman and Ranking Member of the House Committee on Transportation and Infrastructure. Please do not hesitate to contact Ms. Claire Heffernan, Acting Assistant Administrator for Legislative Affairs, at (571) 227-2717 if you have any questions about this matter.

Sincerely yours,

KIP HAWLEY,  
Assistant Secretary.

The second new title, title XI, creates an assistant commandant for marine safety and a vast new super structure, including Marine Safety Specialist, that receive special benefits such as geographic stability and special promotion system. It provides for the possibility of additional pay for Coast Guard personnel in the marine safety field. Unfortunately, with no regard for those Coast Guard men and women engaged in other critical, dangerous missions like search and rescue, national defense, and port security. I wonder if we really want to do that.

It appears to elevate the Coast Guard's marine safety mission above all others. Most notably, the Commandant of the Coast Guard has real and serious concerns about this reorganization language that has never been considered by any committee, to my knowledge. I would think we would want to seriously deliberate these provisions in an open forum and give the Commandant an opportunity to voice his concerns to the Congress.

Mr. BROUN of Georgia has introduced an amendment stripping these two problematic titles so they can be considered on their merits by the appropriate congressional committee, and I am pleased that his amendment has been made in order.

Other improving amendments offered by the Committee on Homeland Security members include Mr. BILIRAKIS of Florida, an amendment to make the Coast Guard's incredibly successful biometric identification pilot program more permanent. I hope this amendment is adopted. It will help us positively identify individuals with weapons, drug trafficking, and murder convictions, and help us keep them out of the United States.

Both Mr. POE and I are offering an amendment with language to make operations of the stealth mini submarines illegal. These subs, which can carry up to 10 tons of cocaine into the United States, and have done so, would be equally capable of transporting weapons of mass destruction or would-be terrorists. They are immediately scuttled, once detected, making prosecution nearly impossible. So I hope that this amendment, when considered, would be approved on this floor.

If these concerns are not adequately addressed here on the House floor, I would look forward to working with the Senate in a conference to ensure that the men and women of the Coast Guard have the resources it needs to continue to protect the citizens of the United States. The Coast Guard is one of the jewels of our overall executive branch, particularly in DHS, and this bill, this reauthorization bill recognizes that. Although it has some defects, as I mentioned, I hope we can work those out.

With that, I would reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, for the sake of clarifying an issue brought up, I would like to yield

15 seconds to the chairman of the full T&I Committee, Mr. OBERSTAR.

Mr. OBERSTAR. I just wanted to reaffirm for my colleague in the Hip Replacement Caucus from California that when we transferred authority from the FAA to the NTSB for aviation appeals, we provided authority, funding, and we went to the Appropriations Committee to seek additional moneys, and were successful in doing that. We are committed to doing the same in the case of the Coast Guard. Again, we will provide in the NTSB authorization additional ALJ personnel for these appeals.

Mr. THOMPSON of Mississippi. Mr. Chairman, I recognize the gentleman from Rhode Island (Mr. LANGEVIN) for 2 minutes.

(Mr. LANGEVIN asked and was given permission to revise and extend his remarks.)

Mr. LANGEVIN. Mr. Chairman, I rise today in strong support of the Coast Guard Reauthorization Act of 2008, H.R. 2830, which will allow the Coast Guard to appropriately balance its dual missions of safety and security. In the past few years, we have increasingly depended on the Coast Guard to ensure our shores against drug smuggling, acts of terrorism, and other suspicious activity, while simultaneously keeping recreational and commercial boaters safe.

Unfortunately, the Coast Guard has been required to do more with less. This important measure will reverse that trend by providing an additional 1,500 Coast Guard personnel and \$8.4 billion in increased funding to ensure that the Coast Guard can carry out all of these responsibilities successfully. I am particularly pleased this bill will increase oversight and efficiency of the Transportation Worker Identification Credential, or the TWIC program as it's known, which has encountered numerous problems since its inception nearly 6 years ago. Many businesses, particularly those in my home State of Rhode Island, particularly those hiring seasonal and temporary employees have experienced economic hardship under the program. But the bill before us will help fix many of the problems associated with the TWIC program.

Finally, H.R. 2830 will require the Coast Guard to protect and enforce security zones around all existing liquefied natural gas, or LNG facilities, and encourages State and local entities to assist the Coast Guard with this important mission. This provision will allow LNG facilities to safely operate in densely populated areas, such as those in my home State of Rhode Island.

In closing, Mr. Chairman, I commend both Chairman THOMPSON and Chairman OBERSTAR for their leadership in bringing this bill to the floor today, and I urge my colleagues to support the measure.

Mr. DANIEL E. LUNGREN of California. At this time, Mr. Chairman, I would like to yield 2 minutes to the gentleman from Michigan.

Mr. KNOLLENBERG. I thank the gentleman from California for yielding time.

I rise today in defense of the most important resource in my home State of Michigan, the Great Lakes. The Coast Guard bill contains a measure that will strengthen ballast water treatment requirements for oceangoing ships. For years, these ships have brought with them the scourge of invasive species. I am proud to support these new treatment requirements and consider them an important move to protect our Great Lakes waters for generations to come.

While not all invasive species have made their way into the Great Lakes through untreated ballast water, ballast water still remains one of the most common avenues into the Great Lakes for destructive aquatic invasive species. The ballast water treatment provisions included in this bill will go a long way toward keeping invasive species out of the lakes. Requiring ships to exchange their ballast water 200 miles outside the U.S. will help solve the problem in the short term before ships are required to have the ballast water treatment equipment installed in their ships in 2015.

We in Michigan face threats to our Great Lakes from many angles, from those who try to pollute them, to those who try to take our water. I am proud today that we have successfully strengthened the ballast water treatment requirements that will protect the health of our Great Lakes.

I thank, again, the gentleman from California for yielding time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentlelady from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, let me thank both Chairman OBERSTAR and of course Chairman THOMPSON and Subcommittee Chair ELIJAH CUMMINGS on this Coast Guard bill that all of us have worked on. As the Chair of the Transportation Security Subcommittee of Homeland Security, I can assure you that the idea of overcoming the administration's veto on the question of LNG security is going to be an important stand today as we vote for this bill.

□ 1130

The language that speaks to the LNG security is a fair statement. It gives the Coast Guard flexibility. It allows them to make an assessment, and it is the right thing to do. Coming from the City of Houston, with a very large port, I understand the need to protect the surrounding communities and the importance of LNG security.

In addition, I am grateful that I have an amendment going forward that will help expedite the TWIC card for so many who have not yet gone through the process, to make an assessment by

the Coast Guard of the necessity of more resources, of keeping the facility open 24 hours a day and making sure that this TWIC process goes in order to secure those.

I am also grateful that we have increased the Coast Guard overall to 47,000 and that the underlying bill refocuses on the value of the Coast Guard, both in terms of their standard duties, but also the new enhanced duty for security.

I hope that as we move TSA administrative law judges, however, that we will find a way to ensure that TSA is not impacted negatively and that we will have oversight to ensure that this process will continue to work.

Again, Mr. Chairman, this is an important legislative initiative. This again is the Homeland Security Committee and the Transportation Committee and the two chairpersons and committee members working harmoniously together, recognizing that the bottom line of what we do on the floor today and what we do for the American people is to ensure their security. We have done that today.

I ask my colleagues to enthusiastically vote for this legislation.

Mr. Chairman, I rise in strong support of H.R. 2830, the Coast Guard Authorization Act of 2007, introduced by my distinguished colleague from Minnesota, Representative OBERSTAR. This important legislation will provide our Nation's Coast Guard with the resources it needs in order to successfully execute all its missions.

As a member of the Homeland Security Committee, I believe protecting our Nation by air, land, and sea to be critical to our national security interests. This bill, the Coast Guard Authorization Act of 2007, sets forth various provisions that will be beneficial to our maritime interests, and consequently to our national security. Included in the provisions are the establishments of grants for international maritime organizations, the establishment of the Merchant Mariner Medical Advisory Committee, and codified various provisions relating to Coast Guard personnel matters.

For some years now, I have been concerned about the diversion of Coast Guard resources from their historic missions of search and rescue and marine safety, to homeland security missions. Since the creation of the Department of Homeland Security, and the Coast Guard's inclusion in the Department, one of the greatest challenges has been ensuring that the funds that the Coast Guard have traditionally received in order to perform their duties remain intact so that they can fulfill the responsibilities that American citizens rely on them to perform, namely ensuring the safety of our Nation's seas, lakes, rivers, and ports.

Mr. Chairman, we have to ensure that the Coast Guard will get their full funding which is absolutely necessary to carry out their responsibilities, and that is precisely what this legislation does. This act authorizes appropriations for FY2008 for the Coast Guard. Furthermore, this act also authorizes the FY2008 levels of Coast Guard active duty military personnel and average military training student loans, allowing for sufficient human resources for the Coast Guard to achieve its designated goals.

This bill explicitly authorizes end-strength by 1,500 members to 47,000 and increasing Coast Guard funding to \$8.4 billion which has not been done since the 1970s.

The act also includes provisions regarding shipping and navigation, vessel size limits, maritime drug law enforcement, fishing vessel safety, liability limits for natural gas deepwater ports, claims against the Oil Spill Liability Trust Fund, dry bulk cargo rescue, merchant manner matter, and security.

Mr. Chairman, I was pleased to work with Chairman THOMPSON and offer an amendment during our Homeland Security Committee markup to this important legislation, which I felt improved the bill. My amendment mandated the creation of a strategic plan to utilize assistance programs to assist ports and facilities that are found by the Secretary not to maintain effective anti-terrorism measures. I am also offering an amendment on the House floor today calling on the Secretary of Homeland Security to examine the challenges and delays faced by transportation workers seeking to obtain TWIC cards at enrollment sites and mandates the development of timelines and benchmarks for implementing the findings of this assessment.

Mr. Chairman, every year, 95 percent of the goods coming into the United States arrive at our Nation's seaports. These goods are shipped from ports around the world, some from developed countries and others from developing countries. I am particularly concerned about ports in developing countries. Developing countries have limited resources which means their ability to maintain effective anti-terrorism measures is limited.

We cannot allow terrorists to exploit this limitation. Rather, we should work with developing countries and others to build up their anti-terrorism measures. This assistance will benefit all of us. The developing countries will gain the support they need, and we will close a potential gap in our own supply chain. Every gap we close is one less gap that can be exploited by terrorists. I am pleased that this bill requires the Department of Homeland Security to develop a strategic plan to utilize existing assistance programs to assist foreign ports and facilities that are found by the Secretary not to maintain effective anti-terrorism measures. This bill furthermore authorizes the Coast Guard to lend, lease, and donate equipment and provide technical training to non-compliant foreign ports or facilities. The multiple layers of security enhancement authorized in this legislation will minimize the ability of terrorists to target to maritime commerce and negatively impact the global supply chain.

I am pleased that the Coast Guard Authorization Act of 2007 includes specific provisions relating to Minority Serving Institutions (MSIs). Within this legislation, MSIs are defined as a historically Black college or university, a Hispanic serving institution, a Tribal College or University, a Predominantly Black institution, or a Native American-serving institution. Section 901 of this important legislation states that the Commandant shall establish a management internship program for students at MSIs, enabling them to intern at Coast Guard headquarters or Coast Guard regional offices in an effort to support the development of civilian, career-midlevel, and senior managers for the service. This legislation furthermore instructs the Coast Guard to work with the National Association for Equal Opportunity in Higher Education, the Hispanic Association of Colleges



and Universities, and the American Indian Higher Education Consortium to create this internship program and authorizes \$2 million to be appropriated to this program.

Mr. Chairman, I have long stressed the importance of including this Nation's MSIs in the effort to secure our Nation. Section 903 of this legislation states that the Commandant shall establish Guard. Laboratory of Excellence-MSI a Coast Cooperative Technology Program at three minority serving institutions to focus on priority security areas for the Coast Guard, such as global maritime surveillance, resilience, and recovery. It also calls on the Commandant to encourage collaboration among the minority serving institutions selected to participate in the cooperative technology program and institutions of higher education with institutional research and academic program resources and experience. These and other measures included within this bill are absolutely imperative as the Office of Workforce Planning has recently revealed that only 5 percent of the officer corps is African American and only 12 percent of the officer corps is comprised of ethnic minorities, while in the last 3 years the numbers of minority ascensions have actually decreased.

The Coast Guard Authorization Act of 2007 also increases oversight and efficiency of the TWIC program, which was originally mandated 6 years ago, yet continues to flounder. To date only 230,000 out of an estimated 845,000 applicants have enrolled in the TWIC program, while the deadline for enrollment is September 25, 2008. While this provision of the Coast Guard Authorization is both timely and important, there is still more which must be done in order to ensure that the program is both effective and efficient, which is why I have offered an amendment.

I would like to reiterate only a few of the obstacles that workers have faced in my State of Texas as well in my district of Houston. For example, a marine worker enrolled at the Houston Port enrolled on December 13, 2007. To date, he still does not yet have a TWIC card. He remained on hold for 4 hours and 10 minutes and was finally told by the operator that he would have to return to Houston to be fingerprinted again after APR. Incidentally, a representative of Higman Marine Services, Inc. asked the same question about their employee, and she was told that he should not return until June. This blatant inconsistency in service and information is simply unacceptable. Furthermore, another transportation worker went to the Beaumont center about three weeks ago to pick up his TWIC after being notified it was ready. He traveled from Hemphill, TX (117 miles) and was told that the card was accidentally shipped to Houston and he could drive there (85 miles) to pick it up. He presently does not have his card. The list of incidences in which workers have to continually overcome structural impediments is too long for me to name. It is from my concern for these workers that I have introduced my amendment.

My amendment calls for the Secretary of Homeland Security to compile an assessment of the enrollment sites for transportation security cards issued under 7 section 70105 of title 46, United States Code within 30 days of enactment. The assessment should, at a minimum, examine: the feasibility of keeping those enrollment sites open 24 hours per day, and 7 days per week, in order to better handle

the large number of applicants for such cards; the feasibility of keeping those enrollment sites open after September 25, 2008; and the quality of customer service, including the periods of time individuals are kept on hold on the telephone, whether appointments are kept, and processing times for applications.

My amendment furthermore calls on the Secretary of Homeland Security to develop timelines and benchmarks for implementing the findings of the assessment as the Secretary deems necessary. By identifying the areas in which enrollment sites for homeland security cards are ineffective and inefficient and creating a timeline through which to implement necessary changes and benchmarks to ensure their progress and accountability, we will make this Nation a safer place accessible to labor and operations alike.

Mr. Chairman, the Transportation Security Administration has expressed some concern over Title X of this legislation. Title X would transfer Coast Guard Administrative Law Judge (ALJ) authority to review merchant mariner documentation as well as 80 percent of the ALJ budget to NTSB. I understand the TSA's concern that such a step might have an adverse impact on anticipated cases dealing with TWIC and adjudication of TSA's civil cases, and I am committed to working with TSA to ensure that the execution of this legislation is beneficial to all parties involved.

Long before the horrific events of September 11, 2001, citizens of American relied upon the Coast Guard to ensure the safety of our waterways, and we depend on them still. Therefore, I urge my fellow members of Congress to also support the Coast Guard Authorization Act of 2007 and ensure this rich and necessary tradition remains a thriving and useful part of not only our national defense strategy but also to protect us and the environment from those threats by sea.

The CHAIRMAN. The Chair would advise that the gentleman from California has 30 seconds remaining and the gentleman from Mississippi has 3¾ minutes remaining.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. LORETTA SANCHEZ), who has been a leader on this issue on the committee, as well as one who is vitally interested in the reporting of various sexual assaults at the Academy.

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I thank both my chairmen for the time.

I rise today in support of H.R. 2830, the Coast Guard Reauthorization Act. As the chairwoman of the Homeland Security Subcommittee on Border, Maritime, and Global Counterterrorism, I have the jurisdiction over the Coast Guard's security missions. I am very pleased that the Homeland Security Committee had the opportunity to mark up this legislation and that we included several provisions that will strengthen the Coast Guard's maritime security activities.

This bill increases the Coast Guard's end strength by 1,500 members to ensure that there are adequate personnel

to carry out all of the Coast Guard's missions. This addresses my long-standing concerns about inadequate staffing at the Coast Guard.

The legislation also requires the use of security zones around all liquefied natural gas, or LNG, facilities. This is a critical step in stopping these facilities from becoming targets as the number of LNG imports increases.

This bill will also improve the lot of the Transportation Worker Identification Credential, or the TWIC, by providing more facilities where workers can submit their fingerprints so they can enroll in TWIC more efficiently and meet the September 25, 2008, deadline. This affects 650,000 port workers. In addition, the legislation enhances oversight of TWIC by requiring reports to Congress and the GAO on ongoing program implementation.

H.R. 2830 requires the establishment of an additional maritime security response team. Currently there is only one in the Nation, and it is based on the east coast. It makes sense to have a second one, because, of course, there are plenty of people on the west coast, and we need it.

I urge all of my colleagues to support this legislation and its many provisions. It strengthens the security operations and the safety operations that our Coast Guard does.

Thank you, Mr. Chairman. I want to thank all of those who worked so hard on this bill.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I reserve the balance of my time.

Mr. THOMPSON of Mississippi. Mr. Chairman, I have no more speakers. If the gentleman from California has no more speakers, then I am prepared to close after the gentleman closes.

The CHAIRMAN. The gentleman from California is recognized for 30 seconds.

Mr. DANIEL E. LUNGREN of California. Mr. Chairman, I submit for the RECORD two more letters, one from the Commandant of the Coast Guard and one from four retired admirals of the Coast Guard.

Mr. Chairman, let me just repeat some language contained in the Director of TSA's letter to Congressman KING, the ranking member of Homeland Security, about the concern I have again about this ALJ question.

"In the absence of sufficient ALJ legal and administrative resources at the Coast Guard, TSA does not regard the NTSB ALJs as a good alternative. Coast Guard ALJs have substantial expertise in fair adjudication of security programs. NTSB ALJs do not have the expertise in transportation security matters."

What I have been trying to point out is my concern about the TWIC program, that all of us on a bipartisan basis here in the House and the Senate have tried to get up and running. I am afraid that while I appreciate the gentleman from Minnesota's clarification

of his intent to do something in the future, I am concerned about the expertise being removed at a time when we need it.

U.S. DEPARTMENT OF HOMELAND SECURITY, UNITED STATES COAST GUARD,

Washington, DC, April 23, 2008.

Hon. JAMES L. OBERSTAR,  
Chairman, Committee on Transportation and Infrastructure, House of Representatives,  
Washington, DC.

DEAR CHAIRMAN OBERSTAR: On April 18, the Committee filed with the Rules Committee an amendment in the nature of a substitute to H.R. 2830, that would be retitled the "Coast Guard Authorization Act of 2008." During numerous meetings and staff-level discussions over several months, we have described how a number of provisions that appear in this amendment would compromise organizational efficiency and operational effectiveness, diminish my command and control, and ultimately reduce the Coast Guard's effectiveness in carrying out its safety, security, and stewardship missions. We have expressed these and other concerns in Department of Homeland Security views letters concerning earlier bill language. The amendment also contains provisions neither previously shared nor discussed with the Coast Guard.

One provision requiring that the Coast Guard provide security around liquefied natural gas terminals and tankers is contrary to the existing assistance framework, at odds with accepted risk management practices, and would divert finite Coast Guard assets from other high-priority missions. I recommend a broader discussion of security measures for all extremely hazardous cargoes. In the Statement of Administration Policy on H.R. 2830, the Administration has stated that, if the bill is presented to the President with this provision, his senior advisors would recommend that he veto the bill.

Among the others is one that, while similar to the Administration's proposal, fails to authorize the President to appoint officers to positions of importance and responsibility to accommodate organizational change in the future (Admirals and Vice Admirals). Others, primarily involving our important marine safety mission, would statutorily fix the designation and duties of other senior Coast Guard officials and officials at all levels of command, and prescribe inflexible personnel qualification requirements. Still other provisions would diminish the Coast Guard's capacity to adjudicate merchant mariner licensing matters efficiently and effectively and support other vital security adjudications of the Department of Homeland Security (Appeals to National Transportation Safety Board). Still more provisions would prescribe contracting and acquisition practices for the Deepwater program, thereby increasing the cost of, and adding delay to, the Deepwater acquisition process, as well as circumventing the review and approval authority of Coast Guard technical authorities (Coast Guard Integrated Deepwater Program).

Among the new provisions is one that dramatically alters admission procedures for the U.S. Coast Guard Academy. While I have discussed Academy admissions several times with Chairman Cummings and we agree that our process should yield successful cadets and reflect our diverse society, the proposed Congressional nomination process deserves full discussion and deliberate consideration. Other new provisions that affect how we execute our missions deserve similar scrutiny. Conversely, the bill omits the Administration proposal for much needed enhanced au-

thority to prosecute those who would smuggle undocumented aliens into the United States by sea (Maritime Alien Smuggling Law Enforcement Act) and the Administration's proposal to protect seafarers who participate in investigations and adjudication of environmental crimes or who have been abandoned in the United States (Protection of and fair treatment of seafarers).

Over the last year in the course of hearings, personal meetings with you, and regional forums with industry, as well as in my public statements, I have assured you and the public that we share a common objective: a robust marine safety program suited to meet the evolving demands of industry and the marine public. I am already taking aggressive steps to right the balance between our marine safety mission and our other vital responsibilities, and improve the effectiveness, consistency, and responsiveness of our marine safety program, consistent with the framework I presented to you last September. Legislation such as the provisions I describe above was unnecessary to start this process. As I have stated on several occasions, I am the Commandant and am accountable to you to produce the changes needed to improve program performance.

Including these provisions and others in an Authorization Act that would otherwise be welcome compels me to strongly oppose the bill.

Sincerely,

T.W. ALLEN,  
Admiral, U.S. Coast Guard,  
Commandant.

APRIL 15, 2008.

DEAR ADMIRAL ALLEN: We are sending you this letter to express our gratitude for the personal attention you have given Coast Guard's Marine Safety program the past several months. Industry and Congressional concern for Coast Guard performance of this vital mission needed addressing from the top. Your personal outreach to the stakeholders as well as the plans your staff developed to improve the program are making a difference. We fully support the Marine Safety Enhancement Plan delivered to Congress on September 25, 2007. This plan appropriately targets the concerns that have been voiced by both industry and Coast Guard members, and we are seeing progress towards addressing those concerns. We have also been closely following the Coast Guard's historic modernization efforts. Your Headquarters organization modernization plan provides the appropriate level of focus and visibility to implement the marine safety program enhancements.

We fully support Congressional commitment to hold the Coast Guard accountable for mission performance in Marine Safety, as in all other missions. At the same time, we believe that you need to have maximum flexibility in managing Coast Guard forces to achieve mission success. To achieve that degree of flexibility, the Coast Guard should continue its integrated approach to maritime safety, security, and stewardship to ensure our country's Marine Transportation System (MTS) operates safely and efficiently.

Above all, we applaud the Coast Guard and the Administration's request for additional resources to address Marine Safety mission requirements. By increasing capacity and expertise, the Coast Guard will be able to keep stride with the rapidly growing MTS and provide the level of services that maritime stakeholders expect and deserve.

We stand ready to assist in achieving the Coast Guard's Marine Safety goals.

Sincerely,

VADM JAMES C. CARD,  
U.S. Coast Guard, Ret.

RADM PAUL J. PLUTA,  
U.S. Coast Guard, Ret.  
RADM ROBERT C. NORTH,  
U.S. Coast Guard, Ret.  
RADM THOMAS H.  
GILMOUR,  
U.S. Coast Guard, Ret.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I support H.R. 2830, not only for what it does to enhance port security, but also for what it does to get the Deepwater program back on course. As someone who cares about the Coast Guard, it has been disturbing to see the mismanagement of the Deepwater program.

This year, a \$24 billion effort to modernize the Coast Guard's fleet has suffered delays, cost increases and design flaws that ultimately culminated in the idling of eight patrol boats. By the time that these problems were discovered by both the Inspector General of DHS and the Comptroller General, \$88 million had been wasted. Both Federal watchdogs have said that program failures were due to the excessive leeway given the program contractors.

H.R. 2830 includes provisions that protect American taxpayers by forcing the Coast Guard to, for the first time, manage this contract. Regrettably, the administration in its Statement of Administration Policy denounced the Deepwater provision, which, incidentally, was approved by the House on a vote of 426-0 on July 23, 2007. We cannot allow the Coast Guard to continue on a poorly navigated course. H.R. 2830 will steer the Deepwater procurement process in the right direction.

Mr. Chairman, for this reason and dozens of others, I urge my colleagues to join me in supporting H.R. 2830.

Ms. LEE. Mr. Chairman, I rise today in support of H.R. 2830, the Coast Guard Reauthorization Act of 2007, which makes significant strides in supporting the invaluable work of the United States Coast Guard.

I applaud the many improvements that this legislation will make to Federal policy in protecting our coastal environment, strengthening security in our Nation's ports, and providing the tools and resources necessary for rapid emergency response and coordination.

The collision of a containership with the San Francisco Bay Bridge near my district, and the resulting oil spill that spread throughout the Bay, raised many questions about maritime policy in our Nation's coastal waters and ports. Commendably though, the committee field hearing examining the Federal response to the oil spill also provided potential answers to these questions.

I am pleased to see that many important provisions were included in H.R. 2830 to improve our water vessel traffic systems, sharpen incident response, and tighten environmental and security requirements. H.R. 2830 will mandate double hulls for new container vessels with large oil capacities, reducing the risk of spills and contamination, and protecting animals, plant life, and local economies from the harmful impact of such disasters.

I also strongly support the provision added by my colleague, Rep. TAUSCHER, which authorizes the Coast Guard to issue regulations



that require bar pilots to carry portable navigational devices when they are navigating large container and tanker ships. These portable devices provide pilots accurate and necessary information to safely navigate their ships, and are critical to preventing future accidents like the one that occurred in the San Francisco Bay.

As a longtime advocate of bringing common sense to our national security priorities, I am also pleased to acknowledge the important steps this legislation takes to securing our ports and the safety of communities that live around them. H.R. 2830 takes critical steps to safeguard nuclear materials by establishing a pilot program to employ preventive radiological/nuclear detection equipment on Coast Guard vessels.

Mr. Chairman, it is important to note that many States, including California, have been at the forefront of efforts to more effectively protect and manage our coastal waters. For instance, the Port of Oakland in my district was the first port in the United States to require that ships exchange their ballast water with seawater before entering the bay—a regulation that is now widely considered a critical measure of defense against invasive and non-indigenous species. Moving forward, we must work to ensure States can successfully complement Federal regulations in the future, to enhance coordination, and to provide a more comprehensive policy for protecting our waters.

Mr. Chairman, I am also pleased that this bill will support Coast Guard efforts to diversify its workforce, by helping to build valuable partnerships between the Coast Guard and minority serving institutions. In 2006, just 16 percent of the Coast Guard Officer Candidate School graduates were minorities. Programs such as the Minority Serving Institution Management Internship Program, will recruit students from Historically Black Colleges and Universities, Hispanic-serving institutions, and tribal colleges, among others, and help to develop a new and diverse generation of civilian managers and Coast Guard Officers.

The establishment of a Coast Guard Laboratory of Excellence-MSI Cooperative Technology Program at three minority-serving institutions will assist in modernizing the Coast Guard's security programs while increasing the number of minority graduate degree holders in science, engineering, mathematics, and information technology—all fields that are critical to the mission of the Coast Guard.

Mr. Chairman, I stand in strong support of H.R. 2830, and I urge my colleagues to support it.

Mr. DINGELL. Mr. Chairman, I rise today in support of H.R. 2830, the Coast Guard Authorization Act of 2007. This bill has many provisions which will improve homeland security, ensure safe navigation and enhance shipping reliability, among other measures. However, I would particularly like to draw my colleagues' attention to the ballast water protections in this bill.

As a member who hails from the Great Lakes State, I am perhaps more familiar than most with the havoc invasive species can reap on our waterways. I would note that in its 2005 report, the Great Lakes Collaboration stated that the world's greatest freshwater lakes are "succumbing to an irreversible 'invasional meltdown' that may be more severe than chemical pollution." There are cur-

rently 185 invasive species in the Great Lakes and another is discovered, on average, every 28 weeks!

Invasive species cost the Federal Government about \$1.3 billion per year and it is estimated that 42 percent of plants and animals on the Threatened and Endangered Species List are at risk because of alien species. Aquatic invasives pose a particular threat because of their ability to spread quickly through connected waterways.

Ballast water, which is used to stabilize freighters, is taken on board before a voyage begins. It can often contain organisms which become invasive species when released in navigable waters. For the reasons outlined above, ballast water represents a significant threat to our Great Lakes.

To its credit, the National Park Service has already taken steps to prevent ballast water from spreading a deadly fish virus known as VHS in Lake Superior and Lake Michigan. But much more must be done to protect the Great Lakes and other waterways from the exotic species contained in ballast water.

H.R. 2830 takes these necessary steps. This legislation for the first time creates strong ballast water management treatment standards in statute and requires that ballast water treatment technology be installed on board beginning next year. In addition, the bill requires all discharged ballast water to be thoroughly treated and implements tougher standards beginning in 2012, with a goal of zero species in discharged water by 2015. The manager's amendment to the bill also includes clarifying provisions to ensure that ballast water management activities are properly reported, so that freighters can be held accountable for complying with the law.

I would like to thank my friend and colleague, Chairman JAMES OBERSTAR, for his hard work on this important legislation. We in the Great Lakes region are lucky to have one of our own, the distinguished gentleman from Minnesota, overseeing these matters. I urge all of my colleagues to support this critically important bill.

Ms. ROS-LEHTINEN. Mr. Chairman, I rise in strong support of this Coast Guard Authorization Bill being considered on the floor today.

I have the unique pleasure of representing over 265 miles of pristine Florida coastline—from Miami Beach to Key West. In fact, two of the largest Coast Guard Sectors in the United States, Sector Miami commanded by Captain Karl Schultz and Sector Key West commanded by Captain Scott A. Buschman are located in my Congressional district. As such, ensuring that the brave Coast Guard men and women have the tools they need to effectively patrol our coasts is of utmost concern.

I know that with this important mission, my constituents would not be pleased to hear of the lack of state-of-the-art equipment that the Coast Guard has been using to accomplish its goals.

Just to highlight the nature of our aging Coast Guard fleet, I can point to the oldest cutter still active. The *Storis*, still serving today in Alaska, was commissioned before the United States entry into World War II. A ship over 65 years old should not be tasked with protecting against the modern threats that face this great Nation.

Compare this to an April 18th article in the St. Petersburg Times where Drug Enforce-

ment Agency officials are quoted as "scratching their heads over how to combat the latest innovation in drug smuggling: radar-dodging semisubmersible vessels packed with tons of cocaine." Determined drug smugglers are using very sophisticated ships and technologies in this cat-and-mouse game and it will become increasingly difficult to prevent their illegal activities if we are not able to modernize our fleet as well.

Fortunately, a vital portion of this bill is dedicated to the Coast Guard's Integrated Deepwater System. This is a critical program to modernize and replace the Coast Guard's aging ships and aircraft. The Deepwater Program is the largest acquisition in the history of the Coast Guard and any delay in the passage of this bill would have a serious and negative impact on the security of South Florida and our Nation.

We can all agree that these brave men and women deserve the fundamental resources they need. Certainly, without adequate funding the Coast Guard will not be equipped to accomplish their mission.

Coast Guard Sector Miami is scheduled to receive the first six Fast Response Cutters in addition to three ISLAND Class patrol boats. As well, Coast Guard Sector Key West is scheduled for delivery of the second six Fast Response Cutters in addition to one ISLAND Class patrol boat. I applaud these efforts and look forward to the continuation of the Deepwater Program.

Though this bill is by no means perfect, the urgency of modernizing our fleet and putting these ships in the water and these aircraft in the skies cannot be understated.

I urge all Members to recognize the crucial need to protect our Nation by strengthening the United States' oldest continuous seagoing service, the United States Coast Guard.

Mr. GENE GREEN of Texas. Mr. Chairman, I rise today in support of H.R. 2830, the Coast Guard Reauthorization Act of 2008.

I would like to thank both the Chairman of the Transportation and Infrastructure Committee, Chairman OBERSTAR, and especially the Chairman of the Coast Guard and Maritime Transportation Subcommittee, Chairman CUMMINGS, for their leadership in crafting this important piece of legislation.

I have always been a strong supporter of the Coast Guard and providing it with the resources necessary to protect our Nation's coasts, ports and waterways, particularly the Port of Houston which I represent.

H.R. 2830 is also important to me because it contains provisions relating to the security of vessels and facilities that transport or process Liquefied Natural Gas—or LNG—in the United States. Demand for clean-burning natural gas is building up across our economy, and energy proposals Congress has passed and is currently considering will only accelerate this demand. I believe all of us here agree on the need to ensure the safety of LNG shipments to the U.S., but Congress should do so in a responsible way that does not unnecessarily impede future shipments of this clean-burning fuel.

Chairman CUMMINGS understood these concerns and included new language that would maximize the resources available to the Coast Guard for enforcing LNG security zones; maintain the multi-mission function of the Coast Guard; and mitigate bureaucratic hurdles in the LNG security process. While not perfect,

these changes are an improvement from the original bill and reflect a more workable approach than first proposed.

I want to again thank my good friends Chairman CUMMINGS and Chairman OBERSTAR for working with me and other Members to consider America's need for both energy security and homeland security when crafting this legislation.

I urge my colleagues to support H.R. 2830.

Mr. SKELTON. Mr. Chairman, I rise today in support of H.R. 2830, the Coast Guard Authorization Act. This is a good bill in many ways. I particularly appreciate the bills' emphasis on holding the Coast Guard accountable for the funds the service receives from us, the Congress. The well-documented problems with the Deepwater program make it clear that more, needs to be done to ensure the Coast Guard's procurement policies are producing results. This is not just a budget issue, although that is certainly important, but it is also a national security issue. We depend on the men and women serving in the Coast Guard to defend our Nation's waterways, and for that critical task they need new ships and aircraft. Congress can no longer stand by while billions of dollars are wasted on a program that has failed to give our coastal defenders the tools they need. This bill takes steps to demand the type of accountability from the Coast Guard that we expect from the other uniformed services, and I encourage my colleagues to join me in support of this good and necessary legislation.

Ms. VELÁZQUEZ. Mr. Chairman, I rise in support of important language in Chairman OBERSTAR's manager's amendment to H.R. 2830, the Coast Guard Reauthorization Act. This amendment is critical for my constituents who live in the Greenpoint area in Brooklyn. I want to thank Chairman OBERSTAR and others on the Committee who saw the need for this language, and were willing to act on it.

This important amendment directs the Environmental Protection Agency to conduct a follow up study on the Newtown Creek oil spill. The new EPA study builds upon my earlier effort with my distinguished colleague, Mr. WEINER, to get the EPA to issue a comprehensive report on the oil spill. That earlier report by the EPA, issued last fall, was an important step forward but it raised as many questions as it answered.

Mr. Chairman, it is appropriate that we are considering this issue on a Coast Guard bill. It was the Coast Guard, nearly 30 years ago, that discovered the Newtown Creek oil spill in Greenpoint. The spill is massive, and scientists lack accurate measurements of the scope and impact of the whole of the plume. That's why we need a full site characterization of the Creek, so we know just what is in, around and underneath the Creek bed.

The basic condition of the Creek was not comprehensively addressed in the earlier report. It's past time for a full site characterization of Newtown Creek. The goal not merely oil plume containment, but plume removal. We must help give this important waterway safely back to the community, for its use and enjoyment.

I also am deeply concerned about what threat this material poses to the public. A full site characterization should also allow us to better measure the public health impact of the oil spill. Residents in this part of Brooklyn suffer from asthma, emphysema and bronchitis at

a 25 percent higher rate than the rest of the city. Child asthma hospital admissions are especially high. A full site characterization can help public health professionals draw conclusions about the impact of the oil spill on the health of the local community.

In conclusion, Mr. Chairman, I want to thank Mr. WEINER for his long-term partnership and hard work in addressing the serious public policy problem posed by the Newtown Creek Oil Spill. I would urge the EPA to seize upon these clear instructions from Congress, and help New York understand just what it is facing at Newtown Creek. Only a full site characterization can accomplish this worthy goal.

Mr. ABERCROMBIE. Mr. Chairman, today I rise in support of H.R. 2830, the Coast Guard Authorization Act of 2008. Among the many important provisions of this bill is one that is particularly needed to help ensure that our coastwise laws are properly and promptly enforced.

Section 220 of the manager's amendment recognizes the importance of vigorous enforcement of our Nation's coastwise laws by expanding the Department of Homeland Security's enforcement authority to include the Coast Guard in addition to Customs and Border Protection.

In keeping with this important objective we hope that the Administration will make good on the effort that was begun last November with the publication of a proposed interpretive rule designed to address evasion by foreign cruise lines of one of our coastwise laws, the Passenger Vessel Services Act.

I have written to Secretary Michael Chertoff urging prompt implementation of a modified rule that addresses concerns raised during the comment process while ensuring that the coastwise laws are properly enforced. My letter details the frustration of important Congressional objectives that will result if the rule is not implemented and I ask that a copy be included in the RECORD.

HOUSE OF REPRESENTATIVES,  
Washington, DC, March 31, 2007.

Re Hawaiian Coastwise Cruises (USCBP-2007-0098)

HON. MICHAEL CHERTOFF,  
Secretary, Department of Homeland Security,  
Washington, DC.

DEAR MR. SECRETARY: Customs and Border Protection ("CBP") proposed an interpretive rule regarding "Hawaiian Coastwise Cruises" on November 21, 2007. Since issuing the notice and accepting comments on the proposal, no final action has been taken to protect the only oceangoing U.S.-flag cruise ships in operation from unfair foreign competition. As a result, it has been announced that a second U.S.-flag cruise ship will be leaving Hawaii service and the U.S. registry in May 2008. I write today to urge the Department to immediately adopt a Hawaii specific rule in order to ensure that the remaining U.S.-flag cruise ship does not have the same fate.

On December 21, 2007, I joined the Hawai'i Congressional delegation and also offered separate comments of my own with respect to the proposed criteria to be used by CBP to determine whether non-coastwise-qualified passenger vessels are in violation of the Passenger Vessel Services Act ("PVSA") (46 U.S.C. 55103) and the Hawaii Cruise Ship Initiative enacted in 2003 (Pub. L. 108-7) when engaging in Hawaii cruise itineraries that include a "sham" foreign port stop of as little as an hour in the middle of the night to cleanse the voyage and avoid the application of U.S. laws.

As the preamble to the interpretive rule accurately states, "The intent of the maritime cabotage laws, including the PVSA, was to provide a 'legal structure that guarantees a coastwise monopoly to American shipping and thereby promotes development of the American merchant marine'". I strongly support the PVSA, and was a primary sponsor of the subsequently enacted 2003 Hawaii Cruise Ship Initiative. I also strongly believe that CBP must take steps to vigorously enforce the PVSA, including adoption of the proposed interpretive rule for Hawaii. But I am concerned that CBP's effort to do so may unnecessarily slow implementation of the interpretive rule by needlessly trying to apply it broadly to all U.S. ports, where no oceangoing U.S.-flag cruise ships operate in regular service.

CBP's proposed interpretive rule is unnecessarily expansive. It goes beyond what is necessary to achieve the economic and national security policy objective of the PVSA and the 2003 Hawaii Cruise Ship Initiative. In fact, I believe a reasonable interpretation under those laws would limit the scope of proposed interpretation to Hawaii because it would further those important public policy goals.

Indeed, the vast majority of the opposition to CBP's proposed interpretation is based on the far reaching nature of the proposal. As a result, comments have been received from interested parties as far away from Hawaii as Maine and Florida who have understandably expressed concerns about the potential impact of the proposal on foreign cruise ships operating in areas where no oceangoing U.S. flag ships call. MARAD and CBP identified a specific and intentional effort to circumvent the PVSA on Hawaii cruises. Under the authorities provided by the PVSA and the 2003 Hawaii Cruise Ship Initiative, the final remedy proposed by CBP should be limited to addressing that specific issue in the Hawaii market where U.S. flag ships operate.

Moreover, the 2003 Hawai'i Cruise Ship Initiative requires that the affected U.S. flag ships identified in this proposed interpretation be in "regular service" in Hawai'i and explicitly prohibits their operation in coastwise service in Alaska, the Gulf of Mexico, and the Caribbean Sea, areas where interested parties have raised concerns about the application of the proposal. For these reasons, I strongly recommend that CBP issue a proposed PVSA interpretation limited to Hawai'i as follows:

CBP interprets a Hawai'i cruise itinerary to be "solely to one or more coastwise ports" even where it stops at a foreign port, unless the stop at the foreign port is a legitimate object of the cruise. CBP will assume that a stop at a foreign port is not a legitimate object of the cruise unless:

1. The amount of time at the foreign port is more than 50 percent of the total amount of time at the Hawai'i ports of call; and
2. The passengers are permitted to go ashore temporarily at the foreign port.

Accordingly, CBP proposes to adopt an interpretive rule under which it will presume that any Hawai'i cruise itinerary that does not include a foreign port of call that satisfies each of these two criteria constitutes coastwise transportation of passengers in violation of 19 CFR 4.80a(b)(1).

Thank you for considering my views on this important matter. I firmly believe that if CBP acts on the proposed rule as I have recommended, many of the concerns expressed by commenters in this docket will be alleviated, while at the same time ensuring the protection of the very oceangoing U.S.-flag cruise ships intended by the PVSA and the 2003 Hawaii Cruise Ship Initiative.

Sincerely,

NEIL ABERCROMBIE,  
Member of Congress.

Mr. KAGEN. Mr. Chairman, I rise in strong support of H.R. 2830, the Coast Guard Authorization Act.

While this critical legislation is replete with numerous provisions that would make a variety of necessary changes to the Coast Guard's operations, I would like to focus on the portion of the bill that would regulate ballast water, which is of particular importance to northeast Wisconsin.

As my constituents know, ballast water is an easy way for invasive species to enter the Great Lakes. These species quickly take root and displace native species to the detriment of local environments.

There are also serious economic consequences associated with attempting to manage and control these aquatic invaders.

In the Great Lakes, it is estimated that roughly \$5 billion in damages has been caused by the zebra mussel; while the cost of lost native species may never be known.

Additionally, there is an enormous recreational cost associated with the loss of fish and wildlife in the Great Lakes, which account for nearly 22 percent of the world's fresh surface water. They are a tremendous and extraordinary natural resource that we cannot afford to harm.

I would like to commend Mr. OBERSTAR for his leadership on this issue, and for including in his manager's amendment the requirement that each vessel provide monthly reports on ballast operations.

This prerequisite will allow for greater transparency in ballast management, and will sanction early detection of invasive species.

I am also encouraged that H.R. 2830 permits alternative ballast management measures for recreational vessels. In establishing rules for recreational vessels, I hope the Secretary recognizes that local boaters and fishermen should not be subjected to unreasonable over-regulation.

In closing, I would urge all my colleagues to support passage of this legislation.

Mr. ISRAEL. Mr. Chairman, I would like to rise in support of language I included in the Coast Guard Reauthorization Act.

I have consistently fought for boating safety for the last three years in memory of my constituent Brianna Lieneck who died in August of 2005. Her parents came to me after losing their daughter. They have made it their mission to fight for boating safety and to make the water safer for others.

Their daughter Brianna an 11-year-old girl from my district who was tragically taken from us three years ago during a boating accident on the Great South Bay. The accident occurred on August 17, 2005 when a boat collided with their own. The operator of the other boat was reckless and there was poor visibility from the lack of lighting on the water that late at night.

While we can't bring back Brianna I have made it a priority to fight for mandatory boater education. And I want to commend Brianna's parents for taking this horrible tragedy and using it to fuel such a worthy cause.

This year the Coast Guard Reauthorization Act will include language mandating that the Coast Guard find the best and most feasible ways to establish mandatory boater education for all states and report back to Congress within 6 months. This is an important first step in boating safety because education directly translates to safer waters. The Coast Guard

estimates that 70 percent of reported fatalities occur when a boat operator has not received boating safety instruction.

So many careless accidents can be avoided by taking one simple course and being more informed on the water.

Boating accidents claimed 710 lives in 2006 and caused 3,474 injuries. Of that, 14 deaths and 100 injuries occurred in New York State in 2006. There were a total of 152 boating accidents in the state of New York.

There has been no significant decrease in the number of boating deaths since 1996 and the number increased between 2003 and 2006. This is unacceptable. If one simple course will decrease the number of deaths and injuries on the water, it is so important that we do everything in our power to require mandatory boater education.

You must take a driving test before you are able to operate a car. You should, at the very least, be required to take an education course to operate a boat.

And we owe it to the memory of Brianna and other victims in the Nation to do all we can to prevent future fatalities on the water.

I would like to thank Chairman OBERSTAR and Ranking Member MICA for allowing this language to be included in the bill.

Mr. WEINER. Mr. Chairman, the House has under consideration the bill H.R. 2830, the Coast Guard Reauthorization Act of 2007. Mr. Chairman, I want to highlight an amendment that I offered which has been included in Chairman OBERSTAR's amendment before the House. It directs the Environmental Protection Agency to conduct a study of the Greenpoint, Brooklyn, New York underground oil spill at Newtown Creek.

Newtown Creek is a 3.5 mile-long waterway that flows from the East River and separates the boroughs of Brooklyn and Queens. It is the single most polluted waterway in New York City, a legacy left by more than a century of heavy industrial activity. The creek's banks are home to the largest oil spill in the United States, which dates back to the 1950s and is estimated to be 150 percent of the size of the Exxon-Valdez spill.

In 1978, a Coast Guard patrol detected petroleum on the surface of Newtown Creek and identified a spill that spreads from the banks of the creek through the Greenpoint neighborhood in Brooklyn. Evaluations at that time identified a spill totaling 17 million gallons attributed to refineries operated along the banks of the creek by the predecessors to ExxonMobil, BP/Amoco and Chevron-Texaco. To date, 9.4 million gallons have been cleaned, primarily conducted by ExxonMobil under a 1990 consent agreement with the New York State Department of Environmental Conservation that sets no timetable for completion and includes no meaningful criteria for compliance. Estimates indicate that it will take until at least 2026 to finish the remediation, almost 50 years since we discovered the spill.

Today, even though it has been 30 years since the oil spill was detected, the best information on the spill's size are estimates. While we have evidence that the spill is 17–30 million gallons, covering 55 to 70 acres, the full extent of the spill remains unknown.

This information is critical. More than 200 observation wells and 35 recovery wells have been installed since 1978, but until we know the full extent of the problem, we may be wasting time.

In 2006, Congress directed the Environmental Protection Agency to revisit the findings of the United States Coast Guard's July 1979 report entitled "Investigation of Underground Accumulation of Hydrocarbons along Newtown Creek." The 2006 study did not collect new data, determine the size or location of the spill, or conclusively assess its impact on public health and safety. It recommended reevaluating the entire plume.

Given this, the provision included in Chairman OBERSTAR's amendment instructs the Environmental Protection Agency to conduct a full-site characterization of the Greenpoint, Brooklyn underground oil spill.

This study is to be driven by the collection of new field evidence and will not be limited to the review or co-review of existing or scheduled data collection by private parties or state and municipal entities. This new evidence includes the collection of data from new product, groundwater and soil monitoring wells, as well as from existing groundwater and soil monitoring wells at the Greenpoint Oil Spill site. This site is loosely bound by Newtown Creek on the northeast, the Brooklyn-Queens Expressway on the east and south, North Henry Street on the west, and Greenpoint Avenue on the north.

Specifically, the full-site characterization is to include:

The investigation, collection, and analysis of data on the full extent of the free-product plume, or the portion of the underground petroleum plume that floats on top of the site's groundwater in its refined state or crude state, including any historic remnants currently distinct or fragmented from current spill delineations.

The investigation, collection, and analysis of data on the full extent of the dissolved phase of the plume, or the portion of the underground petroleum plume that has dissolved into the groundwater, including the geographic extent and concentrations of groundwater contamination.

The investigation, collection, and analysis of data on the full extent of soil contamination, including current and historic smear zones, or the area of soil contamination that may exist within the zone of horizontal and vertical water table fluctuations that have occurred since the time of the petroleum release.

The investigation, collection, and analysis of data on the full extent of soil vapor contamination, including vertical and horizontal pathways within the vadose zone, or the area between the land surface and the water table.

The evaluation of the entire spill area, covering both the free-product and dissolved plume, using three-phase numerical modeling techniques simulating the movement and interaction of water, oil, and vapor in a geologic medium, and use of such model to make an estimate on the length of time that will be required to recover free product, contaminated groundwater and contaminated soil from the underground plumes.

The investigation and collection of data on monthly groundwater levels over a representative area of the free product and dissolved phase contamination areas to establish background water levels.

The investigation, collection, and analysis of data on current and historic groundwater pathways in the region.

The investigation, collection, and analysis of data on the impact of tidal fluctuations on groundwater levels in the region.

The investigation, collection, and analysis of data on seepage of free product and dissolved phase groundwater into Newtown Creek along the full spill area shoreline.

Chemical analysis and description of the oil product in the Newtown Creek region in its free product phase, its dissolved phase, and its smeared phase.

An investigation of reports of oil in building foundations in the area of Roebling Street and North Eleventh Street in Brooklyn, New York, to determine whether those oil pockets are distinct from the Greenpoint Oil Spill, are historic remnants of the Greenpoint Oil Spill, or remain hydrologically connected to the Greenpoint Oil Spill.

A detailed, three-dimensional representation reflecting the latitudinal and longitudinal location of the oil spill in the Newtown Creek region and also the observed and corrected thickness of the spill.

A revised estimate of the volume and area of the spill in its three phases: free product, polluted groundwater, and smeared soils, and evaluate the remaining plume volume using corrected product thickness values.

There is no geographic limit to the study. Testing is to be performed at potential, historic migration pathways and currently or newly detected product and groundwater contamination areas near the Greenpoint oil spill. The study will begin with areas to the north, south, southeast, and east of the current published spill location. Emphasis is to be placed on the path the spill may have taken when it was subject to hydrologic pressures related to groundwater withdrawals in the early-to-mid part of the 20th Century.

As outlined in the amendment, this study is to be completed no later than one year after enactment of this law.

I would like to express my thanks to Chairman OBERSTAR and Chairman CUMMINGS for their willingness to work with me on this project. Furthermore, I would like to commend Mrs. VELÁZQUEZ, who represents the people of Greenpoint, and has worked closely with me on this initiative.

Additionally, I would like to thank the staff of the Transportation and Infrastructure Subcommittees on Water Resources and Environment and Coast Guard and Maritime Transportation, particularly Ryan Seiger, John Cullather, Lucinda Lessley, and Ben Webster, who have worked with me to address this critical, but often overlooked, issue.

I'd also like to thank Riverkeeper Incorporated, and its chief investigator, Basil Seggos. This organization's dedication and advice on remediating the Newtown Creek oil spill over the last six years has been an invaluable asset.

Finally, I'd like to thank Dori Friedberg of my staff for her time, work, and counsel on this issue.

Mr. Chairman, I thank the leadership of the Transportation and Infrastructure Committee for their hard work shepherding through the Coast Guard Reauthorization Act of 2007, and express my strong support for this bill.

Mr. LEVIN. Mr. Chairman, I rise in strong support of the Coast Guard Authorization Act. In particular, I urge my colleagues to support the legislation's ballast water treatment requirements.

The Great Lakes are one of this nation's crown jewels. They are the most unique set of freshwater lakes in the world. They provide

drinking water for millions. They provide habitat for our fisheries and they offer tremendous recreational and tourism opportunities.

The Great Lakes are threatened by damaging aquatic invasive species that arrive in the Lakes at a rate of one every eight months. The communities I represent have first-hand experience of the devastation these aquatic invaders can cause. In the mid-1980s, the zebra mussel was brought to the Great Lakes by hitching a ride on an ocean vessel from Europe. They were first identified in Lake St. Clair in 1988, and since then the zebra mussels have spread throughout the Great Lakes and have made their way into the Mississippi River and its tributaries. The economic and ecological costs of dealing with aquatic invasive species are staggering.

Invasive aquatic species pose a clear and present danger to virtually every U.S. waterway and coastal area. Many more invasive species will arrive in rapid succession and spread within U.S. waters unless effective measures are taken to prevent them.

The bill before the House contains strong provisions to reduce and hopefully eliminate the spread of aquatic invasive species through ballast water. The bill establishes a national goal to eliminate invasive species from ballast water that is discharged into U.S. waters by the year 2015. As an interim step, the legislation requires all ships entering U.S. waters to conduct ballast water exchange at least 200 miles off the nation's coastline. Between now and the end of 2013, the legislation requires vessels to be fitted with effective ballast water treatment equipment.

I urge my colleagues to join me in supporting this comprehensive response to one of the most serious problems confronting the Great Lakes and waterways across the nation.

Mr. PASCRELL. Mr. Chairman, I rise to speak in strong support of H.R. 2830, the Coast Guard Authorization Act, as this is a necessary piece of legislation that is vital to our Nation's homeland security strategy.

The President and indeed many in this body often talk about the need not to fall back into a pre-9/11 mindset when it comes to homeland security and I could not agree more.

This is why I want to start by thanking Homeland Security Committee Chairman BENNIE THOMPSON for all his work to strengthen the crucial port security aspects of this bill.

Ever since 9/11 we have faced the fact that our Nation is vulnerable to possible terrorist attack by air, land and sea. In response our Nation's entire security apparatus has had to work harder and stretch their resources farther in order to be more responsive to these increased threats and few agencies have exemplified this more than the Coast Guard.

This legislation finally provides the resources necessary to ensure that the Coast Guard can successfully execute all its missions by authorizing the increase of their end-strength by 1,500 members to 47,000 and increasing funding to the Coast Guard to \$8.4 billion, a full \$200 million over the President's budget.

However, this President and many of this body have objected to Section 720 of this bill which would strengthen security around liquefied natural gas, LNG, terminals and tanker ships.

These terminals represent a critical piece of our energy infrastructure that could be attractive targets for attack, especially if we allow

them to be built without any regard for our ability to secure them.

Without Section 720, we would certainly be guilty of maintaining a pre-9/11 mindset that says it's acceptable to maintain soft spots in our homeland security strategy and that is simply unacceptable.

I hope we would all learn the lessons of 9/11 and support this legislation in full instead of trying to weaken our comprehensive homeland security strategy.

Mr. THOMPSON of Mississippi. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

In lieu of the amendments recommended by the Committees on Transportation and Infrastructure, Homeland Security, and the Judiciary printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute printed in part A of House Report 110-604. That amendment in the nature of a substitute shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

Strike all after the enacting clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 2008".

#### SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

Sec. 2. Table of contents.

#### TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.

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

Sec. 103. Transfer of bridge administration program authority and functions.

#### TITLE II—COAST GUARD

Sec. 201. Appointment of civilian Coast Guard judges.

Sec. 202. Industrial activities.

Sec. 203. Reimbursement for medical-related travel expenses.

Sec. 204. Commissioned officers.

Sec. 205. Coast Guard participation in the Armed Forces Retirement Home (AFRH) system.

Sec. 206. Grants to international maritime organizations.

Sec. 207. Emergency leave retention authority.

Sec. 208. Enforcement authority.

Sec. 209. Repeal.

Sec. 210. Admirals and Vice Admirals.

Sec. 211. Merchant Mariner Medical Advisory Committee.

Sec. 212. Reserve commissioned warrant officer to lieutenant program.

Sec. 213. Enhanced status quo officer promotion system.

Sec. 214. Laser Training System.

Sec. 215. Coast Guard vessels and aircraft.

Sec. 216. Coast Guard District Ombudsmen.

Sec. 217. Ensuring contracting with small business concerns and disadvantaged business concerns.

Sec. 218. Assistant Commandant for Port and Waterway Security.

Sec. 219. Small business procurements.

Sec. 220. Enforcement of coastwise trade laws.

Sec. 221. Nomination and appointment of cadets at the Coast Guard Academy.

## TITLE III—SHIPPING AND NAVIGATION

- Sec. 301. Vessel size limits.
  - Sec. 302. Goods and services.
  - Sec. 303. Seaward extension of anchorage grounds jurisdiction.
  - Sec. 304. Maritime Drug Law Enforcement Act amendment-simple possession.
  - Sec. 305. Technical amendments to tonnage measurement law.
  - Sec. 306. Cold weather survival training.
  - Sec. 307. Fishing vessel safety.
  - Sec. 308. Mariner records.
  - Sec. 309. Deletion of exemption of license requirement for operators of certain towing vessels.
  - Sec. 310. Adjustment of liability limits for natural gas deepwater ports.
  - Sec. 311. Period of limitations for claims against Oil Spill Liability Trust Fund.
  - Sec. 312. Log books.
  - Sec. 313. Unsafe operation.
  - Sec. 314. Approval of survival craft.
  - Sec. 315. Safety management.
  - Sec. 316. Protection against discrimination.
  - Sec. 317. Dry bulk cargo residue.
  - Sec. 318. Oil fuel tank protection.
  - Sec. 319. Registry endorsement for LNG vessels.
  - Sec. 320. Oaths.
  - Sec. 321. Duration of credentials.
  - Sec. 322. Fingerprinting.
  - Sec. 323. Authorization to extend the duration of licenses, certificates of registry, and merchant mariners' documents.
  - Sec. 324. Merchant mariner documentation.
  - Sec. 325. Merchant mariner assistance report.
  - Sec. 326. Merchant mariner shortage report.
  - Sec. 327. Merchant mariner document standards.
  - Sec. 328. Report on Coast Guard determinations.
  - Sec. 329. Pilot required.
  - Sec. 330. Offshore supply vessels.
  - Sec. 331. Recreational vessel operator education and training.
  - Sec. 332. Ship emission reduction technology demonstration project.
- TITLE IV—MISCELLANEOUS PROVISIONS**
- Sec. 401. Certificate of documentation for GALLANT LADY.
  - Sec. 402. Waiver.
  - Sec. 403. Great Lakes Maritime Research Institute.
  - Sec. 404. Conveyance.
  - Sec. 405. Crew wages on passenger vessels.
  - Sec. 406. Technical corrections.
  - Sec. 407. Conveyance of decommissioned Coast Guard Cutter STORIS.
  - Sec. 408. Repeal of requirement of license for employment in the business of salvaging on the coast of Florida.
  - Sec. 409. Right-of-first-refusal for Coast Guard property on Jupiter Island, Florida.
  - Sec. 410. Conveyance of Coast Guard HU-25 Falcon Jet aircraft.
  - Sec. 411. Decommissioned Coast Guard vessels for Haiti.
  - Sec. 412. Extension of period of operation of vessel for setting, relocation, or recovery of anchors or other mooring equipment.
  - Sec. 413. Vessel traffic risk assessments.
  - Sec. 414. Vessel MARYLAND INDEPENDENCE.
  - Sec. 415. Study of relocation of Coast Guard Sector Buffalo facilities.
  - Sec. 416. Conveyance of Coast Guard vessel to Coahoma County, Mississippi.
  - Sec. 417. Conveyance of Coast Guard vessel to Warren County, Mississippi.

- Sec. 418. Conveyance of Coast Guard vessel to Washington County, Mississippi.
- Sec. 419. Coast Guard assets for United States Virgin Islands.
- Sec. 420. Conveyance of the Presque Isle Light Station fresnel lens to Presque Isle Township, Michigan.
- Sec. 421. Fishing in South Pacific tuna treaty convention area.
- Sec. 422. Assessment of needs for additional Coast Guard presence in high latitude regions.
- Sec. 423. Study of regional response vessel and salvage capability for Olympic Peninsula coast, Washington.
- Sec. 424. Report on projected workload at the Coast Guard Yard in Curtis Bay, Maryland.
- Sec. 425. Study of bridges over navigable waters.
- Sec. 426. Limitation on jurisdiction of States to tax certain seamen.
- Sec. 427. Decommissioned Coast Guard vessels for Bermuda.
- Sec. 428. Recreational marine industry.
- Sec. 429. Conveyance of Coast Guard vessels to Nassau County, New York.

## TITLE V—BALLAST WATER TREATMENT

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

## TITLE VI—MARITIME POLLUTION PREVENTION

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

## TITLE VII—PORT SECURITY

- Sec. 701. Maritime homeland security public awareness program.
- Sec. 702. Transportation Worker Identification Credential.
- Sec. 703. Study to identify redundant background records checks.
- Sec. 704. Review of interagency operational centers.
- Sec. 705. Maritime security response teams.
- Sec. 706. Coast Guard detection canine team program expansion.
- Sec. 707. Coast Guard port assistance program.
- Sec. 708. Maritime biometric identification.
- Sec. 709. Review of potential threats.
- Sec. 710. Port security pilot.
- Sec. 711. Advance notice of port arrival of significant or fatal incidents involving U.S. persons.
- Sec. 712. Safety and security assistance for foreign ports.
- Sec. 713. Seasonal workers.
- Sec. 714. Comparative risk assessment of vessel-based and facility-based liquefied natural gas regasification processes.
- Sec. 715. Pilot Program for fingerprinting of maritime workers.
- Sec. 716. Transportation security cards on vessels.
- Sec. 717. International labor study.

- Sec. 718. Maritime security advisory committees.
- Sec. 719. Seamen's shoreside access.
- Sec. 720. Waterside security around liquefied natural gas terminals and liquefied natural gas tankers.

## TITLE VIII—COAST GUARD INTEGRATED DEEPWATER PROGRAM

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

## Sec. 808. Definitions.

## TITLE IX—MINORITY SERVING INSTITUTIONS

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

## TITLE X—APPEALS TO NATIONAL TRANSPORTATION SAFETY BOARD

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

## TITLE XI—MARINE SAFETY

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

## TITLE I—AUTHORIZATION

## SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

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

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

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

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

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

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

(E) \$1,523,000,000 shall be available only for paying for ports, waterways, and coastal security.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels,

and aircraft, including equipment related thereto, \$1,125,083,000, of which—

(A) \$20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990, to remain available until expended;

(B) \$990,444,000 is authorized for the Integrated Deepwater System Program; and

(C) \$44,597,000 is authorized for shore facilities and aids to navigation.

(3) To the Commandant of the Coast Guard for research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, \$25,000,000, to remain available until expended, of which \$2,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$1,184,720,000, to remain available until expended.

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

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operation and maintenance), \$13,000,000, to remain available until expended.

(7) For the Coast Guard Reserve program, including personnel and training costs, equipment, and services, \$126,883,000.

#### **SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.**

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

(b) **MILITARY TRAINING STUDENT LOADS.**—For fiscal year 2008, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,500 student years.

(2) For flight training, 165 student years.

(3) For professional training in military and civilian institutions, 350 student years.

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

#### **SEC. 103. TRANSFER OF BRIDGE ADMINISTRATION PROGRAM AUTHORITY AND FUNCTIONS.**

(a) **TRANSFER.**—

(1) **AUTHORITY AND FUNCTIONS.**—Notwithstanding section 888(b) of the Homeland Security Act of 2002 (6 U.S.C. 468(b)) or any other provision of law, the authorities of the Secretary of Homeland Security to approve the construction, alteration, or operation of a bridge, drawbridge, or causeway across or over the navigable waters of the United States and to require the alteration, repair, or removal of that bridge, drawbridge, or causeway, pursuant to the Bridge Act of 1906 (34 Stat. 84; 33 U.S.C. 491 et seq.), the General Bridge Act of 1946 (60 Stat. 847, 33 U.S.C. 525 note), the Truman-Hobbs Act (54 Stat. 497; 33 U.S.C. 511 et seq.), and the International Bridge Act of 1972 (60 Stat. 847; 33 U.S.C. 525 et seq.), and the functions related thereto, are hereby transferred to the Secretary of Transportation.

(2) **TRANSFER AND ADMINISTRATION OF BALANCES.**—Any unobligated balances of prior appropriations provided for the alteration of bridges are transferred and shall be available to the Secretary of Transportation to carry out the functions and authorities transferred by subsection (a).

### **TITLE II—COAST GUARD**

#### **SEC. 201. APPOINTMENT OF CIVILIAN COAST GUARD JUDGES.**

(a) **IN GENERAL.**—Chapter 7 of title 14, United States Code, is amended by adding at the end the following:

##### **“§ 153. Appointment of judges**

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

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

“153. Appointment of judges.”.

#### **SEC. 202. INDUSTRIAL ACTIVITIES.**

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

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

(2) by adding at the end the following:

“(b) **ORDERS AND AGREEMENTS FOR INDUSTRIAL ACTIVITIES.**—Under this section, the Coast Guard industrial activities may accept orders and enter into reimbursable agreements with establishments, agencies, and departments of the Department of Defense.”.

#### **SEC. 203. REIMBURSEMENT FOR MEDICAL-RELATED TRAVEL EXPENSES.**

(a) **IN GENERAL.**—Chapter 13 of title 14, United States Code, is amended by adding at the end the following:

##### **“§ 518. Reimbursement for medical-related travel expenses for certain persons residing on islands in the continental United States**

“In any case in which a covered beneficiary (as defined in section 1072(5) of title 10) resides on an island that is located in the 48 contiguous States and the District of Columbia and that lacks public access roads to the mainland and is referred by a primary care physician to a specialty care provider (as defined in section 1074(b) of title 10) on the mainland who provides services less than 100 miles from the location where the beneficiary resides, the Secretary shall reimburse the reasonable travel expenses of the covered beneficiary and, when accompaniment by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary's family who is at least 21 years of age.”.

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

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

#### **SEC. 204. COMMISSIONED OFFICERS.**

(a) **ACTIVE DUTY PROMOTION LIST.**—Section 42 of title 14, United States Code, is amended to read as follows:

##### **“§ 42. Number and distribution of commissioned officers on active duty promotion list**

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

“(b) **DISTRIBUTION PERCENTAGES BY GRADE.**—

“(1) **REQUIRED.**—The total number of commissioned officers authorized by this section shall be distributed in grade in the following percentages: 0.375 percent for rear admiral; 0.375 percent for rear admiral (lower half); 6.0 percent for captain; 15.0 percent for commander; and 22.0 percent for lieutenant commander.

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

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

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

“(B) shall apply that total percentage reduction to any other lower grade or combination of lower grades.

“(c) **COMPUTATIONS.**—

“(1) **IN GENERAL.**—The Secretary shall compute, at least once each year, the total number of commissioned officers authorized to serve in each grade by applying the grade distribution percentages established by or under this section to the total number of commissioned officers listed on the current active duty promotion list.

“(2) **ROUNDING FRACTIONS.**—Subject to subsection (a), in making the computations under paragraph (1), any fraction shall be rounded to the nearest whole number.

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

“(d) **USE OF NUMBERS; TEMPORARY INCREASES.**—The numbers resulting from computations under subsection (c) shall be, for all purposes, the authorized number in each grade; except that the authorized number for a grade is temporarily increased during the period between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.

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

(b) **CLERICAL AMENDMENT.**—The analysis for chapter 3 of such title is amended by striking the item relating to section 42 and inserting the following:

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

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

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

(1) by striking paragraph (4);

(2) in paragraph (5)—

(A) by striking “and” at the end of subparagraph (C);

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

(C) by inserting at the end the following:



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

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

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

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

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

(B) by striking subsection (c).

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

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

(B) by striking paragraph (4); and

(C) by redesignating paragraph (5) as paragraph (4).

#### SEC. 206. GRANTS TO INTERNATIONAL MARITIME ORGANIZATIONS.

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

“(c) GRANTS TO INTERNATIONAL MARITIME ORGANIZATIONS.—After consultation with the Secretary of State, the Commandant may make grants to, or enter into cooperative agreements, contracts, or other agreements with, international maritime organizations for the purpose of acquiring information or data about merchant vessel inspections, security, safety, classification, and port state or flag state law enforcement or oversight.”.

#### SEC. 207. EMERGENCY LEAVE RETENTION AUTHORITY.

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

##### “§ 426. Emergency leave retention authority

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

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

“426. Emergency leave retention authority.”.

#### SEC. 208. ENFORCEMENT AUTHORITY.

(a) IN GENERAL.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

##### “§ 99. Enforcement authority

“Subject to guidelines approved by the Secretary, members of the Coast Guard, in the performance of official duties, may—

“(1) carry a firearm; and

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

“(A) make an arrest without warrant for any offense against the United States committed in their presence; and

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

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

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

“99. Enforcement authority.”.

#### SEC. 209. REPEAL.

Section 216 of title 14, United States Code, and the item relating to such section in the

analysis for chapter 11 of such title, are repealed.

#### SEC. 210. ADMIRALS AND VICE ADMIRALS.

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

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

##### “§ 50. Vice admirals

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

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

“(B) shall perform any duties as the Commandant may prescribe.

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

“(A) The Deputy Commandant for Mission Support.

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

“(C) The Commander, Force Readiness Command.

“(D) The Commander, Operations Command.

“(3) The President may appoint, by and with the advice and consent of the Senate, and reappoint, by and with the advice and consent of the Senate, to each of the positions designated under paragraph (1) an officer of the Coast Guard who is serving on active duty above the grade of captain. The Commandant shall make recommendations for those appointments.

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

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

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

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

“(C) while awaiting retirement, beginning on the date the officer is detached from duty and ending on the day before the officer's retirement, but not for more than 60 days.

“(c)(1) An appointment of an officer under subsection (a) does not vacate the permanent grade held by the officer.

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

“(d) Whenever a vacancy occurs in a position designated under subsection (a), the Commandant shall inform the President of the qualifications needed by an officer serving in that position to carry out effectively the duties and responsibilities of that position.”.

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

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

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

“(a) An officer, other than the Commandant, who, while serving in the grade of

admiral or vice admiral, is retired for physical disability shall be placed on the retired list with the highest grade in which that officer served.

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

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

(2) in subsection (d)(2) by striking “Area Commander, or Chief of Staff” and inserting “or Vice Admirals”.

(e) CLERICAL AMENDMENTS.—

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

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

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

“47. Vice Commandant; appointment.”;

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

“50. Vice admirals.”;

and

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

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

#### SEC. 211. MERCHANT MARINER MEDICAL ADVISORY COMMITTEE.

(a) IN GENERAL.—Chapter 71 of title 46, United States Code, is amended by adding at the end the following new section:

##### “§ 7115. Merchant Mariner Medical Advisory Committee

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—There is established a Merchant Mariner Medical Advisory Committee (in this section referred to as the ‘Committee’).

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

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

“(B) medical standards and guidelines for the physical qualifications of operators of commercial vessels;

“(C) medical examiner education; and

“(D) medical research.

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—The Committee shall consist of 14 members, none of whom is a Federal employee, and shall include—

“(A) ten who are health-care professionals with particular expertise, knowledge, or experience regarding the medical examinations of merchant mariners or occupational medicine; and

“(B) four who are professional mariners with knowledge and experience in mariner occupational requirements.

“(2) STATUS OF MEMBERS.—Members of the Committee shall not be considered Federal employees or otherwise in the service or the employment of the Federal Government, except that members shall be considered special Government employees, as defined in section 202(a) of title 18, United States Code, and shall be subject to any administrative standards of conduct applicable to the employees of the department in which the Coast Guard is operating.

“(c) APPOINTMENTS; TERMS; VACANCIES.—

“(1) APPOINTMENTS.—The Secretary shall appoint the members of the Committee, and each member shall serve at the pleasure of the Secretary.

“(2) TERMS.—Each member shall be appointed for a term of three years, except that, of the members first appointed, three members shall be appointed for a term of two years and three members shall be appointed for a term of one year.

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

“(d) CHAIRMAN AND VICE CHAIRMAN.—The Secretary shall designate one member of the Committee as the Chairman and one member as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

“(e) COMPENSATION; REIMBURSEMENT.—Members of the Committee shall serve without compensation, except that, while engaged in the performance of duties away from their homes or regular places of business of the member, the member of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

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

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

(c) CLERICAL AMENDMENT.—The analysis for chapter 71 of that title is amended by adding at the end the following:

“7115. Merchant Mariner Medical Advisory Committee.”.

#### **SEC. 212. RESERVE COMMISSIONED WARRANT OFFICER TO LIEUTENANT PROGRAM.**

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

“(a) The president may appoint temporary commissioned officers—

“(1) in the Regular Coast Guard in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers, warrant officers, and enlisted members of the Coast Guard, and from holders of licenses issued under chapter 71 of title 46; and

“(2) in the Coast Guard Reserve in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers of the Coast Guard Reserve.”.

#### **SEC. 213. ENHANCED STATUS QUO OFFICER PROMOTION SYSTEM.**

Chapter 11 of title 14, United States Code, is amended—

(1) in section 253(a)—

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

(B) by striking “, and the number of officers the board may recommend for promotion”;

(2) in section 258—

(A) by inserting “(a) IN GENERAL.—” before the existing text;

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

(C) by adding at the end the following:

“(b) PROVISION OF DIRECTION AND GUIDANCE.—

“(1) In addition to the information provided pursuant to subsection (a), the Secretary may furnish the selection board—

“(A) specific direction relating to the needs of the Coast Guard for officers having particular skills, including direction relating to the need for a minimum number of officers with particular skills within a specialty; and

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

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

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

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

#### **SEC. 214. LASER TRAINING SYSTEM.**

(a) IN GENERAL.—Within one year after the date of enactment of this Act, the Secretary of the department in which the Coast Guard shall test an integrated laser engagement system for the training of members of the Coast Guard assigned to small vessels in the use of individual weapons and machine guns on those vessels. The test shall be conducted on vessels on the Great Lakes using similar laser equipment used by other Federal agencies. However, that equipment shall be adapted for use in the marine environment.

(b) REPORT.—The Secretary shall submit a report to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate within 6 months after the conclusions of the test required under subsection (a) on the costs and benefits of using the system regionally and nationwide to train members of the Coast Guard in the use of individual weapons and machine guns.

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

(a) AUTHORITY TO FIRE AT OR INTO A VESSEL.—Section 637(c) of title 14, United States Code, is amended—

(1) in paragraph (1), by striking “; or” and inserting a semicolon;

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

(3) by adding at the end the following:

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

“(A) the vessel or aircraft is under the tactical control of the Coast Guard; and

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

(b) AUTHORITY TO DISPLAY COAST GUARD ENSIGNS AND PENNANTS.—Section 638(a) of title 14, United States Code, is amended by striking “Coast Guard vessels and aircraft” and inserting “Vessels and aircraft authorized by the Secretary”.

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

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

##### **“§ 55. District Ombudsmen**

“(a) IN GENERAL.—The Commandant shall appoint an employee of the Coast Guard in

each Coast Guard District as a District Ombudsman to serve as a liaison between ports, terminal operators, shipowners, and labor representatives and the Coast Guard.

“(b) PURPOSE.—The purpose of the District Ombudsman shall be the following:

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

“(2) To improve communications between and among port stakeholders including, port and terminal operators, ship owners, labor representatives, and the Coast Guard.

“(3) To seek to resolve disputes between the Coast Guard and all petitioners regarding requirements imposed or services provided by the Coast Guard.

“(c) FUNCTIONS.—

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

“(2) GUIDELINES FOR DISPUTES.—

“(A) IN GENERAL.—The District Ombudsman shall develop guidelines regarding the types of disputes with respect to which the District Ombudsman will provide assistance.

“(B) LIMITATION.—The District Ombudsman shall not provide assistance with respect to a dispute unless it involves the impact of Coast Guard requirements on port business and the flow of commerce.

“(C) PRIORITY.—In providing such assistance, the District Ombudsman shall give priority to complaints brought by petitioners who believe they will suffer a significant hardship as the result of implementing a Coast Guard requirement or being denied a Coast Guard service.

“(3) CONSULTATION.—The District Ombudsman may consult with any Coast Guard personnel who can aid in the investigation of a complaint.

“(4) ACCESS TO INFORMATION.—The District Ombudsman shall have access to any Coast Guard document, including any record or report, that will aid the District Ombudsman in obtaining the information needed to conduct an investigation of a complaint.

“(5) REPORTS.—At the conclusion of an investigation, the District Ombudsman shall submit a report on the findings and recommendations of the District Ombudsman, to the Commander of the District in which the petitioner who brought the complaint is located or operating.

“(6) DEADLINE.—The District Ombudsman shall seek to resolve each complaint brought in accordance with the guidelines—

“(A) in a timely fashion; and

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

“(d) APPOINTMENT.—The Commandant shall appoint as the District Ombudsman a civilian who has experience in port and transportation systems and knowledge of port operations or of maritime commerce (or both).

“(e) ANNUAL REPORTS.—The Secretary shall report annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the matters brought before the District Ombudsmen, including—

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

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

“(3) the eventual resolution of each such matter.”.

(b) CLERICAL AMENDMENT.—The analysis at the beginning of that chapter is amended by adding at the end the following new item:

“55. District Ombudsmen.”.

# **SEC. 217. ENSURING CONTRACTING WITH SMALL BUSINESS CONCERNS AND DISADVANTAGED BUSINESS CONCERNS.**

(a) **REQUIREMENTS FOR PRIME CONTRACTS.**—The Secretary shall include in each contract awarded for procurement of goods or services acquired for the Coast Guard—

(1) a requirement that the contractor shall implement a plan for the award, in accordance with other applicable requirements, of subcontracts under the contract to small business concerns, including small business concerns owned and controlled by socially and economically disadvantaged individuals, small business concerns owned and controlled by women, small business concerns owned and controlled by service-disabled veterans, HUBZone small business concerns, small business concerns participating in the program under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), institutions receiving assistance under title III or V of the Higher Education Act of 1965 (20 U.S.C. 1051 et seq., 1101 et seq.), and Alaska Native Corporations created pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), including the terms of such plan; and

(2) a requirement that the contractor shall submit to the Secretary, during performance of the contract, periodic reports describing the extent to which the contractor has complied with such plan, including specification (by total dollar amount and by percentage of the total dollar value of the contract) of the value of subcontracts awarded at all tiers of subcontracting to small business concerns, institutions, and corporations referred to in subsection (a)(1).

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

(c) **ANNUAL REPORT.**—

(1) **IN GENERAL.**—The Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by October 31 each year a report on the award of contracts under the Deepwater Program to small business concerns, institutions, and corporations referred to in subsection (a)(1) during the preceding fiscal year.

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

(A) specification of the value of such contracts, by dollar amount and as a percentage of the total dollar value of all contracts awarded by the United States under the Deepwater Program in such fiscal year;

(B) specification of the total dollar value of such contracts awarded to each of the categories of small business concerns, institutions, and corporations referred to in subsection (a)(1); and

(C) if the percentage specified under subparagraph (A) is less than 25 percent, an explanation of—

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

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

(d) **DEFINITIONS.**—In this section:

(1) **DEEPWATER PROGRAM.**—The term “Deepwater Program” means the Integrated Deepwater Systems Program described by the Coast Guard in its report to Congress entitled “Revised Deepwater Implementation Plan 2005”, dated March 25, 2005. The Deepwater Program primarily involves the procurement of cutter and aviation assets that operate more than 50 miles offshore.

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

# **SEC. 218. ASSISTANT COMMANDANT FOR PORT AND WATERWAY SECURITY.**

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

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

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

“(b) The Assistant Commandant for Port and Waterway Security shall serve as the principal advisor to the Commandant regarding port and waterway security and shall carry out the duties and powers delegated and imposed by the Secretary.”

(b) **CLERICAL AMENDMENT.**—The analysis at the beginning of that chapter is further amended by adding at the end the following:

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

## **SEC. 219. SMALL BUSINESS PROCUREMENTS.**

(a) **IN GENERAL.**—Chapter 17 of title 14, United States Code, is amended by adding at the end the following:

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

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

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

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

“(2) **SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.**—The term ‘socially and economically disadvantaged individuals’ has the meaning that term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations issued pursuant to that Act, except that women shall be presumed to be socially and economically disadvantaged individuals for purposes of this subsection.

“(c) **REGULATIONS.**—The Secretary shall issue final regulations governing the administration of the program created by this section by one year after the date of enactment of this section. To the maximum extent feasible, these regulations shall impose requirements similar to those of part 26 of title 49, Code of Federal Regulations, with respect to setting overall and contract goals, good faith efforts, and the contract award process, counting of credit for the participation of businesses owned and controlled by socially and economically disadvantaged individuals, and determining whether businesses are eligible to participate in the program.

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

(b) **CLERICAL AMENDMENT.**—The analysis at the beginning of that chapter is further amended by adding at the end the following:

“678. Disadvantaged business enterprise program.”

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

(a) **IN GENERAL.**—Chapter 5 of title 14, United States Code, is amended by adding at the end the following:

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

“Officers and members of the Coast Guard are authorized to enforce chapter 551 of title

46. The Secretary shall establish a program for these officers and members to enforce that chapter, including the application of those laws to vessels that support the exploration, development, and production of oil, gas, or mineral resources in the Gulf of Mexico.”

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

“101. Enforcement of coastwise trade laws.”

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

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

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

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

“(1) **ELIGIBILITY FOR NOMINATION.**—An individual may be nominated for a competitive appointment as a cadet at the Coast Guard Academy only if the individual—

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

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

“(2) **NOMINATORS.**—Nominations for competitive appointments for the positions allocated under this section may be made as follows:

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

“(B) A Member of the House of Representatives may nominate residents of the State in which the congressional district represented by that Member is located.

“(C) A Delegate to the House of Representatives from the District of Columbia, the Virgin Islands, Guam, or American Samoa may nominate residents of the jurisdiction represented by that Delegate.

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

“(E) The Governor of the Northern Mariana Islands may nominate residents of the Northern Mariana Islands.

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

“(A) Positions shall be allocated for residents of each State nominated by the Members of Congress from that State in proportion to the representation in Congress from that State.

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

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

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

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

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

“(4) **COMPETITIVE SYSTEM FOR APPOINTMENT.**—

“(A) **ESTABLISHMENT OF SYSTEM.**—The Secretary shall establish a competitive system for selecting for appointment individuals nominated under paragraph (1) to fill the positions allocated under paragraph (3). The system must determine the relative merit of

each individual based on competitive examinations, an assessment of the individual's academic background, and other effective indicators of motivation and probability of successful completion of training at the Academy.

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

“(C) REMAINING UNFILLED POSITIONS.—If positions remain unfilled after the appointments are made under paragraph (2), the Secretary shall appoint individuals to fill the positions in the order of merit of the remaining individuals nominated from all jurisdictions.

“(5) NONCOMPETITIVE APPOINTMENTS.—The Secretary may appoint each year without competition as cadets at the Academy the following:

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

“(B) Without limit—

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

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

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

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

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

“(D) Not more than 20 qualified individuals with qualities the Secretary considers to be of special value to the Academy and that the Secretary considers will achieve a national demographic balance at the Academy.

“(6) ADDITIONAL APPOINTMENTS FROM PARTICULAR AREAS.—

“(A) OTHER COUNTRIES IN WESTERN HEMISPHERE.—The President may appoint individuals from countries in the Western Hemisphere other than the United States to receive instruction at the Academy. Not more than 12 individuals may receive instruction under this subsection at the same time, and not more than 2 individuals from the same country may receive instruction under this subsection at the same time.

“(B) OTHER COUNTRIES GENERALLY.—

“(i) APPOINTMENT.—The Secretary, with the approval of the Secretary of State, may appoint individuals from countries other than the United States to receive instruction at the Academy. Not more than 20 individuals may receive instruction under this subsection at the same time.

“(ii) REIMBURSEMENT.—The Secretary shall ensure that the country from which an individual comes under this subsection will reimburse the Secretary for the cost (as determined by the Secretary) of the instruction and allowances received by the individual at the Academy.

“(C) COMMITMENT.—Each individual attending the Academy under this paragraph shall sign an agreement stating that the individual, upon graduation, will accept an appointment, if tendered, as an officer in the Coast Guard of the country from which the individual comes for at least five years.

“(7) PROHIBITED BASIS FOR APPOINTMENT.—Preference may not be given to an individual

for appointment as a cadet at the Academy because one or more members of the individual's immediate family are alumni of the Academy.”.

(b) MINORITY RECRUITING PROGRAM.—

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

**“§ 197. Minority recruiting program**

“The Secretary of the department in which the Coast Guard is operating shall establish a minority recruiting program for prospective cadets at the Coast Guard Academy. The program may include—

“(1) use of minority cadets and officers to provide information regarding the Coast Guard and the Academy to students in high schools;

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

“(3) to the extent authorized by the Secretary of the Navy, maximizing the use of the Naval Academy Preparatory School to prepare students to be cadets at the Coast Guard Academy;

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

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

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

(2) CLERICAL AMENDMENT.—The table of sections for that chapter is amended by adding at the end the following new item:

“197. Minority recruiting program.”.

**TITLE III—SHIPPING AND NAVIGATION**

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

(a) LENGTH, TONNAGE, AND HORSEPOWER.—Section 12113(d)(2) of title 46, United States Code, is amended—

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

(2) by striking “and” at the end of subparagraph (A)(ii);

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

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

(5) by inserting at the end the following:

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

(b) CONFORMING AMENDMENTS.—

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

“(g) VESSEL REBUILDING AND REPLACEMENT.—

“(1) IN GENERAL.—

“(A) REBUILD OR REPLACE.—Notwithstanding any limitation to the contrary on replacing, rebuilding, or lengthening vessels or transferring permits or licenses to a replacement vessel contained in sections 679.2 and 679.4 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2008 and except as provided in paragraph (4), the owner of a vessel eligible under subsection (a), (b), (c), (d), or (e) (other than paragraph (21)), in order to improve vessel safety and operational efficiencies (including fuel efficiency), may rebuild or replace that vessel (including fuel efficiency) with a vessel documented with a fishery endorsement under section 12113 of title 46, United States Code.

“(B) SAME REQUIREMENTS.—The rebuilt or replacement vessel shall be eligible in the same manner and subject to the same restrictions and limitations under such sub-

section as the vessel being rebuilt or replaced.

“(C) TRANSFER OF PERMITS AND LICENSES.—Each fishing permit and license held by the owner of a vessel or vessels to be rebuilt or replaced under subparagraph (A) shall be transferred to the rebuilt or replacement vessel.

“(2) RECOMMENDATIONS OF NORTH PACIFIC COUNCIL.—The North Pacific Council may recommend for approval by the Secretary such conservation and management measures, including size limits and measures to control fishing capacity, in accordance with the Magnuson-Stevens Act as it considers necessary to ensure that this subsection does not diminish the effectiveness of fishery management plans of the Bering Sea and Aleutian Islands Management Area or the Gulf of Alaska.

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

“(A) IN GENERAL.—Notwithstanding the requirements of subsections (b)(2), (c)(1), and (c)(2) of section 12113 of title 46, United States Code, a vessel that is eligible under subsection (a), (b), (c), (d), or (e) (other than paragraph (21)) and that qualifies to be documented with a fishery endorsement pursuant to section 203(g) or 213(g) may be replaced with a replacement vessel under paragraph (1) if the vessel that is replaced is validly documented with a fishery endorsement pursuant to section 203(g) or 213(g) before the replacement vessel is documented with a fishery endorsement under section 12113 of title 46, United States Code.

“(B) APPLICABILITY.—A replacement vessel under subparagraph (A) and its owner and mortgagee are subject to the same limitations under section 203(g) or 213(g) that are applicable to the vessel that has been replaced and its owner and mortgagee.

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

“(A) IN GENERAL.—A replacement for a covered vessel described in subparagraph (B) is prohibited from harvesting fish in any fishery (except for the Pacific whiting fishery) managed under the authority of any regional fishery management council (other than the North Pacific Council) established under section 302(a) of the Magnuson-Stevens Act.

“(B) COVERED VESSELS.—A covered vessel referred to in subparagraph (A) is—

“(i) a vessel eligible under subsection (a), (b), or (c) that is replaced under paragraph (1); or

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

“(5) LIMITATION ON FISHERY ENDORSEMENTS.—Any vessel that is replaced under this subsection shall thereafter not be eligible for a fishery endorsement under section 12113 of title 46, United States Code, unless that vessel is also a replacement vessel described in paragraph (1).

“(6) GULF OF ALASKA LIMITATION.—Notwithstanding paragraph (1), the Secretary shall prohibit from participation in the groundfish fisheries of the Gulf of Alaska any vessel that is rebuilt or replaced under this subsection and that exceeds the maximum length overall specified on the license that authorizes fishing for groundfish pursuant to the license limitation program under part 679 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2008.

“(7) AUTHORITY OF PACIFIC COUNCIL.—Nothing in this section shall be construed to diminish or otherwise affect the authority of the Pacific Council to recommend to the Secretary conservation and management

measures to protect fisheries under its jurisdiction (including the Pacific whiting fishery) and participants in such fisheries from adverse impacts caused by this Act.”.

(2) **EXEMPTION OF CERTAIN VESSELS.**—Section 203(g) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-620) is amended—

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

(B) by striking “, NORTHERN TRAVELER (United States official number 635986), and NORTHERN VOYAGER (United States official number 637398) (or a replacement vessel for the NORTHERN VOYAGER that complies with paragraphs (2), (5), and (6) of section 208(g) of this Act)”;

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

(3) **FISHERY COOPERATIVE EXIT PROVISIONS.**—Section 210(b) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-629) is amended—

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

(B) by adding at the end the following:

“(7) **FISHERY COOPERATIVE EXIT PROVISIONS.**—

“(A) **FISHING ALLOWANCE DETERMINATION.**—For purposes of determining the aggregate percentage of directed fishing allowances under paragraph (1), when a catcher vessel is removed from the directed pollock fishery, the fishery allowance for pollock for the vessel being removed—

“(i) shall be based on the catch history determination for the vessel made pursuant to section 679.62 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2008; and

“(ii) shall be assigned, for all purposes under this title, in the manner specified by the owner of the vessel being removed to any other catcher vessel or among other catcher vessels participating in the fishery cooperative if such vessel or vessels remain in the fishery cooperative for at least one year after the date on which the vessel being removed leaves the directed pollock fishery.

“(B) **ELIGIBILITY FOR FISHERY ENDORSEMENT.**—Except as provided in subparagraph (C), a vessel that is removed pursuant to this paragraph shall be permanently ineligible for a fishery endorsement, and any claim (including relating to catch history) associated with such vessel that could qualify any owner of such vessel for any permit to participate in any fishery within the exclusive economic zone of the United States shall be extinguished, unless such removed vessel is thereafter designated to replace a vessel to be removed pursuant to this paragraph.

“(C) **LIMITATIONS ON STATUTORY CONSTRUCTION.**—Nothing in this paragraph shall be construed—

“(i) to make the vessels AJ (United States official number 905625), DONA MARTITA (United States official number 651751), NORDIC EXPLORER (United States official number 678234), and PROVIDIAN (United States official number 1062183) ineligible for a fishery endorsement or any permit necessary to participate in any fishery under the authority of the New England Fishery Management Council or the Mid-Atlantic Fishery Management Council established, respectively, under subparagraphs (A) and (B) of section 302(a)(1) of the Magnuson-Stevens Act; or

“(ii) to allow the vessels referred to in clause (i) to participate in any fishery under the authority of the Councils referred to in clause (i) in any manner that is not consistent with the fishery management plan for the fishery developed by the Councils

under section 303 of the Magnuson-Stevens Act.”.

#### **SEC. 302. GOODS AND SERVICES.**

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

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

(2) by striking the period at the end of paragraph (3) and inserting “; or”; and

(3) by adding at the end the following:

“(4) sales taxes on goods and services provided to or by vessels or watercraft (other than vessels or watercraft primarily engaged in foreign commerce).”.

#### **SEC. 303. SEAWARD EXTENSION OF ANCHORAGE GROUNDS JURISDICTION.**

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

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

“(a) **IN GENERAL.**—The”.

(2) in subsection (a) (as designated by paragraph (1)) by striking “\$100; and the” and inserting “up to \$10,000. Each day during which a violation continues shall constitute a separate violation. The”;

(3) by adding at the end the following:

“(b) **DEFINITION.**—As used in this section ‘navigable waters of the United States’ includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.”.

#### **SEC. 304. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENT—SIMPLE POSSESSION.**

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

“(c) **SIMPLE POSSESSION.**—

“(1) **IN GENERAL.**—Any individual on a vessel subject to the jurisdiction of the United States who is found by the Secretary, after notice and an opportunity for a hearing, to have knowingly or intentionally possessed a controlled substance within the meaning of the Controlled Substances Act (21 U.S.C. 812) shall be liable to the United States for a civil penalty of not to exceed \$10,000 for each violation. The Secretary shall notify the individual in writing of the amount of the civil penalty.

“(2) **DETERMINATION OF AMOUNT.**—In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

“(3) **TREATMENT OF CIVIL PENALTY ASSESSMENT.**—Assessment of a civil penalty under this subsection shall not be considered a conviction for purposes of State or Federal law but may be considered proof of possession if such a determination is relevant.”.

#### **SEC. 305. TECHNICAL AMENDMENTS TO TONNAGE MEASUREMENT LAW.**

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

(1) by striking “engaged” the first place it appears and inserting “that engages”;

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

(3) in subparagraph (B)—

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

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

(4) in subparagraph (C), by striking “departing” and inserting “that departs”; and

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

(b) **DELEGATION OF AUTHORITY.**—Section 14103(c) of that title is amended by striking

“intended to be engaged on” and inserting “that engages on”.

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

(1) by amending subsection (a) to read as follows:

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

(2) in subsection (b)—

(A) in paragraph (1), by striking the period at the end and inserting “, unless the government of the country to which the vessel belongs elects to measure the vessel under this chapter.”;

(B) in paragraph (3), by inserting “of United States or Canadian registry or nationality, or a vessel operated under the authority of the United States or Canada, and that is” after “vessel”;

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

(D) by striking paragraph (5);

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

(F) by amending paragraph (5), as so redesignated, to read as follows:

“(5) a barge of United States registry or nationality, or a barge operated under the authority of the United States (except a barge that engages on a foreign voyage) unless the owner requests.”;

(3) by striking subsection (c);

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

(5) in subsection (c), as redesignated, by striking “After July 18, 1994, an existing vessel (except an existing vessel referred to in subsection (b)(5)(A) or (B) of this section)” and inserting “An existing vessel that has not undergone a change that the Secretary finds substantially affects the vessel’s gross tonnage (or a vessel to which IMO Resolutions A.494 (XII) of November 19, 1981, A.540 (XIII) of November 17, 1983, or A.541 (XIII) of November 17, 1983 apply)”.

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

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

(e) **TONNAGE CERTIFICATE.**—

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

(A) in subsection (a), by adding at the end the following: “For a vessel to which the Convention does not apply, the Secretary shall prescribe a certificate to be issued as evidence of a vessel’s measurement under this chapter.”;

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

(C) in the section heading by striking “INTERNATIONAL” and “(1969)”.

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

(A) by designating the existing text as subsection (a); and

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

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

(3) **CLERICAL AMENDMENT.**—The analysis at the beginning of chapter 143 of that title is amended by striking the item relating to section 14303 and inserting the following: “14303. Tonnage Certificate.”.

(f) **OPTIONAL REGULATORY MEASUREMENT.**—Section 14305(a) of that title is amended by striking “documented vessel measured under

this chapter,” and inserting “vessel measured under this chapter that is of United States registry or nationality, or a vessel operated under the authority of the United States.”.

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

(1) by amending paragraph (1) to read as follows:

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

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

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

(1) in paragraph (1)—

(A) by striking “vessel’s tonnage mark is below the uppermost part of the load line marks,” and inserting “vessel is assigned two sets of gross and net tonnages under this section.”; and

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

(2) in paragraph (2), by striking the period at the end and inserting “as assigned under this section.”.

(i) RECIPROCITY FOR FOREIGN VESSELS.—Subchapter II of chapter 145 of that title is amended by adding at the end the following:

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

“For a foreign vessel not measured under chapter 143, if the Secretary finds that the laws and regulations of a foreign country related to measurement of vessels are substantially similar to those of this chapter and the regulations prescribed under this chapter, the Secretary may accept the measurement and certificate of a vessel of that foreign country as complying with this chapter and the regulations prescribed under this chapter.”.

(j) CLERICAL AMENDMENT.—The analysis for subchapter II of chapter 145 of such title is amended by adding at the end the following: “14514. Reciprocity for foreign vessels.”.

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

(a) REPORT.—The Commandant of the Coast Guard shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the efficacy of cold weather survival training conducted by the Coast Guard in Coast Guard District 17 over the preceding 5 years. The report shall include plans for conducting such training in fiscal years 2008 through 2011.

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

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

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

(1) in subsection (a), by—

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

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

(B) redesignating paragraph (8) as paragraph (7);

(2) in subsection (b)—

(A) in paragraph (1) in the matter preceding subparagraph (A), by striking “documented”;

(B) in paragraph (1)(A), by striking “the Boundary Line” and inserting “3 nautical

miles from the baseline from which the territorial sea of the United States is measured or beyond 3 nautical miles from the coastline of the Great Lakes”;

(C) in paragraph (2)(B), by striking “lifeboats or life rafts” and inserting “a survival craft that ensures that no part of an individual is immersed in water”;

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

(E) in paragraph (2)(E), by striking “radar reflectors, nautical charts, and anchors” and inserting “nautical charts, and publications”;

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

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

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

(3) by amending subsection (f) to read as follows:

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

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

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

(4) by adding at the end the following:

“(g)(1) The individual in charge of a vessel described in subsection (b) must pass a training program approved by the Secretary that meets the requirements in paragraph (2) of this subsection and hold a valid certificate issued under that program.

“(2) The training program shall—

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

“(B) require an individual to demonstrate ability to communicate in an emergency situation and understand information found in navigation publications;

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

“(D) provide for issuance of a certificate to an individual that has successfully completed the program.

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

“(4) The Secretary shall establish a publicly accessible electronic database listing the names of individuals who have participated in and received a certificate confirming successful completion of a training program approved by the Secretary under this section.

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

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

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

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

“(i)(1) The Secretary shall establish a Fishing Safety Training Grants Program to pro-

vide funding to municipalities, port authorities, other appropriate public entities, not-for-profit organizations, and other qualified persons that provide commercial fishing safety training—

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

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

“(ii) in the case of crewmembers, meets the requirements of subsection (g)(2)(A), such requirements of subsection (g)(2)(B) as are appropriate for crewmembers, and the requirements of subsections (g)(2)(D), (g)(3), and (g)(4); and

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

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

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

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

“(j)(1) The Secretary shall establish a Fishing Safety Research Grant Program to provide funding to individuals in academia, members of non-profit organizations and businesses involved in fishing and maritime matters, and other persons with expertise in fishing safety, to conduct research on methods of improving the safety of the commercial fishing industry, including vessel design, emergency and survival equipment, enhancement of vessel monitoring systems, communications devices, de-icing technology, and severe weather detection.

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

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

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

(c) ADVISORY COMMITTEE.—

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

(A) by striking the section heading and inserting the following:

**“§ 4508. Commercial Fishing Safety Advisory Committee”;**

and

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

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

“4508. Commercial Fishing Safety Advisory Committee.”.

(d) LOADLINES FOR VESSELS OVER 79 FEET.—Section 5102(b)(3) of title 46, United States Code, is amended by inserting after “vessel” the following “, unless the vessel is built or undergoes a major conversion completed after January 1, 2008”.

(e) CLASSING OF VESSELS.—

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

(A) by striking the section heading and inserting the following:

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

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

(C) by adding at the end the following:

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

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

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



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

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

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

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

“(C) is 25 years of age or older.

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

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

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

“(B) have on board a certificate from that society.”.

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

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

(f) ALTERNATIVE SAFETY COMPLIANCE PROGRAM.—No later than January 1, 2015, the Secretary of the department in which the Coast Guard is operating shall prescribe an alternative safety compliance program referred to in section 4503(d) of the title 46, United States Code, as amended by this section.

#### SEC. 308. MARINER RECORDS.

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

(1) by inserting “(a)” before “The”;

(2) by striking “computerized records” and inserting “records, including electronic records.”; and

(3) by adding at the end the following:

“(b) The Secretary may prescribe regulations requiring a vessel owner or managing operator of a commercial vessel, or the employer of a seaman on that vessel, to maintain records of each individual engaged on the vessel on matters of engagement, discharge, and service for not less than 5 years after the date of the completion of the service of that individual on the vessel. The regulations may require that a vessel owner, managing operator, or employer shall make these records available to the individual and the Coast Guard on request.

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

#### SEC. 309. DELETION OF EXEMPTION OF LICENSE REQUIREMENT FOR OPERATORS OF CERTAIN TOWING VESSELS.

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

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

#### SEC. 310. ADJUSTMENT OF LIABILITY LIMITS FOR NATURAL GAS DEEPWATER PORTS.

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

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

#### SEC. 311. PERIOD OF LIMITATIONS FOR CLAIMS AGAINST OIL SPILL LIABILITY TRUST FUND.

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

#### SEC. 312. LOG BOOKS.

(a) IN GENERAL.—Chapter 113 of title 46, United States Code, is amended by adding at the end the following:

#### “§11304. Additional logbook and entry requirements

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

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

“(1) The time when each seaman and each officer assumed or relieved the watch.

“(2) The number of hours in service to the vessels of each seaman and each officer.

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

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

“11304. Additional logbook and entry requirements.”.

#### SEC. 313. UNSAFE OPERATION.

(a) IN GENERAL.—Chapter 21 of title 46, United States Code, is amended by adding at the end the following new section:

#### “§2116. Termination for unsafe operation

“An individual authorized to enforce this title—

“(1) may remove a certificate required by this title from a vessel that is operating in a condition that does not comply with the provisions of the certificate;

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

“(3) may direct the individual in charge of a vessel to which this title applies to immediately take reasonable steps necessary for the safety of individuals on board the vessel if the official observes the vessel being operated in an unsafe condition that the official believes creates an especially hazardous condition, including ordering the individual in charge to return the vessel to a mooring and to remain there until the situation creating the hazard is corrected or ended.”.

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

“2116. Termination for unsafe operation.”.

#### SEC. 314. APPROVAL OF SURVIVAL CRAFT.

(a) IN GENERAL.—Chapter 31 of title 46, United States Code, is amended by adding at the end the following new section:

#### “§3104. Survival craft

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

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

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

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

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

“3104. Survival craft.”.

#### SEC. 315. SAFETY MANAGEMENT.

(a) VESSELS TO WHICH REQUIREMENTS APPLY.—Section 3202 of title 46, United States Code, is amended—

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

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

(3) by inserting after subsection (a) the following:

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

“(1) a passenger vessel or small passenger vessel; and

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

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

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

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

“(c) In prescribing regulations for passenger vessels and small passenger vessels, the Secretary shall consider—

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

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

#### SEC. 316. PROTECTION AGAINST DISCRIMINATION.

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

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

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

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

“(C) the seaman testified in a proceeding brought to enforce a maritime safety law or regulation prescribed under that law;

“(D) the seaman notified, or attempted to notify, the vessel owner or the Secretary of a work-related personal injury or work-related illness of a seaman;

“(E) the seaman cooperated with a safety investigation by the Secretary or the National Transportation Safety Board;

“(F) the seaman furnished information to the Secretary, the National Transportation Safety Board, or any other public official as to the facts relating to any marine casualty resulting in injury or death to an individual or damage to property occurring in connection with vessel transportation; or

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

(4) by amending subsection (b) to read as follows:

“(b) A seaman alleging discharge or discrimination in violation of subsection (a) of this section, or another person at the seaman's request, may file a complaint with respect to such allegation in the same manner as a complaint may be filed under subsection (b) of section 31105 of title 49. Such complaint shall be subject to the procedures, requirements, and rights described in that section, including with respect to the right to file an objection, the right of a person to file for a petition for review under subsection (c) of that section, and the requirement to bring a civil action under subsection (d) of that section.”.

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

#### SEC. 317. DRY BULK CARGO RESIDUE.

Section 623(a)(2) of the Coast Guard and Maritime Transportation Act of 2004 (33

U.S.C. 1901 note) is amended by striking “2008” and inserting “2011”.

#### SEC. 318. OIL FUEL TANK PROTECTION.

Section 3306 of title 46, United States Code, is amended by adding at the end the following new subsection:

“(k)(1) Each vessel of the United States that is constructed under a contract entered into after the date of enactment of the Coast Guard Authorization Act of 2008, or that is delivered after August 1, 2010, with an aggregate capacity of 600 cubic meters or more of oil fuel, shall comply with the requirements of Regulation 12A under Annex I to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, entitled ‘Oil Fuel Tank Protection.’

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

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

#### SEC. 319. REGISTRY ENDORSEMENT FOR LNG VESSELS.

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

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

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

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

“(B) having any effect on the jurisdiction of the Federal Energy Regulatory Commission under section 3(e)(1) of the Natural Gas Act.

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

#### SEC. 320. OATHS.

Sections 7105 and 7305 of title 46, United States Code, and the items relating to such sections in the analysis for chapters 71 and 73 of such title, are repealed.

#### SEC. 321. DURATION OF CREDENTIALS.

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

“(f) PERIODS OF VALIDITY AND RENEWAL OF MERCHANT MARINERS' DOCUMENTS.—

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

“(2) ADVANCE RENEWALS.—A renewed merchant mariner's document may be issued under this chapter up to 8 months in advance but is not effective until the date that the previously issued merchant mariner's document expires.”.

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

##### “§ 7106. Duration of licenses

“(a) IN GENERAL.—A license issued under this part is valid for a 5-year period and may be renewed for additional 5-year periods; except that the validity of a license issued to a radio officer is conditioned on the contin-

uous possession by the holder of a first-class or second-class radiotelegraph operator license issued by the Federal Communications Commission.

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

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

##### “§ 7107. Duration of certificates of registry

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

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

#### SEC. 322. FINGERPRINTING.

(a) MERCHANT MARINER LICENSES AND DOCUMENTS.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

##### “§ 7507. Fingerprinting

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

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

“7507. Fingerprinting.”.

#### SEC. 323. AUTHORIZATION TO EXTEND THE DURATION OF LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS.

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

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

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

“(b) MERCHANT MARINER DOCUMENTS.—Notwithstanding section 7302(g), the Secretary may extend for one year an expiring merchant mariner's document issued for an individual under chapter 71 if the Secretary determines that extension is required to enable the Coast Guard to eliminate a backlog in processing applications for those documents.

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

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

(b) CLERICAL AMENDMENT.—The analysis for such chapter, as amended by section

322(b), is further amended by adding at the end the following:

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

#### SEC. 324. MERCHANT MARINER DOCUMENTATION.

(a) INTERIM CLEARANCE PROCESS.—Not later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall develop an interim clearance process for issuance of a merchant mariner document to enable a newly hired seaman to begin working on an offshore supply vessel or towing vessel if the Secretary makes an initial determination that the seaman does not pose a safety and security risk.

(b) CONTENTS OF PROCESS.—The process under subsection (a) shall include a check against the consolidated and integrated terrorist watch list maintained by the Federal Government, review of the seaman's criminal record, and review of the results of testing the seaman for use of a dangerous drug (as defined in section 2101 of title 46, United States Code) in violation of law or Federal regulation.

#### SEC. 325. MERCHANT MARINER ASSISTANCE REPORT.

Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report regarding a plan—

(1) to expand the streamlined evaluation process program that was affiliated with the Houston Regional Examination Center of the Coast Guard to all processing centers of the Coast Guard nationwide;

(2) to include proposals to simplify the application process for a license as an officer, staff officer, or operator and for a merchant mariner's document to help eliminate errors by merchant mariners when completing the application form (CG-719B), including instructions attached to the application form and a modified application form for renewals with questions pertaining only to the period of time since the previous application;

(3) to provide notice to an applicant of the status of the pending application, including a process to allow the applicant to check on the status of the application by electronic means; and

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

#### SEC. 326. MERCHANT MARINER SHORTAGE REPORT.

Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation, acting through the Administrator of the Maritime Administration, shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report concerning methods to address the current and future shortage in the number of merchant mariners, particularly entry-level mariners, including an evaluation of whether an educational loan program providing loans for the cost of on-the-job training would provide an incentive for workers and help alleviate the shortage.

#### SEC. 327. MERCHANT MARINER DOCUMENT STANDARDS.

Not later than 270 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on

Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(1) a plan to ensure that the process for an application, by an individual who has, or has applied for, a transportation security card under section 70105 of title 46, United States Code, for a merchant mariner document can be completed entirely by mail; and

(2) a report on the feasibility of, and a timeline to, redesign the merchant mariner document to comply with the requirements of such section, including a biometric identifier, and all relevant international conventions, including the International Labour Organization Convention Number 185 concerning the seafarers identity document, and include a review on whether or not such redesign will eliminate the need for separate credentials and background screening and streamline the application process for mariners.

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

Not later than 180 days after enactment of this Act, the Secretary of Homeland Security shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the loss of United States shipyard jobs and industrial base expertise as a result of rebuild, conversion, and double-hull work on United States-flag vessels eligible to engage in the coastwise trade being performed in foreign shipyards, enforcement of the Coast Guard's foreign rebuild determination regulations, and recommendations for improving the transparency in the Coast Guard's foreign rebuild determination process.

#### **SEC. 329. PILOT REQUIRED.**

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

(1) in paragraph (1), by inserting “and Buzzards Bay, Massachusetts” before “, if any,”; and

(2) by adding at the end the following:

“(3) In any area of Buzzards Bay, Massachusetts, where a single-hull tanker or tank vessel carrying 5,000 or more barrels of oil or other hazardous material is required to be under the direction and control of a pilot, the pilot may not be a member of the crew of that vessel, and shall be a pilot licensed—

“(A) by the State of Massachusetts who is operating under a Federal first class pilot's license; or

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

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

“(ii) if the vessel will be navigating in periods of darkness in an area of Buzzards Bay where a vessel is required by regulation to have a pilot, at least 5 round trips through Buzzards Bay during periods of darkness.”.

#### **SEC. 330. OFFSHORE SUPPLY VESSELS.**

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

(b) **EXEMPTION.**—Section 5209(b)(1) of the Oceans Act of 1992 (Public Law 102-587; 46 U.S.C. 2101 note) is amended by inserting before the period at the end the following: “of less than 500 gross tons as measured under section 14502, or an alternate tonnage measured under section 14302 of this title as pre-

scribed by the Secretary under section 14104 of this title.”.

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

(1) in subsection (g), by inserting after “offshore supply vessel” the following: “of less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title,”; and

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

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

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

(d) **MINIMUM NUMBER OF LICENSED INDIVIDUALS.**—Section 8301(b) of title 46, United States Code, is amended to read as follows:

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

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

#### **SEC. 331. RECREATIONAL VESSEL OPERATOR EDUCATION AND TRAINING.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall study and report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committees on Commerce, Science, and Transportation of the Senate regarding recreational vessel operator training. The study and report shall included a review of—

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

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

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

(b) **INCLUDED SUBJECTS.**—The study shall specifically examine—

(1) course materials;

(2) course content;

(3) training methodology;

(4) assessment methodology; and

(5) relevancy of course content to risks for recreational boaters.

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

(1) a section regarding steps the Coast Guard and NASBLA have taken to encourage States to adopt mandatory recreational vessel operator training;

(2) an evaluation of the ability of the States to harmonize their education programs and testing procedures;

(3) an analysis of the extent States have provided reciprocity among the States for their respective mandatory and voluntary education requirements and programs;

(4) a section examining the level of uniformity of education and training between

the States that currently have mandatory education and training programs;

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

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

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

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

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

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

(11) a section analyzing how the Coast Guard would administer a Federal boating education, training, and testing program; and

(12) the extent to which a Federal boating education, training, and testing program should be required for all waters of a State, including internal waters.

#### **SEC. 332. SHIP EMISSION REDUCTION TECHNOLOGY DEMONSTRATION PROJECT.**

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

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

(2) that identifies the Federal, State, and local laws, regulations, and other requirements that affect the ability of any entity to effectively demonstrate onboard technology for the reduction of contaminated emissions from ships.

(b) **REPORT.**—Within 180 days after the date of enactment of this Act, the Commandant shall submit a report on the results of the study conducted under subsection (a) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

### **TITLE IV—MISCELLANEOUS PROVISIONS**

#### **SEC. 401. CERTIFICATE OF DOCUMENTATION FOR GALLANT LADY.**

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

(1) in paragraph (1)—

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

(B) by striking subparagraph (A) and inserting the following:

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

(2) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3); and

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

#### **SEC. 402. WAIVER.**

Notwithstanding section 12112 and chapter 551 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with a coastwise endorsement for the OCEAN VERITAS (IMO Number 7366805).

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

Section 605 of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1052) is amended—

(1) in subsection (b)(1)—

(A) by striking “The Secretary of Transportation shall conduct a study that” and inserting “The Institute shall conduct maritime transportation studies of the Great Lakes region, including studies that”;

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

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

(D) by striking “and” at the end of subparagraph (I);

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

(F) by adding at the end the following:

“(K) identify ways to improve the integration of the Great Lakes marine transportation system into the national transportation system;

“(L) examine the potential of expanded operations on the Great Lakes marine transportation system;

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

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

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

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

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

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

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

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

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

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

**SEC. 404. CONVEYANCE.**

(a) STATION BRANT POINT BOAT HOUSE.—

(1) REQUIREMENT.—The Secretary of the department in which the Coast Guard is operating shall convey to the town of Nantucket, Massachusetts, all right, title, and interest of the United States in and to the buildings known as the Station Brant Point Boat House located at Coast Guard Station Brant Point, Nantucket, Massachusetts, for use for a public purpose.

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

(A) without the payment of consideration; and

(B) subject to appropriate terms and conditions the Secretary considers necessary.

(3) REVERSIONARY INTEREST.—All right, title, and interest in property conveyed under this subsection shall revert to the United States if any portion of the property is used other than for a public purpose.

(b) LEASE.—

(1) REQUIREMENT.—The Secretary of the department in which the Coast Guard is operating shall enter into a lease with the town of Nantucket that authorizes the town of Nantucket to occupy the land on which the buildings conveyed under subsection (a) are located, subject to appropriate terms and conditions the Secretary considers necessary.

(2) LEASE TERM.—A lease under this subsection shall not expire before January 31, 2033.

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

(A) may terminate the lease without payment of compensation; and

(B) shall provide the town of Nantucket not less than 12 months notice of the requirement to vacate the site and move the buildings conveyed under subsection (a) to another location.

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

(a) FOREIGN AND INTERCOASTAL VOYAGES.—

(1) CAP ON PENALTY WAGES.—Section 10313(g) of title 46, United States Code, is amended—

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

(B) by adding at the end the following:

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

“(3) A class action suit for wages under this subsection must be commenced within three years after the later of—

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

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

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

“(f) DEPOSITS IN SEAMAN ACCOUNT.—By written request signed by the seaman, a seaman employed on a passenger vessel capable of carrying more than 500 passengers may authorize the master, owner, or operator of the vessel, or the employer of the seaman, to make deposits of wages of the seaman into a checking, savings, investment, or retirement account, or other account to secure a payroll or debit card for the seaman if—

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

“(2) such deposits in the financial institution are fully guaranteed under commonly accepted international standards by the government of the country in which the financial institution is licensed;

“(3) a written wage statement or pay stub, including an accounting of any direct deposit, is delivered to the seaman no less often than monthly; and

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

(b) COASTWISE VOYAGES.—

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

(A) by striking “When” and inserting “(1) Subject to subsection (d), and except as provided in paragraph (2), when”; and

(B) by inserting at the end the following:

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

“(3) A class action suit for wages under this subsection must be commenced within three years after the later of—

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

“(B) the receipt, by a seaman who is a claimant in the suit, of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.”.

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

“(f) DEPOSITS IN SEAMAN ACCOUNT.—On written request signed by the seaman, a seaman employed on a passenger vessel capable of carrying more than 500 passengers may authorize, the master, owner, or operator of the vessel, or the employer of the seaman, to make deposits of wages of the seaman into a checking, savings, investment, or retirement account, or other account to secure a payroll or debit card for the seaman if—

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

“(2) such deposits in the financial institution are fully guaranteed under commonly accepted international standards by the government of the country in which the financial institution is licensed;

“(3) a written wage statement or pay stub, including an accounting of any direct deposit, is delivered to the seaman no less often than monthly; and

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

**SEC. 406. TECHNICAL CORRECTIONS.**

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

(1) in section 311(b) (120 Stat. 530) by inserting “paragraphs (1) and (2) of” before “section 8104(o)”;

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

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

(4) in section 902(c) (120 Stat. 566) by inserting “of the United States” after “Revised Statutes”;

(5) in section 902(e) (120 Stat. 567) is amended—

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

(B) by striking “and” at the end of paragraph (2)(A); and

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

(6) in section 902(e)(2)(C) (as so redesignated) by striking “this section” and inserting “this paragraph”;

(7) in section 902(e)(2)(D) (as so redesignated) by striking “this section” and inserting “this paragraph”;

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

(A) by striking “Bisti/De-Na-Zin” and all that follows through “Protection” and inserting “Omnibus Parks and Public Lands Management”; and

(B) by inserting a period after “Commandant of the Coast Guard”;

(9) in section 902(k) (120 Stat. 568) is amended—

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

(B) by striking “491” and inserting “494.”; and

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

(10) in section 902(o) (120 Stat. 569) by striking the period after “Homeland Security”.

(b) TITLE 14.—(1) The analysis for chapter 7 of title 14, United States Code, is amended by

adding a period at the end of the item relating to section 149.

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

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

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

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

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

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

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

(f) COAST GUARD AUTHORIZATION ACT OF 1996.—The table of sections in section 2 of the Coast Guard Authorization Act of 1996 is amended in the item relating to section 103 by striking “reports” and inserting “report”.

#### SEC. 407. CONVEYANCE OF DECOMMISSIONED COAST GUARD CUTTER STORIS.

(a) IN GENERAL.—Upon the scheduled decommissioning of the Coast Guard Cutter STORIS, the Commandant of the Coast Guard shall convey, without consideration, all right, title, and interest of the United States in and to that vessel to the USCG Cutter STORIS Museum and Maritime Education Center, LLC, located in the State of Alaska if the recipient—

(1) agrees—

(A) to use the vessel for purposes of a museum and historical display;

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

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising from the use by the Government under subparagraph (C);

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

(3) agrees to any other conditions the Commandant considers appropriate.

(b) MAINTENANCE AND DELIVERY OF VESSEL.—

(1) MAINTENANCE.—Before conveyance of the vessel under this section, the Commandant shall make, to the extent practical and subject to other Coast Guard mission requirements, every effort to maintain the integrity of the vessel and its equipment until the time of delivery.

(2) DELIVERY.—If a conveyance is made under this section, the Commandant shall deliver the vessel to a suitable mooring in the local area in its present condition.

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

(c) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient of a conveyance under subsection (a) any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the operability and function of the vessel conveyed under subsection (a) for purposes of a museum and historical display.

#### SEC. 408. REPEAL OF REQUIREMENT OF LICENSE FOR EMPLOYMENT IN THE BUSINESS OF SALVAGING ON THE COAST OF FLORIDA.

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

(1) by striking section 80102; and

(2) in the table of sections at the beginning of the chapter by striking the item relating to that section.

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

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

(b) IDENTIFICATION OF PROPERTY.—The Commandant of the Coast Guard may identify, describe, and determine the property referred to in subsection (a) that is subject to the right of the Town under that subsection.

(c) LIMITATION.—The property referred to in subsection (a) may not be conveyed under that subsection until the Commandant of the Coast Guard determines that the property is not needed to carry out Coast Guard missions or functions.

(d) REQUIRED USE.—

(1) IN GENERAL.—Except as provided in paragraph (2), any property conveyed under this section shall be used by the Town of Jupiter Island, Florida, solely for conservation of fish and wildlife habitat and other natural resources, including wetlands, beaches, and dunes, and as protection against damage from wind, tidal, and wave energy.

(2) PUBLIC ACCESS.—The Town of Jupiter Island shall allow the public to have reasonable public access to the property conveyed under this section, for customary recreation use of the beach under a management program established by agreement between the Town of Jupiter Island, Florida, and Martin County, Florida.

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

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

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

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

#### SEC. 410. CONVEYANCE OF COAST GUARD HU-25 FALCON JET AIRCRAFT.

(a) AUTHORITY TO CONVEY.—Notwithstanding any other law, the Commandant of the Coast Guard may convey to the Elizabeth City State University (in this section referred to as the “University”), a public university located in the State of North Carolina, without consideration all right,

title, and interest of the United States in an HU-25 Falcon Jet aircraft under the administrative jurisdiction of the Coast Guard that the Commandant determines—

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

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

(b) CONDITIONS.—

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

(A) to utilize the aircraft for educational purposes or other public purposes as jointly agreed upon by the Commandant and the University before conveyance; and

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

(2) REVERSIONARY INTEREST.—If the Commandant determines that the recipient violated subparagraph (A) or (B) of paragraph (1), then—

(A) all right, title, and interest in the aircraft shall revert to the United States;

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

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

(c) LIMITATION ON FUTURE TRANSFERS.—

(1) IN GENERAL.—The Commandant shall include in the instruments for the conveyance a requirement that any further conveyance of an interest in the aircraft may not be made without the approval in advance of the Commandant.

(2) REVERSIONARY INTEREST.—If the Commandant determines that an interest in the aircraft was conveyed without such approval, then—

(A) all right, title, and interest in the aircraft shall revert to the United States;

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

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

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

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

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

(3) without cost to the United States.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Commandant may require such additional terms and conditions in connection with the conveyance required by subsection (a) as the Commandant considers appropriate to protect the interests of the United States.

#### SEC. 411. DECOMMISSIONED COAST GUARD VESSELS FOR HAITI.

(a) IN GENERAL.—Notwithstanding any other law, upon the scheduled decommissioning of any Coast Guard 41-foot patrol boat, the Commandant of the Coast Guard shall give the Government of Haiti a right-of-first-refusal for conveyance of that vessel to the Government of Haiti, if that Government of Haiti agrees—

(1) to use the vessel for the Coast Guard of Haiti;

(2) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or national emergency;

(3) to hold the United States Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising from the use by the United States Government under paragraph (2); and

(4) to any other conditions the Commandant considers appropriate.

(b) **LIMITATION.**—The Commandant may not convey more than 10 vessels to the Government of Haiti pursuant to this section.

(c) **MAINTENANCE AND DELIVERY OF VESSEL.**—

(1) **MAINTENANCE.**—Before conveyance of a vessel under this section, the Commandant shall make, to the extent practical and subject to other Coast Guard mission requirements, every effort to maintain the integrity of the vessel and its equipment until the time of delivery.

(2) **DELIVERY.**—If a conveyance is made under this section, the Commandant shall deliver a vessel to a suitable mooring in the local area in its present condition.

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

**SEC. 412. EXTENSION OF PERIOD OF OPERATION OF VESSEL FOR SETTING, RELOCATION, OR RECOVERY OF ANCHORS OR OTHER MOORING EQUIPMENT.**

Section 705(a)(2) of Public Law 109-347 (120 Stat. 1945) is amended by striking “2” and inserting “3”.

**SEC. 413. VESSEL TRAFFIC RISK ASSESSMENTS.**

(a) **REQUIREMENT.**—The Commandant of the Coast Guard, acting through the appropriate Area Committee established under section 311(j)(4) of the Federal Water Pollution Control Act, shall prepare a vessel traffic risk assessment—

(1) for Cook Inlet, Alaska, within one year after the date of enactment of this Act; and

(2) for the Aleutian Islands, Alaska, within two years after the date of enactment of this Act.

(b) **CONTENTS.**—Each of the assessments shall describe, for the region covered by the assessment—

(1) the amount and character of present and estimated future shipping traffic in the region; and

(2) the current and projected use and effectiveness in reducing risk, of—

(A) traffic separation schemes and routing measures;

(B) long-range vessel tracking systems developed under section 70115 of title 46, United States Code;

(C) towing, response, or escort tugs;

(D) vessel traffic services;

(E) emergency towing packages on vessels;

(F) increased spill response equipment including equipment appropriate for severe weather and sea conditions;

(G) the Automatic Identification System developed under section 70114 of title 46, United States Code;

(H) particularly sensitive sea areas, areas to be avoided, and other traffic exclusion zones;

(I) aids to navigation; and

(J) vessel response plans.

(c) **RECOMMENDATIONS.**—

(1) **IN GENERAL.**—Each of the assessments shall include any appropriate recommendations to enhance the safety, or lessen potential adverse environmental impacts, of marine shipping.

(2) **CONSULTATION.**—Before making any recommendations under paragraph (1) for a region, the Area Committee shall consult with affected local, State, and Federal government agencies, representatives of the fishing industry, Alaska Natives from the region, the conservation community, and the merchant shipping and oil transportation industries.

(d) **PROVISION TO CONGRESS.**—The Commandant shall provide a copy of each assessment to the Committee on Transportation and Infrastructure of the House of Rep-

resentatives and the Committee on Commerce, Science, and Transportation of the Senate.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Commandant \$1,800,000 for each of fiscal years 2008 and 2009 to the conduct the assessments.

**SEC. 414. VESSEL MARYLAND INDEPENDENCE.**

Notwithstanding sections 55101, 55103, and 12112 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with a coastwise endorsement for the vessel MARYLAND INDEPENDENCE (official number 662573). The coastwise endorsement issued under authority of this section is terminated if—

(1) the vessel, or controlling interest in the person that owns the vessel, is conveyed after the date of enactment of this Act; or

(2) any repairs or alterations are made to the vessel outside of the United States.

**SEC. 415. STUDY OF RELOCATION OF COAST GUARD SECTOR BUFFALO FACILITIES.**

(a) **PURPOSES.**—The purposes of this section are—

(1) to authorize a project study to evaluate the feasibility of consolidating and relocating Coast Guard facilities at Coast Guard Sector Buffalo within the study area;

(2) to obtain a preliminary plan for the design, engineering, and construction for the consolidation of Coast Guard facilities at Sector Buffalo; and

(3) to distinguish what Federal lands, if any, shall be identified as excess after the consolidation.

(b) **DEFINITIONS.**—In this section:

(1) **COMMANDANT.**—The term “Commandant” means the Commandant of the Coast Guard.

(2) **SECTOR BUFFALO.**—The term “Sector Buffalo” means Coast Guard Sector Buffalo of the Ninth Coast Guard District.

(3) **STUDY AREA.**—The term “study area” means the area consisting of approximately 31 acres of real property and any improvements thereon that are commonly identified as Coast Guard Sector Buffalo, located at 1 Fuhrmann Boulevard, Buffalo, New York, and under the administrative control of the Coast Guard.

(c) **STUDY.**—

(1) **IN GENERAL.**—Within 12 months after the date on which funds are first made available to carry out this section, the Commandant shall conduct a project proposal report of the study area and shall submit such report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) **REQUIREMENTS.**—The project proposal report shall—

(A) evaluate the most cost-effective method for providing shore facilities to meet the operational requirements of Sector Buffalo;

(B) determine the feasibility of consolidating and relocating shore facilities on a portion of the existing site, while—

(i) meeting the operational requirements of Sector Buffalo; and

(ii) allowing the expansion of operational requirements of Sector Buffalo; and

(C) contain a preliminary plan for the design, engineering, and construction of the proposed project, including—

(i) the estimated cost of the design, engineering, and construction of the proposed project;

(ii) an anticipated timeline of the proposed project; and

(iii) a description of what Federal lands, if any, shall be considered excess to Coast Guard needs.

(d) **LIMITATION.**—Nothing in this section shall affect the current administration and management of the study area.

**SEC. 416. CONVEYANCE OF COAST GUARD VESSEL TO COAHOMA COUNTY, MISSISSIPPI.**

(a) **AUTHORITY TO CONVEY.**—Notwithstanding the Federal Property and Administrative Services Act of 1949, the Commandant of the Coast Guard may convey to the Sheriff's Department of Coahoma County, Mississippi (in this section referred to as the “Sheriff's Department”), without consideration all right, title, and interest of the United States in and to a Coast Guard trailerable boat, ranging from 17 feet to 30 feet in size, that the Commandant determines—

(1) is appropriate for use by the Sheriff's Department; and

(2) is excess to the needs of the Coast Guard and the Department of Homeland Security.

(b) **CONDITION.**—As a condition of conveying a vessel under the authority provided in subsection (a), the Commandant shall enter into an agreement with the Sheriff's Department under which the Sheriff's Department agrees—

(1) to utilize the vessel for homeland security and other appropriate purposes as jointly agreed upon by the Commandant and the Sheriff's Department before conveyance; and

(2) to take the vessel “as is” and to hold the United States harmless for any claim arising with respect to that vessel after conveyance of the vessel, including any claims arising from the condition of the vessel and its equipment or exposure to hazardous materials.

(c) **DELIVERY OF VESSEL.**—The Commandant shall deliver the vessel conveyed under the authority provided in subsection (a)—

(1) at the place where the vessel is located on the date of the conveyance;

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

(3) without cost to the United States.

(d) **OTHER EXCESS EQUIPMENT.**—The Commandant may further convey any excess equipment or parts from other Coast Guard vessels, which are excess to the needs of the Coast Guard and the Department of Homeland Security, to the Sheriff's Department for use to enhance the operability of the vessel conveyed under the authority provided in subsection (a).

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Commandant may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) as the Commandant considers appropriate to protect the interests of the United States.

**SEC. 417. CONVEYANCE OF COAST GUARD VESSEL TO WARREN COUNTY, MISSISSIPPI.**

(a) **AUTHORITY TO CONVEY.**—Notwithstanding the Federal Property and Administrative Services Act of 1949, the Commandant of the Coast Guard may convey to the Sheriff's Office of Warren County, Mississippi (in this section referred to as the “Sheriff's Office”), without consideration all right, title, and interest of the United States in and to a Coast Guard trailerable boat, ranging from 17 feet to 30 feet in size, that the Commandant determines—

(1) is appropriate for use by the Sheriff's Office; and

(2) is excess to the needs of the Coast Guard and the Department of Homeland Security.

(b) **CONDITION.**—As a condition of conveying a vessel under the authority provided in subsection (a), the Commandant shall enter into an agreement with the Sheriff's Office under which the Sheriff's Office agrees—



(1) to utilize the vessel for homeland security and other appropriate purposes as jointly agreed upon by the Commandant and the Sheriff's Office before conveyance; and

(2) to take the vessel "as is" and to hold the United States harmless for any claim arising with respect to that vessel after conveyance of the vessel, including any claims arising from the condition of the vessel and its equipment or exposure to hazardous materials.

(c) **DELIVERY OF VESSEL.**—The Commandant shall deliver the vessel conveyed under the authority provided in subsection (a)

(1) at the place where the vessel is located on the date of the conveyance;

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

(3) without cost to the United States.

(d) **OTHER EXCESS EQUIPMENT.**—The Commandant may further convey any excess equipment or parts from other Coast Guard vessels, which are excess to the needs of the Coast Guard and the Department of Homeland Security, to the Sheriff's Office for use to enhance the operability of the vessel conveyed under the authority provided in subsection (a).

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Commandant may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) as the Commandant considers appropriate to protect the interests of the United States.

**SEC. 418. CONVEYANCE OF COAST GUARD VESSEL TO WASHINGTON COUNTY, MISSISSIPPI.**

(a) **AUTHORITY TO CONVEY.**—Notwithstanding the Federal Property and Administrative Services Act of 1949, the Commandant of the Coast Guard may convey to the Sheriff's Office of Washington County, Mississippi (in this section referred to as the "Sheriff's Office"), without consideration all right, title, and interest of the United States in and to a Coast Guard trailerable boat, ranging from 17 feet to 30 feet in size, that the Commandant determines—

(1) is appropriate for use by the Sheriff's Office; and

(2) is excess to the needs of the Coast Guard and the Department of Homeland Security.

(b) **CONDITION.**—As a condition of conveying a vessel under the authority provided in subsection (a), the Commandant shall enter into an agreement with the Sheriff's Office under which the Sheriff's Office agrees—

(1) to utilize the vessel for homeland security and other appropriate purposes as jointly agreed upon by the Commandant and the Sheriff's Office before conveyance; and

(2) to take the vessel "as is" and to hold the United States harmless for any claim arising with respect to that vessel after conveyance of the vessel, including any claims arising from the condition of the vessel and its equipment or exposure to hazardous materials.

(c) **DELIVERY OF VESSEL.**—The Commandant shall deliver the vessel conveyed under the authority provided in subsection (a)—

(1) at the place where the vessel is located on the date of the conveyance;

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

(3) without cost to the United States.

(d) **OTHER EXCESS EQUIPMENT.**—The Commandant may further convey any excess equipment or parts from other Coast Guard vessels, which are excess to the needs of the Coast Guard and the Department of Homeland Security, to the Sheriff's Office for use to enhance the operability of the vessel con-

veyed under the authority provided in subsection (a).

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Commandant may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) as the Commandant considers appropriate to protect the interests of the United States.

**SEC. 419. COAST GUARD ASSETS FOR UNITED STATES VIRGIN ISLANDS.**

(a) **IN GENERAL.**—The Secretary of Homeland Security may station additional Coast Guard assets in the United States Virgin Islands for port security and other associated purposes.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for fiscal year 2008 such sums as are necessary to carry out this section.

**SEC. 420. CONVEYANCE OF THE PRESQUE ISLE LIGHT STATION FRESNEL LENS TO PRESQUE ISLE TOWNSHIP, MICHIGAN.**

(a) **CONVEYANCE OF LENS AUTHORIZED.**—

(1) **TRANSFER OF POSSESSION.**—Notwithstanding any other provision of law, the Commandant of the Coast Guard may transfer to Presque Isle Township, a township in Presque Isle County in the State of Michigan (in this section referred to as the "Township"), possession of the Historic Fresnel Lens (in this section referred to as the "Lens") from the Presque Isle Light Station Lighthouse, Michigan (in this section referred to as the "Lighthouse").

(2) **CONDITION.**—As a condition of the transfer of possession authorized by paragraph (1), the Township shall, not later than one year after the date of transfer, install the Lens in the Lighthouse for the purpose of operating the Lens and Lighthouse as a Class I private aid to navigation pursuant to section 85 of title 14, United States Code, and the applicable regulations under that section.

(3) **CONVEYANCE OF LENS.**—Upon the certification of the Commandant that the Township has installed the Lens in the Lighthouse and is able to operate the Lens and Lighthouse as a private aid to navigation as required by paragraph (2), the Commandant shall convey to the Township all right, title, and interest of the United States in and to the Lens.

(4) **CESSATION OF UNITED STATES OPERATIONS OF AIDS TO NAVIGATION AT LIGHTHOUSE.**—Upon the making of the certification described in paragraph (3), all active Federal aids to navigation located at the Lighthouse shall cease to be operated and maintained by the United States.

(b) **REVERSION.**—

(1) **REVERSION FOR FAILURE OF AID TO NAVIGATION.**—If the Township does not comply with the condition set forth in subsection (a)(2) within the time specified in that subsection, the Township shall, except as provided in paragraph (2), return the Lens to the Commandant at no cost to the United States and under such conditions as the Commandant may require.

(2) **EXCEPTION FOR HISTORICAL PRESERVATION.**—Notwithstanding the lack of compliance of the Township as described in paragraph (1), the Township may retain possession of the Lens for installation as an artifact in, at, or near the Lighthouse upon the approval of the Commandant and under such conditions for the preservation and conservation of the Lens as the Commandant shall specify for purposes of this paragraph. Installation of the Lens under this paragraph shall occur, if at all, not later than two years after the date of the transfer of the Lens to the Township under subsection (a)(1).

(3) **REVERSION FOR FAILURE OF HISTORICAL PRESERVATION.**—If retention of the Lens by

the Township is authorized under paragraph (2) and the Township does not install the Lens in accordance with that paragraph within the time specified in that paragraph, the Township shall return the lens to the Coast Guard at no cost to the United States and under such conditions as the Commandant may require.

(c) **CONVEYANCE OF ADDITIONAL PERSONAL PROPERTY.**—

(1) **TRANSFER AND CONVEYANCE OF PERSONAL PROPERTY.**—Notwithstanding any other provision of law, the Commandant may transfer to the Township any additional personal property of the United States related to the Lens that the Commandant considers appropriate for conveyance under this section. If the Commandant conveys the Lens to the Township under subsection (a)(3), the Commandant may convey to the Township any personal property previously transferred to the Township under this subsection.

(2) **REVERSION.**—If the Lens is returned to the Coast Guard pursuant to subsection (b), the Township shall return to the Coast Guard all personal property transferred or conveyed to the Township under this subsection except to the extent otherwise approved by the Commandant.

(d) **CONVEYANCE WITHOUT CONSIDERATION.**—The conveyance of the Lens and any personal property under this section shall be without consideration.

(e) **DELIVERY OF PROPERTY.**—The Commandant shall deliver property conveyed under this section—

(1) at the place where such property is located on the date of the conveyance;

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

(3) without cost to the United States.

(f) **MAINTENANCE OF PROPERTY.**—As a condition of the conveyance of any property to the Township under this section, the Commandant shall enter into an agreement with the Township under which the Township agrees—

(1) to operate the Lens as a Class I private aid to navigation under section 85 of title 14, United States Code, and application regulations under that section; and

(2) to hold the United States harmless for any claim arising with respect to personal property conveyed under this section.

(g) **LIMITATION ON FUTURE CONVEYANCE.**—The instruments providing for the conveyance of property under this section shall—

(1) require that any further conveyance of an interest in such property may not be made without the advance approval of the Commandant; and

(2) provide that, if the Commandant determines that an interest in such property was conveyed without such approval—

(A) all right, title, and interest in such property shall revert to the United States, and the United States shall have the right to immediate possession of such property; and

(B) the recipient of such property shall pay the United States for costs incurred by the United States in recovering such property.

(h) **ADDITIONAL TERMS AND CONDITIONS.**—The Commandant may require such additional terms and conditions in connection with the conveyances authorized by this section as the Commandant considers appropriate to protect the interests of the United States.

**SEC. 421. FISHING IN SOUTH PACIFIC TUNA TREATY CONVENTION AREA.**

Section 12113 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(j) A fishery endorsement is not required for a United States-documented purse seine tuna fishing vessel home ported in American Samoa while fishing exclusively for highly

migratory species under a license issued pursuant to the 1987 Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America in the treaty area or in any portion of the United States exclusive economic zone bordering the treaty area.”.

**SEC. 422. ASSESSMENT OF NEEDS FOR ADDITIONAL COAST GUARD PRESENCE IN HIGH LATITUDE REGIONS.**

Within 270 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives assessing the need for additional Coast Guard prevention and response capability in the high latitude regions. The assessment shall address needs for all Coast Guard mission areas, including search and rescue, marine pollution response and prevention, fisheries enforcement, and maritime commerce. The Secretary shall include in the report—

(1) an assessment of the high latitude operating capabilities of all current Coast Guard assets, including assets acquired under the Deepwater program;

(2) an assessment of projected needs for Coast Guard forward operating bases in the high latitude regions;

(3) an assessment of shore infrastructure, personnel, logistics, communications, and resources requirements to support Coast Guard forward operating bases in the high latitude regions;

(4) an assessment of the need for high latitude icebreaking capability and the capability of the current high latitude icebreaking assets of the Coast Guard, including—

(A) whether the Coast Guard's high latitude icebreaking fleet is meeting current mission performance goals;

(B) whether the fleet is capable of meeting projected mission performance goals; and

(C) an assessment of the material condition, safety, and working conditions aboard high latitude icebreaking assets, including the effect of those conditions on mission performance;

(5) a detailed estimate of acquisition costs for each of the assets (including shore infrastructure) necessary for additional prevention and response capability in high latitude regions for all Coast Guard mission areas, and an estimate of operations and maintenance costs for such assets for the initial 10-year period of operations; and

(6) detailed cost estimates (including operating and maintenance for a period of 10 years) for high latitude icebreaking capability to ensure current and projected future mission performance goals are met, including estimates of the costs to—

(A) renovate and modernize the Coast Guard's existing high latitude icebreaking fleet; and

(B) replace the Coast Guard's existing high latitude icebreaking fleet.

**SEC. 423. STUDY OF REGIONAL RESPONSE VESSEL AND SALVAGE CAPABILITY FOR OLYMPIC PENINSULA COAST, WASHINGTON.**

No later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall study through the National Academy of Sciences the need for regional response vessel and salvage capability for the State of Washington Olympic Peninsula coast. In conducting the study, the National Academy of Sciences shall consult with Federal, State, and tribal officials and other relevant stakeholders. The study shall—

(1) identify the capabilities, equipment, and facilities necessary for a response vessel in the entry to the Strait of Juan de Fuca at Neah Bay in order to optimize oil spill protection on Washington's Olympic Peninsula coast and provide rescue towing services, oil spill response, and salvage and firefighting capabilities;

(2) analyze the multimission capabilities necessary for a rescue vessel and the need for that vessel to utilize cached salvage, oil spill response, and oil storage equipment while responding to a spill or a vessel in distress, and make recommendations as to the placement of such equipment;

(3) address scenarios that consider all vessel types and weather conditions and compare current Neah Bay rescue vessel capabilities, costs, and benefits with other United States industry-funded response vessels, including those currently operating in Alaska's Prince William Sound;

(4) determine whether the current level of protection afforded by the Neah Bay response vessel and associated response equipment is comparable to protection in other locations where response vessels operate, including Prince William Sound, Alaska, and if it is not comparable, make recommendations regarding how capabilities, equipment, and facilities should be modified to achieve optimum protection; and

(5) consider pending firefighting and salvage regulations developed pursuant to the Oil Pollution Act of 1990.

**SEC. 424. REPORT ON PROJECTED WORKLOAD AT THE COAST GUARD YARD IN CURTIS BAY, MARYLAND.**

Within six months after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a report detailing the projected workload for the current calendar year and each of the subsequent 5 calendar years at the Coast Guard Yard in Curtis Bay, Maryland, and the total full-time equivalents (FTE) to be supported by the account established under section 648 of title 14, United States Code, (popularly known as the Yard Fund) in each such calendar year to meet that workload. The report shall—

(1) detail work projects to be undertaken during the current calendar year and during each of the next five calendar years as part of the Mission Effectiveness Program (MEP) and projects projected to be undertaken that are not associated with the MEP;

(2) identify the number of regular full-time employees, term employees, and employees in any other classification that are projected to be employed in any capacity at the Yard in each such calendar year;

(3) specify how many of the employees in any capacity that are expected to be employed at the Yard in each such year are expected to be uniformed members of the Coast Guard and how many are expected to be civilians;

(4) identify how many employees in any capacity (whether uniformed or civilian) are projected to be assigned in each such calendar year to each of overhead positions, engineering positions, waterfront support positions, and waterfront trade positions to meet projected workloads in that year;

(5) identify the amount of overtime in each of overhead positions, engineering positions, waterfront support positions, and waterfront trade positions position that will be required to meet the projected workload in each such calendar year;

(6) identify the number of trades training students that are projected to be trained at the Yard in each such calendar year; and

(7) address whether the FTE ceiling in place for the Yard is sufficient to allow all work projects scheduled for the current calendar year to be completed on schedule, and what level of FTE is likely to be required in each of the subsequent five calendar years to allow completion on schedule of the projected workload in each of those years.

**SEC. 425. STUDY OF BRIDGES OVER NAVIGABLE WATERS.**

The Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a comprehensive study on the proposed construction or alteration of any bridge, drawbridge, or causeway over navigable waters with a channel depth of 25 feet or greater of the United States that may impede or obstruct future navigation to or from port facilities.

**SEC. 426. LIMITATION ON JURISDICTION OF STATES TO TAX CERTAIN SEAMEN.**

Section 11108(b)(2)(B) of title 46, United States Code, is amended to read as follows:

“(B) who performs regularly-assigned duties while engaged as a master, officer, or crewman on a vessel operating on navigable waters in 2 or more States.”.

**SEC. 427. DECOMMISSIONED COAST GUARD VESSELS FOR BERMUDA.**

(a) IN GENERAL.—Notwithstanding any other law, upon the scheduled decommissioning of any Coast Guard 41-foot patrol boat and after the Government of Haiti has exercised all of their options under section 411, the Commandant of the Coast Guard shall give the Government of Bermuda a right-of-first-refusal for conveyance of that vessel to the Government of Bermuda, if that Government of Bermuda agrees—

(1) to use the vessel for the Coast Guard of Bermuda;

(2) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or national emergency;

(3) to hold the United States Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising from the use by the United States Government under paragraph (2); and

(4) to any other conditions the Commandant considers appropriate.

(b) LIMITATION.—The Commandant may not convey more than 3 vessels to the Government of Bermuda pursuant to this section.

**(C) MAINTENANCE AND DELIVERY OF VESSEL.—**

(1) MAINTENANCE.—Before conveyance of a vessel under this section, the Commandant shall make, to the extent practical and subject to other Coast Guard mission requirements, every effort to maintain the integrity of the vessel and its equipment until the time of delivery.

(2) DELIVERY.—If a conveyance is made under this section, the Commandant shall deliver a vessel to a suitable mooring in the local area in its present condition.

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

**SEC. 428. RECREATIONAL MARINE INDUSTRY.**

(a) EXCEPTION.—Section 2(3)(F) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 902(3)) is amended to read as follows:

“(F) individuals who—

“(i) are employed to manufacture any recreational vessel under 165 feet in length; or

“(ii) are employed to repair any recreational vessel, or to dismantle any part of any recreational vessel in connection with repair of the vessel;”.

(b) **RECREATIONAL ENDORSEMENT.**—Section 12114 of title 46, United States Code, is amended by adding at the end the following:

“(d) **VESSELS MANUFACTURED BY CERTAIN INDIVIDUALS.**—A vessel manufactured by individuals under the exception provided in section 2(3)(F) of the Longshore and Harbor Workers’ Compensation Act may only be issued a recreational vessel endorsement under this chapter, and that restriction shall be noted on the certification of documentation issued under section 12105.”.

**SEC. 429. CONVEYANCE OF COAST GUARD VESSELS TO NASSAU COUNTY, NEW YORK.**

(a) **AUTHORITY TO CONVEY.**—Notwithstanding the Federal Property and Administrative Services Act of 1949, the Commandant of the Coast Guard may convey to the Police Department of Nassau County, New York (in this section referred to as the “Police Department”), without consideration all right, title, and interest of the United States in and to two Coast Guard 41-foot patrol boats that the Commandant determines—

(1) is appropriate for use by the Police Department; and

(2) is excess to the needs of the Coast Guard and the Department of Homeland Security.

(b) **CONDITION.**—As a condition of conveying a vessel under the authority provided in subsection (a), the Commandant shall enter into an agreement with the Police Department under which the Police Department agrees—

(1) to utilize the vessel for homeland security and other appropriate purposes as jointly agreed upon by the Commandant and the Police Department before conveyance; and

(2) to take the vessel “as is” and to hold the United States harmless for any claim arising with respect to that vessel after conveyance of the vessel, including any claims arising from the condition of the vessel and its equipment or exposure to hazardous materials.

(c) **DELIVERY OF VESSEL.**—The Commandant shall deliver a vessel conveyed under the authority provided in subsection (a)—

(1) at the place where the vessel is located on the date of the conveyance;

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

(3) without cost to the United States.

(d) **OTHER EXCESS EQUIPMENT.**—The Commandant may further convey any excess equipment or parts from other Coast Guard vessels, which are excess to the needs of the Coast Guard and the Department of Homeland Security, to the Police Department for use to enhance the operability of a vessel conveyed under the authority provided in subsection (a).

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Commandant may require such additional terms and conditions in connection with a conveyance authorized by subsection (a) as the Commandant considers appropriate to protect the interests of the United States.

**TITLE V—BALLAST WATER TREATMENT**  
**SEC. 501. SHORT TITLE.**

This title may be cited as the “Ballast Water Treatment Act of 2008”.

**SEC. 502. DECLARATION OF GOALS AND PURPOSES.**

Section 1002 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following:

“(b) **DECLARATION OF GOALS AND PURPOSES.**—The objective of this Act is to eliminate the threat and impacts of nonindigenous aquatic nuisance species in the waters of the United States. In order to achieve this objective, it is declared that, consistent with the provisions of this Act—

“(1) it is the national goal that ballast water discharged into the waters of the United States will contain no living (viable) organisms by the year 2015;

“(2) it is the national policy that the introduction of nonindigenous aquatic nuisance species in the waters of the United States be prohibited; and

“(3) it is the national policy that Federal, State, and local governments and the private sector identify the most effective ways to coordinate prevention efforts, and harmonize environmentally sound methods to prevent, detect, monitor, and control nonindigenous aquatic nuisance species, in an expeditious manner.”.

(3) in subsection (c)(1) (as redesignated by paragraph (1) of this section)—

(A) by striking “prevent” and inserting “eliminate”; and

(B) by inserting “treatment” after “ballast water”;.

(4) in subsection (c)(2) (as so redesignated)—

(A) by inserting “, detection, monitoring,” after “prevention”; and

(B) by striking “the zebra mussel and other”;.

(5) in subsection (c)(3) (as so redesignated)—

(A) by inserting “detect,” after “prevent,”; and

(B) by striking “from pathways other than ballast water exchange”;.

(6) in subsection (c)(4) (as so redesignated) by striking “, including the zebra mussel”;.

(7) in subsection (c)(5) (as so redesignated)—

(A) by inserting “prevention,” after “in the”;.

(B) by inserting a comma after “management”; and

(C) by striking “zebra mussels” and inserting “aquatic nuisance species”.

**SEC. 503. BALLAST WATER MANAGEMENT.**

(a) **IN GENERAL.**—Section 1101 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4711) is amended to read as follows:

**“SEC. 1101. BALLAST WATER MANAGEMENT.**

“(a) **VESSELS TO WHICH THIS SECTION APPLIES.**—

“(1) **IN GENERAL.**—Except as provided in paragraphs (2), (3), (4), and (5), this section applies to a vessel that engages in the discharge of ballast water in waters subject to the jurisdiction of the United States that—

“(A) is designed, constructed, or adapted to carry ballast water; and

“(B)(i) is a vessel of the United States; or

“(ii) is a foreign vessel that—

“(I) is en route to a United States port or place; or

“(II) has departed from a United States port or place and is within waters subject to the jurisdiction of the United States.

“(2) **PERMANENT BALLAST WATER VESSELS.**—This section does not apply to a vessel that carries all of its permanent ballast water in sealed tanks that are not subject to discharge or a vessel that continuously takes on and discharges ballast water in a flow-through system.

“(3) **ARMED FORCES VESSELS.**—

“(A) **EXEMPTION.**—Except as provided in subparagraph (B), this section does not apply to a vessel of the Armed Forces.

“(B) **BALLAST WATER MANAGEMENT PROGRAM.**—The Secretary and the Secretary of Defense, after consultation with each other and with the Under Secretary and the heads of other appropriate Federal agencies as determined by the Secretary, shall implement a ballast water management program, including the issuance of standards for ballast water exchange and treatment and for sediment management, for vessels of the Armed Forces under their respective jurisdictions designed, constructed, or adapted to carry ballast water that are—

“(i) consistent with the requirements of this section, including the deadlines established by this section; and

“(ii) at least as stringent as the requirements issued for such vessels under section 312 of the Federal Water Pollution Control Act (33 U.S.C. 1322).

“(4) **SPECIAL RULE FOR SMALL RECREATIONAL VESSELS.**—In applying this section to recreational vessels less than 50 meters in length that have a maximum ballast water capacity of 8 cubic meters, the Secretary may issue alternative measures for managing ballast water in a manner that is consistent with the requirements of this section.

“(5) **MARAD VESSELS.**—Subsection (f) does not apply to any vessel in the National Defense Reserve Fleet that is scheduled to be disposed of through scrapping or sinking.

“(b) **UPTAKE AND DISCHARGE OF BALLAST WATER OR SEDIMENT.**—

“(1) **PROHIBITION.**—The operator of a vessel to which this section applies may not conduct the uptake or discharge of ballast water or sediment in waters subject to the jurisdiction of the United States except as provided in this section.

“(2) **EXCEPTIONS.**—Paragraph (1) does not apply to the uptake or discharge of ballast water or sediment in the following circumstances:

“(A) The uptake or discharge is solely for the purpose of—

“(i) ensuring the safety of the vessel in an emergency situation; or

“(ii) saving a life at sea.

“(B) The uptake or discharge is accidental and the result of damage to the vessel or its equipment and—

“(i) all reasonable precautions to prevent or minimize ballast water and sediment discharge have been taken before and after the damage occurs, the discovery of the damage, and the discharge; and

“(ii) the owner or officer in charge of the vessel did not willfully or recklessly cause the damage.

“(C) The uptake or discharge is solely for the purpose of avoiding or minimizing the discharge from the vessel of pollution that would otherwise violate applicable Federal or State law.

“(D) The uptake or discharge of ballast water and sediment occurs at the same location where the whole of that ballast water and that sediment originated and there is no mixing with ballast water and sediment from another area that has not been managed in accordance with the requirements of this section.

“(c) **VESSEL BALLAST WATER MANAGEMENT PLAN.**—

“(1) **IN GENERAL.**—The operator of a vessel to which this section applies shall conduct all ballast water management operations of that vessel in accordance with a ballast water management plan designed to minimize the discharge of aquatic nuisance species that—

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

“(B) is approved by the Secretary.

“(2) **APPROVAL CRITERIA.**—

“(A) IN GENERAL.—The Secretary may not approve a ballast water management plan unless the Secretary determines that the plan—

“(i) describes in detail the actions to be taken to implement the ballast water management requirements established under this section;

“(ii) describes in detail the procedures to be used for disposal of sediment at sea and on shore in accordance with the requirements of this section;

“(iii) describes in detail safety procedures for the vessel and crew associated with ballast water management;

“(iv) designates the officer on board the vessel in charge of ensuring that the plan is properly implemented;

“(v) contains the reporting requirements for vessels established under this section and a copy of each form necessary to meet those requirements; and

“(vi) meets all other requirements prescribed by the Secretary.

“(B) FOREIGN VESSELS.—The Secretary may approve a ballast water management plan for a foreign vessel on the basis of a certificate of compliance issued by the vessel's country of registration if the government of that country requires the ballast water management plan for that vessel to include information comparable to the information required under regulations issued by the Secretary.

“(3) COPY OF PLAN ON BOARD VESSEL.—The owner or operator of a vessel to which this section applies shall—

“(A) maintain a copy of the vessel's ballast water management plan on board at all times; and

“(B) keep the plan readily available for examination by the Secretary and the head of the appropriate agency of the State in which the vessel is located at all reasonable times.

“(d) VESSEL BALLAST WATER RECORD BOOK.—

“(1) IN GENERAL.—The owner or operator of a vessel to which this section applies shall maintain, in English on board the vessel, a ballast water record book in which each operation of the vessel involving ballast water or sediment discharge is recorded in accordance with regulations issued by the Secretary.

“(2) AVAILABILITY.—The ballast water record book—

“(A) shall be kept readily available for examination by the Secretary and the head of the appropriate agency of the State in which the vessel is located at all reasonable times; and

“(B) notwithstanding paragraph (1), may be kept on the towing vessel in the case of an unmanned vessel under tow.

“(3) RETENTION PERIOD.—The ballast water record book shall be retained—

“(A) on board the vessel for a period of 3 years after the date on which the last entry in the book is made; and

“(B) under the control of the vessel's owner for an additional period of 3 years.

“(4) REGULATIONS.—In the regulations issued under this section, the Secretary shall require, at a minimum, that—

“(A) each entry in the ballast water record book be signed and dated by the officer in charge of the ballast water operation recorded;

“(B) each completed page in the ballast water record book be signed and dated by the master of the vessel; and

“(C) at least monthly, the owner or operator of the vessel transmit such information to the Secretary regarding the ballast operations of the vessel as the Secretary may require.

“(5) ALTERNATIVE MEANS OF RECORD-KEEPING.—The Secretary may provide, by

regulation, for alternative methods of recordkeeping, including electronic recordkeeping, to comply with the requirements of this subsection. Any electronic recordkeeping method authorized by the Secretary shall support the inspection and enforcement provisions of this Act and shall comply with applicable standards of the National Institute of Standards and Technology and the Office of Management and Budget governing reliability, integrity, identity authentication, and nonrepudiation of stored electronic data.

“(e) BALLAST WATER EXCHANGE REQUIREMENTS.—

“(1) IN GENERAL.—

“(A) REQUIREMENT.—Until a vessel is required to conduct ballast water treatment in accordance with subsection (f), the operator of a vessel to which this section applies may not discharge ballast water in waters subject to the jurisdiction of the United States, except after—

“(i) conducting ballast water exchange as required by this subsection, in accordance with regulations issued by the Secretary;

“(ii) using ballast water treatment technology that meets the performance standards of subsection (f); or

“(iii) using environmentally sound alternative ballast water treatment technology if the Secretary determines that such treatment technology is at least as effective as the ballast water exchange required by clause (i) in preventing and controlling the introduction of aquatic nuisance species.

“(B) BALLAST WATER REGULATIONS.—Ballast water exchange regulations developed under subparagraph (A)(i) shall contain—

“(i) a provision for ballast water exchange that requires—

“(I) at least 1 empty-and-refill cycle, outside the exclusive economic zone or in an alternative exchange area designated by the Secretary, of each ballast tank that contains ballast water to be discharged into waters of the United States; or

“(II) for a case in which the master of a vessel determines that compliance with the requirement under subclause (I) is impracticable, a sufficient number of flow-through exchanges of ballast water, outside the exclusive economic zone or in an alternative exchange area designated by the Secretary, to achieve replacement of at least 95 percent of ballast water in ballast tanks of the vessel, as determined by a certification dye study conducted or model developed by the Secretary and recorded in the ballast water management plan of the vessel pursuant to subsection (c)(2)(A)(i); and

“(ii) if a ballast water exchange is not undertaken pursuant to subsection (h), a contingency procedure that requires the master of a vessel to use the best practicable technology or practice to treat ballast discharge.

“(C) TECHNOLOGY EFFICACY.—For purposes of this paragraph, a ballast water treatment technology shall be considered to be at least as effective as the ballast water exchange required by clause (i) in preventing and controlling the introduction of aquatic nuisance species if preliminary experiments prior to installation of the technology aboard the vessel demonstrate that the technology meets the ballast water discharge standard provided under Regulation D-2 of the International Convention for the Control and Management of Ships' Ballast Water and Sediments as signed on February 13, 2004.

“(2) GUIDANCE; 5-YEAR USAGE.—

“(A) GUIDANCE.—Not later than one year after the date of enactment of the Ballast Water Treatment Act of 2008, the Secretary shall develop and issue guidance on technology that may be used under paragraph (1)(A)(iii).

“(B) 5-YEAR USAGE.—The Secretary shall allow a vessel using environmentally-sound alternative ballast treatment technology under paragraph (1)(A)(iii) to continue to use that technology for 5 years after the date on which the environmentally-sound alternative ballast water treatment technology was first placed in service on the vessel or the date on which treatment requirements under subsection (f) become applicable, whichever is later.

“(3) EXCHANGE AREAS.—

“(A) VESSELS OUTSIDE THE UNITED STATES EEZ.—The operator of a vessel en route to a United States port or place from a port or place outside the waters subject to the jurisdiction of the United States shall conduct ballast water exchange—

“(i) before arriving at a United States port or place;

“(ii) at least 200 nautical miles from the nearest point of land; and

“(iii) in water at least 200 meters in depth.

“(B) COASTAL VOYAGES.—The operator of a vessel originating from a port or place within the United States exclusive economic zone, or from a port within 200 nautical miles of the United States in Canada, Mexico, or other ports designated by the Secretary for purposes of this section, shall conduct ballast water exchange—

“(i) at least 50 nautical miles from the nearest point of land; and

“(ii) in water at least 200 meters in depth.

“(4) SAFETY OR STABILITY EXCEPTION.—

“(A) SECRETARIAL DETERMINATION.—Paragraph (3) does not apply to the discharge of ballast water if the Secretary determines that compliance with that paragraph would threaten the safety or stability of the vessel, its crew, or its passengers.

“(B) MASTER OF THE VESSEL DETERMINATION.—Paragraph (3) does not apply to the discharge of ballast water if the master of a vessel determines that compliance with that paragraph would threaten the safety or stability of the vessel, its crew, or its passengers because of adverse weather, equipment failure, or any other relevant condition.

“(C) NOTIFICATION REQUIRED.—Whenever the master of a vessel is unable to comply with the requirements of paragraph (3) because of a determination made under subparagraph (B), the master of the vessel shall—

“(i) notify the Secretary as soon as practicable thereafter but no later than 24 hours after making that determination and shall ensure that the determination, the reasons for the determination, and the notice are recorded in the vessel's ballast water record book; and

“(ii) undertake ballast water exchange—

“(I) in an alternative area that may be designated by the Secretary, after consultation with the Under Secretary, and other appropriate Federal agencies as determined by the Secretary, and representatives of States the waters of which may be affected by the discharge of ballast water; or

“(II) in accordance with paragraph (6) if safety or stability concerns prevent undertaking ballast water exchange in the alternative area.

“(D) REVIEW OF CIRCUMSTANCES.—If the master of a vessel conducts a ballast water discharge under the provisions of this paragraph, the Secretary shall review the circumstances to determine whether the discharge met the requirements of this paragraph. The review under this clause shall be in addition to any other enforcement authority of the Secretary.

“(5) DISCHARGE UNDER WAIVER.—

“(A) SUBSTANTIAL BUSINESS HARDSHIP WAIVER.—If, because of the short length of a voyage, the operator of a vessel is unable to discharge ballast water in accordance with the requirements of paragraph (3)(B) without substantial business hardship, as determined under regulations issued by the Secretary, the operator may request a waiver from the Secretary and discharge the ballast water in accordance with paragraph (6). A request for a waiver under this subparagraph shall be submitted to the Secretary at such time and in such form and manner as the Secretary may require.

“(B) SUBSTANTIAL BUSINESS HARDSHIP.—For purposes of subparagraph (A), the factors taken into account in determining substantial business hardship shall include whether—

“(i) compliance with the requirements of paragraph (3)(B) would require a sufficiently great change in routing or scheduling of service as to compromise the economic or commercial viability of the trade or business in which the vessel is operated; or

“(ii) it is reasonable to expect that the trade or business or service provided will be continued only if a waiver is granted under subparagraph (A).

“(6) PERMISSIBLE DISCHARGE.—

“(A) IN GENERAL.—The discharge of ballast water shall be considered to be carried out in accordance with this paragraph if it is—

“(i) in an area designated for that purpose by the Secretary, after consultation with the Under Secretary, the heads of other appropriate Federal agencies as determined by the Secretary, and representatives of any State that may be affected by discharge of ballast water in that area; or

“(ii) into a reception facility described in subsection (f)(2).

“(B) LIMITATION ON VOLUME.—The volume of any ballast water discharged under this paragraph may not exceed the volume necessary to ensure the safe operation of the vessel.

“(7) CERTAIN GEOGRAPHICALLY LIMITED ROUTES.—Notwithstanding paragraph (1), the operator of a vessel is not required to comply with the requirements of this subsection and subsection (h)(1)—

“(A) if the vessel operates exclusively—

“(i) within the Great Lakes ecosystem; or

“(ii) between or among the main group of the Hawaiian Islands; or

“(B) if the vessel operates exclusively within any area with respect to which the Secretary has determined, after consultation with the Under Secretary, the Administrator, and representatives of States the waters of which would be affected by the discharge of ballast water from the vessel, that the risk of introducing aquatic nuisance species through ballast water discharge in the areas in which the vessel operates is insignificant.

“(8) NATIONAL MARINE SANCTUARIES AND OTHER PROHIBITED AREAS.—

“(A) IN GENERAL.—A vessel may not conduct ballast water exchange or discharge ballast water under this subsection—

“(i) within a national marine sanctuary designated under the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.);

“(ii) a marine national monument designated under the Act of June 8, 1906 (chapter 3060; 16 U.S.C. 433 et seq.), popularly known as the Antiquities Act of 1906;

“(iii) a national park;

“(iv) in waters that are approved by the Administrator as a nondischarge zone under section 312(n)(7) of the Federal Water Pollution Control Act (33 U.S.C. 1322(n)(7)); or

“(v) in any other waters designated by the Secretary, in consultation with the Under Secretary and the Administrator.

“(B) ADDITIONAL AREAS.—The Secretary shall, after consultation with the Under Secretary, the Administrator, and other appropriate Federal and State agencies, as determined by the Secretary, and opportunity for public comment, establish criteria for designating additional areas in which, due to their sensitive ecological nature, restrictions on the discharge of vessel ballast water or sediment containing aquatic nuisance species are warranted.

“(C) STATE WATERS.—The Governor of any State may submit a written petition to the Secretary to designate an area of State waters that meets the criteria established under subparagraph (B) of this paragraph. The petition shall include a detailed analysis as to how the area proposed to be designated meets those criteria. An area may not be designated under this paragraph until the Secretary determines, based on evidence provided by the Governor, that adequate alternative areas or reception facilities for discharging ballast water or sediment are available. Within 180 days after receiving such a petition, the Secretary shall—

“(i) make a determination as to whether the proposal meets the requirements of this paragraph for designation; and

“(ii) either—

“(I) publish a written notice of the petition and the proposed restrictions in the Federal Register; or

“(II) notify the Governor in writing that the area proposed for designation does not qualify for designation under this paragraph and include in the notice a detailed explanation of why the area does not qualify for designation under this paragraph.

“(D) PROCEDURE; DEADLINE.—Before designating any area in response to a petition under subparagraph (C), the Secretary, after providing an opportunity for public comment, shall publish notice in the Federal Register of the proposed designation. The Secretary and the Under Secretary shall make such information available through other appropriate mechanisms, including a notice to mariners and inclusion on nautical charts.

“(E) EFFECT ON STATE LAW.—Nothing in this paragraph supersedes any State law in effect as of January 1, 2007, that restricts the discharge of ballast water or sediment in State waters and requires such discharges to be made into reception facilities.

“(9) VESSELS WITHOUT PUMPABLE BALLAST WATER OR WITH NO BALLAST ON BOARD.—Not later than 180 days after the date of enactment of the Ballast Water Treatment Act of 2008, the Secretary shall promulgate regulations to minimize the discharge of invasive species from vessels entering a United States port or place from outside the United States exclusive economic zone that do not exchange their ballast water pursuant to paragraph (1)(A)(iii) of this subsection and claim no ballast on board, or that claim to be carrying only unpumpable quantities of ballast, including, at a minimum, a requirement that—

“(A) such a ship shall conduct saltwater flushing of ballast water tanks—

“(i) outside the exclusive economic zone; or

“(ii) at a designated alternative exchange site; and

“(B) before being allowed entry into the Great Lakes beyond the St. Lawrence Seaway, the master of such a vessel shall certify that the vessel has complied with each applicable requirement under this subsection.

“(F) BALLAST WATER TREATMENT REQUIREMENTS.—

“(1) PERFORMANCE STANDARDS.—A vessel to which this section applies shall conduct ballast water treatment in accordance with the requirements of this subsection before dis-

charging ballast water in waters subject to the jurisdiction of the United States so that the ballast water discharged will contain—

“(A) less than 1 living organism per 10 cubic meters that is 50 or more micrometers in minimum dimension;

“(B) less than 1 living organism per 10 milliliters that is less than 50 micrometers in minimum dimension and more than 10 micrometers in minimum dimension;

“(C) concentrations of indicator microbes that are less than—

“(i) 1 colony-forming unit of toxicogenic *Vibrio cholera* (serotypes O1 and O139) per 100 milliliters or less than 1 colony-forming unit of that microbe per gram of wet weight of zoological samples;

“(ii) 126 colony-forming units of *Escherichia coli* per 100 milliliters; and

“(iii) 33 colony-forming units of intestinal enterococci per 100 milliliters; and

“(D) concentrations of such additional indicator microbes and of viruses as may be specified in regulations issued by the Secretary and the Administrator, after consultation with other appropriate Federal agencies as determined by the Secretary and the Administrator, that are less than the amount specified in those regulations.

“(2) RECEPTION FACILITY EXCEPTION.—

“(A) IN GENERAL.—Paragraph (1) does not apply to a vessel that discharges ballast water into—

“(i) a land-based facility for the reception of ballast water that meets standards issued by the Administrator; or

“(ii) a water-based facility for the reception of ballast water that meets standards issued by the Secretary.

“(B) ISSUANCE OF STANDARDS.—Not later than one year after the date of enactment of the Ballast Water Treatment Act of 2008, the Secretary, in consultation with the heads of other appropriate Federal agencies as determined by the Secretary, shall issue standards for—

“(i) the reception of ballast water in land-based and water-based reception facilities; and

“(ii) the disposal or treatment of such ballast water in a way that does not impair or damage the environment, human health, property, or resources.

“(3) TREATMENT SYSTEM IMPLEMENTATION.—

“(A) IMO STANDARD IMPLEMENTATION.—A vessel to which this section applies shall have a ballast water treatment system that meets the standards provided under Regulation D-2 of the International Convention for the Control and Management of Ships' Ballast Water and Sediments as signed on February 13, 2004, beginning on the date of the first drydocking of the vessel after December 31, 2008.

“(B) UNITED STATES STANDARD IMPLEMENTATION.—Paragraph (1) applies to a vessel to which this section applies beginning on the date of the first drydocking of the vessel after December 31, 2011, but not later than December 31, 2013.

“(C) PERIOD FOR USE OF EQUIPMENT.—The Secretary shall allow a vessel using a treatment system installed under this subsection to continue to use that system for 10 years after the date on which that system was first placed in service on the vessel.

“(4) TREATMENT SYSTEM APPROVAL REQUIRED.—The operator of a vessel to which this section applies may not use a ballast water treatment system to comply with the requirements of this subsection unless the system is approved by the Secretary. The Secretary, in consultation with the Administrator, shall issue regulations establishing a process for such approval, after consultation with the heads of other appropriate Federal agencies as determined by the Secretary.

“(5) RELIANCE ON CERTAIN REPORTS, DOCUMENTS, AND RECORDS.—In approving a ballast water treatment system under this subsection, the Secretary may rely on reports, documents, and records of persons that meet such requirements as the Secretary may prescribe.

“(6) FEASIBILITY REVIEW.—

“(A) IN GENERAL.—Not less than 2 years before January 1, 2012, the Secretary, in consultation with the Administrator, shall complete a review to determine whether appropriate technologies are available to achieve the performance standards set forth in paragraph (1). In reviewing the technologies the Secretary, the Administrator, and the heads of other appropriate Federal agencies as determined by the Secretary, shall consider—

“(i) the effectiveness of a technology in achieving the standards;

“(ii) feasibility in terms of compatibility with ship design and operations;

“(iii) safety considerations;

“(iv) whether a technology has an adverse impact on the environment; and

“(v) cost effectiveness.

“(B) DELAY IN SCHEDULED APPLICATION.—If the Secretary, in consultation with the Administrator, determines, on the basis of the review conducted under subparagraph (A), and after an opportunity for a public hearing, that technology that complies with the standards set forth in paragraph (1) in accordance with the schedule set forth in paragraph (3) is not available for any class of vessels, the Secretary shall require use of technology that achieves the performance levels of the best performing technology available. If the Secretary finds that no technology is available that will achieve the standards set forth in paragraph (1), then the Secretary shall—

“(i) extend the date on which that paragraph applies to vessels for a period of not more than 24 months; and

“(ii) recommend action to ensure that compliance with the extended date schedule for that subparagraph is achieved.

“(C) MORE PROTECTIVE STANDARDS; EARLIER IMPLEMENTATION.—

“(i) PERFORMANCE STANDARDS.—If the Secretary and the Administrator determine that ballast water treatment technology exists that exceeds the performance standards required under paragraph (1), the Secretary and the Administrator shall, for any class of vessels, revise the performance standards to incorporate the higher performance standards.

“(ii) IMPLEMENTATION.—If the Secretary and the Administrator determine that technology that achieves the applicable performance standards required under paragraph (1) can be implemented earlier than required by this subsection, the Secretary and the Administrator shall, for any class of vessels, accelerate the implementation schedule under paragraph (3). If the Secretary and the Administrator accelerate the implementation schedule pursuant to this clause, the Secretary and the Administrator shall provide at least 24 months notice before such accelerated implementation goes into effect.

“(iii) DETERMINATIONS NOT MUTUALLY EXCLUSIVE.—The Secretary and the Administrator shall take action under both clause (i) and clause (ii) if the Secretary and the Administrator make determinations under both clauses.

“(7) DELAY OF APPLICATION FOR VESSEL PARTICIPATING IN PROMISING TECHNOLOGY EVALUATIONS.—

“(A) IN GENERAL.—If a vessel participates in a program, including the Shipboard Technology Evaluation Program established under section 1104, using a technology approved by the Secretary to test and evaluate promising ballast water treatment tech-

nologies that are likely to result in treatment technologies achieving a standard that is the same as or more stringent than the standard that applies under paragraph (1) before the first date on which paragraph (1) applies to that vessel, the Secretary shall allow the vessel to use that technology for a 10-year period and such vessel shall be deemed to be in compliance with the requirements of paragraph (1) during that 10-year period.

“(B) VESSEL DIVERSITY.—The Secretary—

“(i) shall seek to ensure that a wide variety of vessel types and voyages are included in the program; but

“(ii) may not grant a delay under this paragraph to more than 5 percent of the vessels to which this section applies.

“(C) TERMINATION OF GRACE PERIOD.—The Secretary may terminate the 10-year grace period of a vessel under subparagraph (A) if—

“(i) the participation of the vessel in the program is terminated without the consent of the Secretary;

“(ii) the vessel does not comply with manufacturer's standards for operating the ballast water treatment technology used on such vessel; or

“(iii) the Secretary determines that the approved technology is insufficiently effective or is causing harm to the environment.

“(8) REVIEW OF STANDARDS.—

“(A) IN GENERAL.—In December 2012 and every third year thereafter, the Administrator and the Secretary shall complete review of ballast water treatment standards in effect under this subsection to determine, after consultation with the heads of other appropriate Federal agencies determined by the Administrator and the Secretary, if the standards under this subsection should be revised to reduce the amount of organisms or microbes allowed to be discharged, taking into account improvements in the scientific understanding of biological processes leading to the spread of aquatic nuisance species and improvements in ballast water treatment technology. The Administrator and the Secretary shall revise, by regulation, the requirements of this subsection as necessary.

“(B) APPLICATION OF ADJUSTED STANDARDS.—In the regulations, the Secretary and the Administrator shall provide for the prospective application of the adjusted standards issued under this paragraph to vessels constructed after the date on which the adjusted standards apply and for an orderly phase-in of the adjusted standards to existing vessels.

“(9) HIGH-RISK VOYAGES.—

“(A) VESSEL LIST.—Not later than one year after the date of enactment of the Ballast Water Treatment Act of 2008, the Secretary shall publish and regularly update a list of vessels, not equipped with ballast water equipment under this section, identified by the States that, due to factors such as the origin of their voyages, the frequency of their voyages, the volume of ballast water they carry, the biological makeup of the ballast water, and the fact that they frequently discharge ballast water under an exception to subsection (e), pose a high risk of introducing aquatic nuisance species into the waters of those States.

“(B) INCENTIVE PROGRAMS.—The Secretary shall give priority to vessels on the list for participation in a program described in paragraph (7). Any Federal agency, and any State agency with respect to vessels identified by such State to the Secretary for inclusion on a list under subparagraph (A), may develop and implement technology development programs or other incentives (whether positive or negative) in order to encourage the adoption of ballast water treatment technology by those vessels consistent with the requirements of this section on an expedited basis.

“(10) NONAPPLICABILITY OF VESSELS OPERATING EXCLUSIVELY IN DETERMINED AREA.—

“(A) IN GENERAL.—Except as provided in subparagraph (D), paragraph (1) does not apply to a vessel that operates exclusively within a geographically limited area if the Secretary and the Administrator have determined through a rulemaking proceeding, after consultation with the heads of other appropriate Federal agencies as determined by the Secretary and the Administrator, and representatives of States the waters of which could be affected by the discharge of ballast water from the vessel, that the risk of introducing aquatic nuisance species through ballast water discharge from the vessel is insignificant.

“(B) CERTAIN VESSELS.—A vessel constructed before January 1, 2001, that operates exclusively within the Great Lakes ecosystem shall be presumed not to pose a significant risk of introducing aquatic nuisance species unless the Secretary and the Administrator find otherwise in a rulemaking proceeding under subparagraph (A).

“(C) BEST PRACTICES.—The Secretary and the Administrator shall develop, and require a vessel exempted from complying with the requirements of paragraph (1) under this paragraph to follow, best practices to minimize the spreading of aquatic nuisance species in its operation area. The best practices shall be developed in consultation with the Governors of States that may be affected.

“(D) STOPPING THE SPREAD OF INFECTIOUS DISEASE.—The Secretary, at the request of the Secretary of Agriculture, shall require a vessel to which paragraph (1) does not apply in accordance with subparagraph (A) to have a ballast water treatment system approved by the Secretary under this subsection to stop the spread of infectious diseases to plants and animals as otherwise authorized by law.

“(11) TESTING PROTOCOLS AND LABORATORIES.—

“(A) IN GENERAL.—The Secretary and the Administrator, shall, no later than 90 days after the date of enactment of the Ballast Water Treatment Act of 2008 and without regard to chapter 5 of title 5, United States Code, issue interim protocols for verifying the performance of ballast water treatment technologies required by this Act, criteria for certifying laboratories to evaluate such technologies, and procedures for approving treatment equipment and systems for shipboard use.

“(B) PROTOCOLS AND PROCEDURES FOR TREATMENT TECHNOLOGIES.—In developing protocols and procedures for verifying and approving treatment technologies, the Secretary and the Administrator, shall consider using existing protocols and procedures including methods used as part of the Ballast Water Management Demonstration Program by the Environmental Protection Agency as a part of its Environmental Testing & Verification Program, or by the Secretary as part of the Coast Guard's Shipboard Technology Evaluation Program.

“(C) LABORATORIES.—The Secretary and the Administrator shall utilize Federal or non-Federal laboratories that meet standards established by the Secretary for the purpose of evaluating and certifying ballast water treatment technologies and equipment under this subsection.

“(D) REQUIREMENTS; UPDATES.—The Secretary and the Administrator shall periodically review and, if necessary, revise the criteria, protocols, and procedures developed under this paragraph.

“(12) PROGRAM TO SUPPORT THE PROMULGATION AND IMPLEMENTATION OF STANDARDS.—

“(A) IN GENERAL.—The Secretary and the Administrator, in coordination with the Under Secretary, the Task Force and other



appropriate Federal agencies, shall carry out a coordinated program to support the promulgation and implementation of standards under this subsection to prevent the introduction and spread of aquatic invasive species by vessels. The program established under this section shall, at a minimum—

“(i) characterize physical, chemical, and biological harbor conditions relevant to ballast discharge into United States waters to inform the design and implementation of ship vector control technologies and practices;

“(ii) develop testing protocols for determining the effectiveness of vessel vector monitoring and control technologies and practices;

“(iii) demonstrate methods for mitigating the spread of invasive species by coastal voyages, including exploring the effectiveness of alternative exchange zones in the near coastal areas and other methods proposed to reduce transfers of organisms;

“(iv) verify the practical effectiveness of any process for approving a type of alternative ballast water management as meeting standards established under this subsection, to ensure that the process produces repeatable and accurate assessments of treatment effectiveness; and

“(v) evaluate the effectiveness and residual risk and environmental impacts associated with any standard set with respect to the vessel pathways.

“(B) AUTHORIZATION OF APPROPRIATIONS.—In addition to other amounts authorized by this title, to carry out this paragraph there are authorized to be appropriated \$1,500,000 to the Secretary and \$1,500,000 to the Under Secretary for each of fiscal years 2008 through 2012.

“(g) WARNINGS CONCERNING BALLAST WATER UPTAKE.—

“(1) IN GENERAL.—The Secretary shall notify vessel owners and operators of any area in waters subject to the jurisdiction of the United States in which vessels may not uptake ballast water due to known conditions.

“(2) CONTENTS.—The notice shall include—

“(A) the coordinates of the area; and

“(B) if possible, the location of alternative areas for the uptake of ballast water.

“(h) SEDIMENT MANAGEMENT.—

“(1) IN GENERAL.—The operator of a vessel to which this section applies may not remove or dispose of sediment from spaces designed to carry ballast water, except—

“(A) in accordance with this subsection and the ballast water management plan approved under subsection (c); and

“(B)(i) more than 200 nautical miles from the nearest point of land; or

“(ii) into a reception facility that meets the requirements of paragraph (3).

“(2) DESIGN REQUIREMENTS.—

“(A) NEW VESSELS.—After December 31, 2008, a vessel to which this section applies may not be operated on waters subject to the jurisdiction of the United States, unless that vessel is designed and constructed in accordance with regulations issued under subparagraph (C) and in a manner that—

“(i) minimizes the uptake and entrapment of sediment;

“(ii) facilitates removal of sediment; and

“(iii) provides for safe access for sediment removal and sampling.

“(B) EXISTING VESSELS.—A vessel to which this section applies that was constructed before January 1, 2009, shall be modified, to the extent practicable, at the first drydocking of the vessel after December 31, 2008, but not later than December 31, 2013, to achieve the objectives described in subparagraph (A).

“(C) REGULATIONS.—The Secretary shall issue regulations establishing design and construction standards to achieve the objectives of subparagraph (A) and providing guid-

ance for modifications and practices under subparagraph (B). The Secretary shall incorporate the standards and guidance in the regulations governing the ballast water management plan approved under subsection (c).

“(3) SEDIMENT RECEPTION FACILITIES.—

“(A) STANDARDS.—The Secretary, in consultation with the heads of other appropriate Federal agencies as determined by the Secretary, shall issue regulations governing facilities for the reception of vessel sediment from spaces designed to carry ballast water that provide for the disposal of such sediment in a way that does not impair or damage the environment, human health, or property or resources of the disposal area.

“(B) DESIGNATION.—The Secretary, in consultation with the heads of other appropriate Federal agencies as determined by the Secretary shall designate facilities for the reception of vessel sediment that meet the requirements of the regulations issued under subparagraph (A) at ports and terminals where ballast tanks are cleaned or repaired.

“(i) EXAMINATIONS AND CERTIFICATIONS.—

“(1) INITIAL EXAMINATION.—

“(A) IN GENERAL.—The Secretary shall examine vessels to which this section applies to determine whether—

“(i) there is a ballast water management plan for the vessel that is approved by the Secretary and a ballast water record book on the vessel that meets the requirements of subsection (d);

“(ii) the equipment used for ballast water and sediment management in accordance with the requirements of this section and the regulations issued under this section is installed and functioning properly.

“(B) NEW VESSELS.—For vessels constructed on or after January 1, 2009, the Secretary shall conduct the examination required by subparagraph (A) before the vessel is placed in service.

“(C) EXISTING VESSELS.—For vessels constructed before January 1, 2009, the Secretary shall—

“(i) conduct the examination required by subparagraph (A) before the date on which subsection (f)(1) applies to the vessel according to the schedule in subsection (f)(3); and

“(ii) inspect the vessel's ballast water record book required by subsection (d).

“(D) FOREIGN VESSEL.—In the case of a foreign vessel, the Secretary shall perform the examination required by this paragraph the first time the vessel enters a United States port.

“(2) SUBSEQUENT EXAMINATIONS.—In addition to the examination required by paragraph (1), the Secretary shall annually examine vessels to which this section applies, to ensure compliance with the requirements of this section and the regulations issued under this section.

“(3) INSPECTION AUTHORITY.—

“(A) IN GENERAL.—The Secretary may carry out inspections of any vessel to which this section applies at any time, including the taking of ballast water samples, to ensure compliance with this section. The Secretary shall use all appropriate and practical measures of detection and environmental monitoring such vessels and shall establish adequate procedures for reporting violations of this section and accumulating evidence regarding such violations.

“(B) INVESTIGATIONS.—

“(i) IN GENERAL.—Upon receipt of evidence that a violation of this section or a regulation issued under this section has occurred, the Secretary shall cause the matter to be investigated.

“(ii) ISSUANCE OF SUBPOENAS.—In an investigation under this subparagraph, the Secretary may issue subpoenas to require the attendance of any witness and the production of documents and other evidence.

“(iii) COMPELLING COMPLIANCE WITH SUBPOENAS.—In case of refusal to obey a subpoena issued under this subparagraph, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance.

“(4) STATE PROGRAMS.—

“(A) SUBMISSION TO SECRETARY.—At any time after the date of issuance of ballast water treatment regulations issued under this section, the Governor of each State desiring to administer its own inspection and enforcement authority for ballast water discharges within its jurisdiction may submit to the Secretary a complete description of the program the Governor proposes to establish and administer under State law. In addition, the Governor shall submit a statement from the attorney general that the laws of such State provide adequate authority to carry out the described program.

“(B) APPROVAL.—The Secretary shall approve a program submitted under subparagraph (A), unless the Secretary determines that adequate resources do not exist or, in the case of ballast water testing, that adequate scientific expertise does not exist—

“(i) to inspect, monitor, and board any vessel to which this section applies at any time, including the taking and testing of ballast water samples, to ensure the vessel's compliance with this section;

“(ii) to ensure that any ballast water discharged within the waters subject to the jurisdiction of the State meet the ballast water requirements of this section and the regulations issued under this section, including any revisions to such requirements and regulations;

“(iii) to establish adequate procedures for reporting violations of this section;

“(iv) to investigate and abate violations of this section, including civil and criminal penalties and other ways and means of enforcement; and

“(v) to ensure that the Secretary receives notice of each violation of the ballast water treatment requirements issued under this section in an expeditious manner.

“(C) COMPLIANCE.—Any State program approved under this paragraph shall at all times be conducted in accordance with this section and regulations issued under this section.

“(D) WITHDRAWAL OF APPROVAL.—Whenever the Secretary determines, after public hearing, that a State is not administering a program approved under this paragraph in accordance with this section and regulations issued under this section, the Secretary shall notify the State and, if appropriate corrective action is not taken within a reasonable period of time not to exceed 90 days, the Secretary shall withdraw approval of the program. The Secretary shall not withdraw approval of any program unless the Secretary shall first have notified the State, and made public, in writing, the reasons for such withdrawal.

“(E) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this paragraph shall limit the authority of the Secretary carry out inspections and investigations of any vessels under paragraph (3).

“(5) REQUIRED CERTIFICATE.—If, on the basis of an initial examination under paragraph (1), the Secretary finds that a vessel complies with the requirements of this section and the regulations issued under this section, the Secretary shall issue a certificate under this paragraph as evidence of such compliance. The certificate shall be valid for a period of not more than 5 years, as specified by the Secretary. The certificate or a true copy shall be maintained on board the vessel.

“(6) NOTIFICATION OF VIOLATIONS.—If the Secretary finds, on the basis of an examination under paragraph (1) or (2), investigation under paragraph (3), or any other information, that a vessel is being operated in violation of any requirement of this section or regulation issued under this section, the Secretary shall—

“(A) notify, in writing—

“(i) the master of the vessel; and

“(ii) the captain of the port at the vessel's next port of call;

“(B) remove from the vessel the certificate issued under paragraph (5);

“(C) take such other action as may be appropriate.

“(7) COMPLIANCE MONITORING.—

“(A) IN GENERAL.—The Secretary shall establish, by regulation, sampling and other procedures to monitor compliance with the requirements of this section and the regulations issued under this section.

“(B) USE OF MARKERS.—The Secretary may verify compliance with the discharge requirements of subsection (f) and the regulations issued under this section with respect to such requirements through identification of markers associated with a treatment technology's effectiveness, such as the presence of indicators associated with a certified treatment technology.

“(8) EDUCATION AND TECHNICAL ASSISTANCE PROGRAMS.—The Secretary may carry out education and technical assistance programs and other measures to promote compliance with the requirements of this section and the regulations issued under this section.

“(9) REPORT.—Beginning 1 year after final regulations have been adopted pursuant to this section after the enactment of the Ballast Water Treatment Act of 2008, and annually thereafter, the Secretary shall prepare a report summarizing the results of ballast water inspection and enforcement activities. The report shall, at a minimum, include information on the number of vessels inspected and the type of inspections, the status of implementation of treatment technologies, the number of exemptions claimed from ballast water exchange requirements, the number of violations, a summary of enforcement and regulatory actions, and overall compliance statistics. The report shall be made available on the National Ballast Information Clearinghouse established under section 1102(f).

“(j) DETENTION OF VESSELS.—The Secretary, by notice to the owner, charterer, managing operator, agent, master, or other individual in charge of a vessel, may detain that vessel if the Secretary has reasonable cause to believe that—

“(1) the vessel is a vessel to which this section applies; and

“(2) the vessel does not comply with any requirement of this section or regulation issued under this section or is being operated in violation of such a requirement or regulation.

“(k) SANCTIONS.—

“(1) CIVIL PENALTIES.—Any person who violates this section (including a regulation issued under this section) shall be liable for a civil penalty in an amount not to exceed \$32,500. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of this section (including a regulation issued under this section) is liable in rem for any civil penalty assessed under this subsection for that violation.

“(2) CRIMINAL PENALTIES.—Whoever knowingly violates this section (including a regulation issued under this section) shall be fined under title 18, United States, or imprisoned not more than 12 years, or both.

“(3) REVOCATION OF CLEARANCE.—Except as provided in subsection (j)(2), upon request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance of a

vessel required by section 60105 of title 46, United States Code, if the owner or operator of that vessel is in violation of this section or a regulation issued under this section.

“(1) ENFORCEMENT.—

“(1) ADMINISTRATIVE ACTIONS.—If the Secretary finds, after notice and an opportunity for a hearing, that a person has violated this section or a regulation issued under this section, the Secretary may assess a civil penalty for that violation. In determining the amount of the civil penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior violations, and such other matters as justice may require.

“(2) CIVIL ACTIONS.—At the request of the Secretary, the Attorney General may bring a civil action in an appropriate district court of the United States to enforce this section or any regulation issued under this section. Any court before which such an action is brought may award appropriate relief, including temporary or permanent injunctions and civil penalties.

“(m) CONSULTATION WITH CANADA, MEXICO, AND OTHER FOREIGN GOVERNMENTS.—In developing the guidelines and regulations to be issued under this section, the Secretary is encouraged to consult with the Government of Canada, the Government of Mexico and any other government of a foreign country that the Secretary, after consultation with the Task Force, determines to be necessary to develop and implement an effective international program for preventing the unintentional introduction and spread of aquatic nuisance species through ballast water.

“(n) INTERNATIONAL COOPERATION.—The Secretary, in cooperation with the Under Secretary, the Secretary of State, the Administrator, the heads of other relevant Federal agencies, the International Maritime Organization of the United Nations, and the Commission on Environmental Cooperation established pursuant to the North American Free Trade Agreement, is encouraged to enter into negotiations with the governments of foreign countries to develop and implement an effective international program for preventing the unintentional introduction and spread of aquatic invasive species. The Secretary is particularly encouraged to seek bilateral or multilateral agreements with Canada, Mexico, and other nations in the Wider Caribbean Region (as defined in the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean, signed at Cartagena on March 24, 1993 (TIAF 11085), to carry out the objectives of this section.

“(o) NONDISCRIMINATION.—The Secretary shall ensure that foreign vessels do not receive more favorable treatment than vessels of the United States when the Secretary performs studies, reviews compliance, determines effectiveness, establishes requirements, or performs any other responsibilities under this Act.

“(p) CONSULTATION WITH TASK FORCE.—The Secretary shall consult with the Task Force in carrying out this section.

“(q) PREEMPTION.—

“(1) IN GENERAL.—Except as provided in subsection (i)(4) and paragraph (4) of this subsection but notwithstanding any other provision of law, the provisions of subsections (e) and (f) supersede any provision of State or local law that is inconsistent with the requirements of those subsections or that conflicts with the requirements of those subsections.

“(2) GREATER PENALTIES OR FEES.—For purpose of paragraph (1), the imposition by State or local law of greater penalties or fees for acts or omissions that are violations of

such law and also violations of this Act or the imposition by a State of incentives under subsection (f)(9)(B) shall not be considered to be inconsistent, or to conflict, with the requirements of subsections (e) and (f).

“(3) RECEPTION FACILITIES.—The standards issued by the Secretary or the heads of other appropriate Federal agencies under subsection (f)(2) do not supersede any more stringent standard under any otherwise applicable Federal, State, or local law.

“(4) LIMITATION ON APPLICATION.—Until January 1, 2012, this subsection does not apply to a State law requiring ballast water treatment and any regulations prescribed under that law as those laws and regulations were in effect on January 1, 2007.

“(r) LEGAL ACTIONS.—

“(1) CIVIL ACTION.—Any person may petition the Secretary to bring a civil action in an appropriate district court of the United States to enforce this section, or any regulation promulgated hereunder. Within 90 days after receiving such a petition, the Secretary shall—

“(A) respond to the person filing the petition with a determination of whether a violation of this section, or any regulation promulgated hereunder, has occurred or is occurring; and

“(B) if the Secretary determines that a violation of this section, or any regulation promulgated hereunder, has occurred or is occurring—

“(i) immediately bring a civil action in an appropriate district court of the United States to enforce this section, or any regulation promulgated hereunder; or

“(ii) demonstrate that the violation has ceased.

“(2) RELIEF.—Any court before which such an action is brought may award appropriate relief, including temporary or permanent injunctive relief and civil penalties.

“(s) COAST GUARD REPORT ON OTHER SOURCES OF VESSEL-BOURNE NUISANCE SPECIES.—

“(1) IN GENERAL.—

“(A) HULL-FOULING AND OTHER VESSEL SOURCES.—Not later than 180 days after the date of enactment of the Ballast Water Treatment Act of 2008, the Secretary shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on vessel-related pathways of harmful aquatic organisms and pathogens other than ballast water and sediment, including vessel hulls and equipment, and from vessels equipped with ballast tanks that carry no ballast water on board.

“(B) BEST PRACTICES.—

“(i) IN GENERAL.—As soon as practicable, the Secretary shall develop best practices standards and procedures designed to reduce the introduction and spread of invasive species into and within the United States from vessels and establish a timeframe for implementation of those standards and procedures by vessels. Such standards and procedures shall include designation of geographical locations for uptake and discharge of untreated ballast water, as well as standards and procedure for other vessel pathways of aquatic invasive species.

“(ii) REPORT.—The Secretary shall transmit a report to the committees referred to in subparagraph (A) describing the standards and procedures developed under this subparagraph and the implementation timeframe, together with such recommendations as the Secretary determines appropriate.

“(iii) REGULATIONS.—The Secretary may issue regulations to incorporate and enforce standards and procedures developed under this paragraph.

“(2) TRANSITING VESSELS.—Not later than 180 days after the date of enactment of the Ballast Water Treatment Act of 2008, the Secretary shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives containing—

“(A) an assessment of the magnitude and potential adverse impacts of ballast water operations from foreign vessels designed, adapted, or constructed to carry ballast water that are transiting waters subject to the jurisdiction of the United States; and

“(B) recommendations, including legislative recommendations if appropriate, of options for addressing ballast water operations of those vessels.”.

(b) DEFINITIONS.—Section 1003 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4702) is amended—

(1) by redesignating—

(A) paragraphs (1), (2), and (3) as paragraphs (2), (3), and (4), respectively;

(B) paragraphs (4), (5), and (6) as paragraphs (8), (9), and (10), respectively;

(C) paragraphs (7), (8), (9), and (10) as paragraphs (12), (13), (14), and (15), respectively;

(D) paragraphs (11) and (12) as paragraphs (17) and (18), respectively;

(E) paragraphs (13), (14), and (15) as paragraphs (20), (21), and (22), respectively;

(F) paragraph (16) as paragraph (27); and

(G) paragraph (17) as paragraph (23);

(2) by moving paragraph (23), as so redesignated, after paragraph (22), as so redesignated;

(3) by inserting before paragraph (2), as so redesignated, the following:

“(1) ‘Administrator’ means the Administrator of the Environmental Protection Agency.”;

(4) by striking paragraph (4), as so redesignated, and inserting the following:

“(4) ‘ballast water’ means—

“(A) water taken on board a vessel to control trim, list, draught, stability, or stresses of the vessel, including matter suspended in such water; or

“(B) any water placed into a ballast tank during cleaning, maintenance, or other operations.”;

(5) by inserting after paragraph (4), as so redesignated and amended, the following:

“(5) ‘ballast water capacity’ means the total volumetric capacity of any tanks, spaces, or compartments on a vessel that is used for carrying, loading, or discharging ballast water, including any multi-use tank, space, or compartment designed to allow carriage of ballast water;

“(6) ‘ballast water management’ means mechanical, physical, chemical, and biological processes used, either singularly or in combination, to remove, render harmless, or avoid the uptake or discharge of harmful aquatic organisms and pathogens within ballast water and sediment;

“(7) ‘constructed’ means a state of construction of a vessel at which—

“(A) the keel is laid;

“(B) construction identifiable with the specific vessel begins;

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

“(D) the vessel undergoes a major conversion.”;

(6) by inserting after paragraph (10), as so redesignated, the following:

“(11) ‘foreign vessel’ has the meaning such term has under section 110 of title 46, United States Code.”;

(7) by inserting after paragraph (15), as so redesignated, the following:

“(16) ‘major conversion’ means a conversion of a vessel, that—

“(A) changes its ballast water carrying capacity by at least 15 percent;

“(B) changes the vessel class;

“(C) is projected to prolong the vessel’s life by at least 10 years (as determined by the Secretary); or

“(D) results in modifications to the vessel’s ballast water system, except—

“(i) component replacement-in-kind; or

“(ii) conversion of a vessel to meet the requirements of section 1101(e);”;

(8) by inserting after paragraph (18), as so redesignated, the following:

“(19) ‘sediment’ means matter that has settled out of ballast water within a vessel.”;

(9) in paragraph (12), as so redesignated, by striking the period at the end and inserting a semicolon;

(10) by inserting after paragraph (23), as so redesignated and moved, the following:

“(24) ‘United States port’ means a port, river, harbor, or offshore terminal under the jurisdiction of the United States, including ports located in Puerto Rico, Guam, and the United States Virgin Islands;

“(25) ‘vessel of the Armed Forces’ means—

“(A) any vessel owned or operated by the Department of Defense, other than a time or voyage chartered vessel; and

“(B) any vessel owned or operated by the Department of Homeland Security that is designated by the Secretary as a vessel equivalent to a vessel described in subparagraph (A);

“(26) ‘vessel of the United States’ has the meaning such term has under section 116 of title 46, United States Code.”;

(11) in paragraph (23), as so redesignated, by striking the period at the end and inserting “.”;

(c) REPEAL OF SECTION 1103.—Section 1103 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4713) is repealed.

(d) INTERIM FINAL RULE.—The Secretary shall issue an interim final rule as a temporary regulation implementing the amendments made by this section as soon as practicable after the date of enactment of this section, without regard to the provisions of chapter 5 of title 5, United States Code. All regulations issued under the authority of this subsection that are not earlier superseded by final regulations shall expire not later than one year after the date of enactment of this Act.

#### SEC. 504. NATIONAL BALLAST WATER MANAGEMENT INFORMATION.

Section 1102 (16 U.S.C. 4712) is amended—

(1) by adding at the end the following:

“(g) BALLAST WATER SURVEYS.—

“(1) IN GENERAL.—The Secretary shall conduct the following ballast water surveys:

“(A) A survey of the number of living organisms in untreated ballast water of a representative number of vessels, as determined by the Secretary.

“(B) A survey of the number of living organisms in the ballast water of a representative number of vessels, as determined by the Secretary, that has been exchanged on the high seas.

“(C) Surveys of the number of living organisms in the ballast water of vessels that are participating in a program to test and evaluate promising ballast water treatment, as approved by the Secretary.

“(2) REPORTS.—The Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

“(A) a report on the results of the surveys under subparagraphs (A) and (B) of paragraph (1) by not later than 18 months after

the date of enactment of the Ballast Water Treatment Act of 2008; and

“(B) a report on the results of the surveys required under subparagraph (C) of paragraph (1) upon completion of each demonstration concerned.”;

(2) in subsection (b)(1)(B)(ii), by striking “guidelines issued and”;

(3) in subsection (b)(2)(B)(ii), by striking “voluntary guidelines issued, and regulations promulgated,” and inserting “regulations promulgated”;

(4) in subsection (c)(1), by striking “section 1101(b)” and inserting “section 1101(a)”;

(5) in subsection (f)(1)(B), by striking “guidelines issued pursuant to section 1101(c)” and inserting “regulations issued pursuant to section 1101”.

#### SEC. 505. BALLAST WATER MANAGEMENT EVALUATION AND DEMONSTRATION PROGRAM.

Section 1104 (16 U.S.C. 4714) is amended—

(1) by striking the section heading and inserting the following:

#### “SEC. 1104. BALLAST WATER TREATMENT TECHNOLOGY EVALUATION AND DEMONSTRATION PROGRAMS.”;

(2) by striking subsection (a);

(3) by redesignating subsection (b) as subsection (a);

(4) by redesignating subsection (c) as subsection (d);

(5) in subsection (a), as so redesignated—

(A) by striking so much as precedes paragraph (2) and inserting the following:

“(a) SHIPBOARD TECHNOLOGY EVALUATION PROGRAM.—

“(1) IN GENERAL.—The Secretary shall establish a Shipboard Technology Evaluation Program to evaluate ballast water treatment technologies aboard vessels to prevent aquatic nuisance species from being introduced into and spread through discharges of ballast water in waters of the United States.”; and

(B) in paragraph (2) by striking “of the technologies and practices used in the demonstration program” and inserting “of ballast water treatment technologies used in the program”;

(6) in subsection (a)(3), as so redesignated, by striking “technologies and practices” and all that follows through “shall—” and inserting “ballast water treatment technologies on vessels under this subsection, the Secretary shall—”;

(7) in subsection (a)(3)(A), as so redesignated, by striking clause (i) and redesignating clauses (ii) and (iii) in order as clauses (i) and (ii);

(8) by amending subsection (a)(3)(A)(i), as so redesignated, to read as follows:

“(i) have ballast water systems conducive to testing aboard the vessel; and”;

(9) by amending subsection (a)(3)(C), as so redesignated, to read as follows:

“(C) seek to use a variety of vessel types.”;

(10) by amending subsection (a)(4), as so redesignated, to read as follows:

“(4) SELECTION OF BALLAST WATER TREATMENT TECHNOLOGIES.—In order for a ballast water treatment technology to be eligible to be installed on vessels for evaluation under this section, such technology must be, at a minimum—

“(A) determined by the Secretary to have the demonstrated potential to reduce the number of organisms greater than or equal to 50 microns in minimum dimension in discharged ballast water to fewer than 10 living organisms per cubic meter of water;

“(B) cost-effective;

“(C) environmentally sound;

“(D) operationally practical;

“(E) able to be retrofitted on existing vessels or incorporated in new vessel design (or both);

“(F) safe for a vessel and crew; and

“(G) accessible to monitoring.”;

(11) in subsection (a), as so redesignated, by adding at the end the following:

“(6) **AUTHORITY OF SECRETARY TO REVIEW AND REVISE CRITERIA.**—The Secretary may review and revise the criteria described in paragraph (4)(A) to require ballast water treatment technologies to meet a more stringent ballast water discharge standard, including standards promulgated under section 1101(f), before being eligible for installation aboard vessels under the program.”;

(12) by inserting after subsection (a), as so redesignated, the following:

“(b) **SHIPBOARD TECHNOLOGY DEMONSTRATION PROGRAM.**—

“(1) **IN GENERAL.**—The Under Secretary, with the concurrence of and in cooperation with the Secretary, shall conduct a program to demonstrate ballast water treatment technologies evaluated aboard vessels under subsection (a) to prevent aquatic nuisance species from being introduced into and spread through ballast water in waters of the United States.

“(2) **LOCATION.**—The installation and construction of ballast water treatment technologies used in the demonstration program under this subsection shall be performed in the United States.

“(3) **VESSEL ELIGIBILITY.**—Vessels eligible to participate in the demonstration program under this subsection shall consist only of vessels that have been accepted into and are actively participating in the Shipboard Technology Evaluation Program under subsection (a).

“(4) **GRANTS.**—

“(A) **IN GENERAL.**—The Under Secretary shall establish a grant program to provide funding for acquiring, installing, and operating ballast water treatment technologies aboard vessels participating in the program under this subsection.

“(B) **MATCHING REQUIREMENTS.**—The amount of Federal funds used for any demonstration project under this subsection—

“(i) shall not exceed \$1,000,000; and

“(ii) shall not exceed 50 percent of the total cost of such project.

“(C) **ALTERNATIVE SHIP PATHWAY PROGRAM.**—

“(1) **IN GENERAL.**—The Under Secretary, with the concurrence of and in cooperation with the Secretary, shall conduct a program to demonstrate and verify technologies and practices to monitor and control the introduction of aquatic invasive species by ship pathways other than the release of ballast water.

“(2) **SELECTION OF METHODS.**—The Under Secretary may not select technologies and practices for demonstration or verification under paragraph (1) unless such technologies and practices, in the determination of the Under Secretary, in consultation with the Secretary, meet the criteria outlined in subparagraphs (B) through (G) of subsection (a)(4).

“(3) **LOCATION.**—The installation and construction of technologies and practices for demonstration and verification under this subsection shall be performed in the United States.”; and

(13) in subsection (d), as so redesignated, by striking “Secretary of the Interior” each place it appears and inserting “Secretary, in consultation with the Under Secretary.”.

#### **SEC. 506. RAPID RESPONSE PLAN.**

Subtitle C of title I of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4721 et seq.) is amended by adding at the end the following:

#### **“SEC. 1210. RAPID RESPONSE PLAN.**

“(a) **PREPARATION BY PRESIDENT.**—The President shall prepare and publish a national rapid response plan for killing, remov-

ing, or minimizing the spread of aquatic nuisance species in the waters of the United States in accordance with this section.

“(b) **CONTENTS.**—The national rapid response plan shall provide for efficient, coordinated, and effective action to minimize damage from aquatic nuisance species in the navigable waters of the United States, including killing, containing, and removal of the aquatic nuisance species, and shall include the following:

“(1) Assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies and port authorities and private entities.

“(2) Identification, procurement, maintenance, and storage of equipment and supplies needed to facilitate the killing, containment, and removal of aquatic nuisance species under this section.

“(3) Establishment or designation by the President of Federal aquatic nuisance species response teams, consisting of—

“(A) personnel who shall be trained and prepared by the President and shall be available to provide necessary services to carry out the national rapid response plan;

“(B) adequate equipment and material needed to facilitate the killing, containment, and removal of aquatic nuisance species under this section; and

“(C) a detailed plans to kill, contain, and remove aquatic nuisance species, including measures to protect fisheries and wildlife.

“(4) A system of surveillance and notice designed to safeguard against, as well as ensure earliest possible notice of, the introduction of aquatic nuisance species and imminent threats of such introduction to the appropriate State and Federal agencies.

“(5) Establishment by the President of a national center to provide coordination and direction for operations in carrying out the plan.

“(6) Procedures and techniques to be employed in identifying, containing, killing, and removing aquatic nuisance species in the waters of the United States.

“(7) A schedule, prepared by the President in cooperation with the States, identifying—

“(A) mitigating devices and substances, if any, that may be used in carrying out the plan;

“(B) the waters in which such mitigating devices and substances may be used; and

“(C) the quantities of such mitigating device or substance which can be used safely in such waters.

“(8) A system whereby the State or States affected by an aquatic nuisance species may act where necessary to remove such species.

“(9) Establishment by the President of criteria and procedures to ensure immediate and effective Federal identification of, and response to, an introduction of aquatic nuisance species.

“(10) Designation by the President of the Federal official who shall be the Federal on-scene coordinator for measures taken to kill, contain, and remove aquatic nuisance species under this section.

“(11) A fish and wildlife response plan for the immediate and effective protection, rescue, and rehabilitation of, and the minimization of risk of damage to, fish and wildlife resources and their habitat that are harmed or that may be jeopardized by an introduction of an aquatic nuisance species.

“(c) **FEDERAL REMOVAL AUTHORITY.**—

“(1) **REMOVAL REQUIREMENT.**—

“(A) **IN GENERAL.**—The President shall ensure, in accordance with the national rapid response plan, effective and immediate killing, containing, and removal of the aquatic nuisance species in the waters of the United States.

“(B) **DISCRETIONARY AUTHORITY.**—In carrying out this paragraph, the President may—

“(i) kill, contain, and remove an aquatic nuisance species, at any time; and

“(ii) direct or monitor all Federal, State, and private actions to kill, contain, and remove the aquatic nuisance species.

“(2) **ACTIONS IN ACCORDANCE WITH NATIONAL RAPID RESPONSE PLAN.**—Each Federal agency, State, owner or operator, or other person participating in efforts under this subsection shall act in accordance with the national rapid response plan or as directed by the President to carry out the plan.”.

#### **SEC. 507. AUTHORIZATION OF APPROPRIATIONS.**

Section 1301(a) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4741(a)) is amended—

(1) by striking “and” after the semicolon in paragraph (4)(B);

(2) by striking the period at the end of paragraph (5)(B) and inserting a semicolon; and

(3) by adding at the end the following:

“(6) \$20,000,000 for each of fiscal years 2008 through 2012 to the Secretary to carry out section 1101;

“(7) \$500,000 to the Secretary for each of fiscal years 2008 through 2013 to carry out section 1102(f);

“(8) \$6,000,000 to the Under Secretary for each of fiscal years 2008 through 2013 to carry out paragraph (4) of section 1104(b); and

“(9) \$1,500,000 to the Under Secretary for each of fiscal years 2008 through 2013 to carry out section 1104(c).”.

### **TITLE VI—MARITIME POLLUTION PREVENTION**

#### **SEC. 601. SHORT TITLE.**

This title may be cited as the “Maritime Pollution Prevention Act of 2008”.

#### **SEC. 602. REFERENCES.**

Wherever in this title an amendment or repeal is expressed in terms of an amendment to or a repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).

#### **SEC. 603. DEFINITIONS.**

Section 2(a) (33 U.S.C. 1901(a)) is amended—

(1) by redesignating the paragraphs (1) through (12) as paragraphs (2) through (13), respectively;

(2) by inserting before paragraph (2) (as so redesignated) the following:

“(1) ‘Administrator’ means the Administrator of the Environmental Protection Agency.”;

(3) in paragraph (5) (as so redesignated) by striking “and V” and inserting “V, and VI”;

(4) in paragraph (6) (as so redesignated) by striking “‘discharge’ and ‘garbage’ and ‘harmful substance’ and ‘incident’” and inserting “‘discharge’, ‘emission’, ‘garbage’, ‘harmful substance’, and ‘incident’”; and

(5) by redesignating paragraphs (7) through (13) (as redesignated) as paragraphs (8) through (14), respectively, and inserting after paragraph (6) (as redesignated) the following:

“(7) ‘navigable waters’ includes the territorial sea of the United States (as defined in Presidential Proclamation 5928 of December 27, 1988) and the internal waters of the United States.”.

#### **SEC. 604. APPLICABILITY.**

Section 3 (33 U.S.C. 1902) is amended—

(1) in subsection (a)—

(A) by striking “and” at the end of paragraph (3);

(B) by striking the period at the end of paragraph (4) and inserting “; and”; and

(C) by adding at the end the following:

“(5) with respect to Annex VI to the Convention, and other than with respect to a ship referred to in paragraph (1)—

“(A) to a ship that is in a port, shipyard, offshore terminal, or the internal waters of the United States;

“(B) to a ship that is bound for, or departing from, a port, shipyard, offshore terminal, or the internal waters of the United States, and is in—

“(i) the navigable waters of the United States;

“(ii) an emission control area designated pursuant to section 4; or

“(iii) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment;

“(C) to a ship that is entitled to fly the flag of, or operating under the authority of, a party to Annex VI, and is in—

“(i) the navigable waters of the United States;

“(ii) an emission control area designated under section 4; or

“(iii) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment; and

“(D) to the extent consistent with international law, to any other ship that is in—

“(i) the exclusive economic zone of the United States;

“(ii) the navigable waters of the United States;

“(iii) an emission control area designated under section 4; or

“(iv) any other area that the Administrator, in consultation with the Secretary and each State in which any part of the area is located, has designated by order as being an area from which emissions from ships are of concern with respect to protection of public health, welfare, or the environment.”;

(2) in subsection (b)—

(A) in paragraph (1) by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”;

and

(B) by adding at the end the following:

“(3) With respect to Annex VI the Administrator, or the Secretary, as relevant to their authorities pursuant to this Act, may determine that some or all of the requirements under this Act shall apply to one or more classes of public vessels, except that such a determination by the Administrator shall have no effect unless the head of the Department or agency under which the vessels operate concurs in the determination. This paragraph does not apply during time of war or during a declared national emergency.”;

(3) by redesignating subsections (c) through (g) as subsections (d) through (h), respectively, and inserting after subsection (b) the following:

“(C) APPLICATION TO OTHER PERSONS.—This Act shall apply to all persons to the extent necessary to ensure compliance with Annex VI to the Convention.”; and

(4) in subsection (e), as redesignated—

(A) by inserting “or the Administrator, consistent with section 4 of this Act,” after “Secretary”;

(B) by striking “of section (3)” and inserting “of this section”;

(C) by striking “Protocol, including regulations conforming to and giving effect to the requirements of Annex V” and inserting “Protocol (or the applicable Annex), including regulations conforming to and giving effect to the requirements of Annex V and Annex VI”.

#### SEC. 605. ADMINISTRATION AND ENFORCEMENT.

Section 4 (33 U.S.C. 1903) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and inserting after subsection (a) the following:

“(b) DUTY OF THE ADMINISTRATOR.—In addition to other duties specified in this Act, the Administrator and the Secretary, respectively, shall have the following duties and authorities:

“(1) The Administrator shall, and no other person may, issue Engine International Air Pollution Prevention certificates in accordance with Annex VI and the International Maritime Organization's Technical Code on Control of Emissions of Nitrogen Oxides from Marine Diesel Engines, on behalf of the United States for a vessel of the United States as that term is defined in section 116 of title 46, United States Code. The issuance of Engine International Air Pollution Prevention certificates shall be consistent with any applicable requirements of the Clean Air Act or regulations prescribed under that Act.

“(2) The Administrator shall have authority to administer regulations 12, 13, 14, 15, 16, 17, 18, and 19 of Annex VI to the Convention.

“(3) The Administrator shall, only as specified in section 8(f), have authority to enforce Annex VI of the Convention.”;

(2) in subsection (c), as redesignated, by redesignating paragraph (2) as paragraph (4), and inserting after paragraph (1) the following:

“(2) In addition to the authority the Secretary has to prescribe regulations under this Act, the Administrator shall also prescribe any necessary or desired regulations to carry out the provisions of regulations 12, 13, 14, 15, 16, 17, 18, and 19 of Annex VI to the Convention.

“(3) In prescribing any regulations under this section, the Secretary and the Administrator shall consult with each other, and with respect to regulation 19, with the Secretary of the Interior.”; and

(3) by adding at the end of subsection (c), as redesignated, the following:

“(5) No standard issued by any person or Federal authority, with respect to emissions from tank vessels subject to regulation 15 of Annex VI to the Convention, shall be effective until 6 months after the required notification to the International Maritime Organization by the Secretary.”.

#### SEC. 606. CERTIFICATES.

Section 5 (33 U.S.C. 1904) is amended—

(1) in subsection (a) by striking “The Secretary” and inserting “Except as provided in section 4(b)(1), the Secretary”;

(2) in subsection (b) by striking “Secretary under the authority of the MARPOL protocol.” and inserting “Secretary or the Administrator under the authority of this Act.”; and

(3) in subsection (e) by striking “environment.” and inserting “environment or the public health and welfare.”.

#### SEC. 607. RECEPTION FACILITIES.

Section 6 (33 U.S.C. 1905) is amended—

(1) in subsection (a) by adding at the end the following:

“(3) The Secretary and the Administrator, after consulting with appropriate Federal agencies, shall jointly prescribe regulations setting criteria for determining the adequacy of reception facilities for receiving ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues at a port or terminal, and stating any additional measures and requirements as are appropriate to ensure such adequacy. Persons in charge of ports and terminals shall provide reception facilities, or ensure that reception facilities are available, in accordance with those regulations. The Secretary and the Administrator may joint-

ly prescribe regulations to certify, and may issue certificates to the effect, that a port's or terminal's facilities for receiving ozone depleting substances, equipment containing such substances, and exhaust gas cleaning residues from ships are adequate.”;

(2) in subsection (b) by inserting “or the Administrator” after “Secretary”;

(3) in subsection (e) by striking paragraph (2) and inserting the following:

“(2) The Secretary may deny the entry of a ship to a port or terminal required by the MARPOL Protocol, this Act, or regulations prescribed under this section relating to the provision of adequate reception facilities for garbage, ozone depleting substances, equipment containing those substances, or exhaust gas cleaning residues, if the port or terminal is not in compliance with the MARPOL Protocol, this Act, or those regulations.”;

(4) in subsection (f)(1) by striking “Secretary is” and inserting “Secretary and the Administrator are”; and

(5) in subsection (f)(2) by striking “(A)”.

#### SEC. 608. INSPECTIONS.

Section 8(f) (33 U.S.C. 1907(f)) is amended to read as follows:

“(f)(1) The Secretary may inspect a ship to which this Act applies as provided under section 3(a)(5), to verify whether the ship is in compliance with Annex VI to the Convention and this Act.

“(2) If an inspection under this subsection or any other information indicates that a violation has occurred, the Secretary, or the Administrator in a matter referred by the Secretary, may undertake enforcement action under this section.

“(3) Notwithstanding subsection (b) and paragraph (2) of this subsection, the Administrator shall have all of the authorities of the Secretary, as specified in subsection (b) of this section, for the purposes of enforcing regulations 17 and 18 of Annex VI to the Convention to the extent that shoreside violations are the subject of the action and in any other matter referred to the Administrator by the Secretary.”.

#### SEC. 609. AMENDMENTS TO THE PROTOCOL.

Section 10(b) (33 U.S.C. 1909(b)) is amended by inserting “or the Administrator as provided for in this Act,” after “Secretary.”.

#### SEC. 610. PENALTIES.

Section 9 (33 U.S.C. 1908) is amended—

(1) by striking “Protocol,” each place it appears and inserting “Protocol.”;

(2) in subsection (b)—

(A) by inserting “, or the Administrator as provided for in this Act” after “Secretary” the first place it appears;

(B) in paragraph (2), by inserting “, or the Administrator as provided for in this Act,” after “Secretary”; and

(C) in the matter after paragraph (2)—

(i) by inserting “, or the Administrator as provided for in this Act” after “Secretary” the first place it appears; and

(ii) by inserting “, or the Administrator as provided for in this Act,” after “Secretary” the second and third places it appears;

(3) in subsection (c), by inserting “, or the Administrator as provided for in this Act,” after “Secretary” each place it appears; and

(4) in subsection (f), by inserting “, or the Administrator as provided for in this Act” after “Secretary” the first place it appears.

#### SEC. 611. EFFECT ON OTHER LAWS.

Section 15 (33 U.S.C. 1911) is amended to read as follows:

#### “SEC. 15. EFFECT ON OTHER LAWS.

“Authorities, requirements, and remedies of this Act supplement and neither amend nor repeal any other authorities, requirements, or remedies conferred by any other provision of law. Nothing in this Act shall

limit, deny, amend, modify, or repeal any other authority, requirement, or remedy available to the United States or any other person, except as expressly provided in this Act.”.

#### TITLE VII—PORT SECURITY

##### SEC. 701. MARITIME HOMELAND SECURITY PUBLIC AWARENESS PROGRAM.

The Secretary of Homeland Security shall establish a program to help prevent acts of terrorism and other activities that jeopardize maritime homeland security, by seeking the cooperation of the commercial and recreational boating industries and the public to improve awareness of activity in the maritime domain and report suspicious or unusual activity.

##### SEC. 702. TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL.

(a) ASSESSMENT OF TWIC PROGRAM IMPLEMENTATION.—

(1) IN GENERAL.—Not later than 120 days after implementing the Transportation Worker Identification Credential program (in this section referred to as “TWIC”) at the ten ports designated top priority by the Secretary of Homeland Security, as required by section 70105(i)(2)(A) of title 46, United States Code, the Secretary shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate and to the Comptroller General of the United States a report containing an assessment of the progress of the program’s implementation. The report shall include—

(A) the number of workers enrolled in the program to date and the extent to which key metrics and contract requirements have been met; and

(B) an overview of the challenges encountered during implementation of the enrollment process, and plans for how these challenges will be addressed as the program is implemented at additional ports.

(2) GAO ASSESSMENT.—The Comptroller General shall review the report and submit to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate an assessment of the report’s findings and recommendations.

(b) ASSESSMENT OF TWIC PILOT.—

(1) IN GENERAL.—Not later than 120 days after completing the pilot program under section 70105(k)(1) of title 46, United States Code, to test TWIC access control technologies at port facilities and vessels nationwide, the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate and to the Comptroller General a report containing an assessment of the results of the pilot. The report shall include—

(A) the findings of the pilot program with respect to key technical and operational aspects of implementing TWIC technologies in the maritime sector;

(B) a comprehensive listing of the extent to which established metrics were achieved during the pilot program; and

(C) an analysis of the viability of those technologies for use in the maritime environment, including any challenges to implementing those technologies and strategies for mitigating identified challenges.

(2) GAO ASSESSMENT.—The Comptroller General shall review the report and submit to the Committee on Homeland Security of

the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate an assessment of the report’s findings and recommendations.

##### SEC. 703. STUDY TO IDENTIFY REDUNDANT BACKGROUND RECORDS CHECKS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study comparing those background records checks required under section 70105 of title 46, United States Code, and those conducted by States for similar homeland security purposes.

(b) REPORT.—Not later than 6 months after the date of enactment of this Act, the Comptroller General of the United States shall submit a report to the Committee on Homeland Security of the House of Representatives, the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate on the results of the study, including—

(1) an identification of redundancies and inefficiencies in connection with such checks referred to in subsection (a); and

(2) recommendations for eliminating such redundancies and inefficiencies.

##### SEC. 704. REVIEW OF INTERAGENCY OPERATIONAL CENTERS.

(a) IN GENERAL.—Within 180 days of enactment of this Act, the Department of Homeland Security Inspector General shall provide a report to the Committee on Homeland Security of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Commerce, Science, and Transportation of the Senate concerning the establishment of Interagency Operational Centers for Port Security required by section 108 of the SAFE Port Act (Public Law 109-347).

(b) REPORT.—The report shall include—

(1) an examination of the Department’s efforts to establish the Interagency Operational Centers;

(2) a timeline for construction;

(3) a detailed breakdown, by center, as to the incorporation of those representatives required by section 70107A(b)(3) of title 46, United States Code;

(4) an analysis of the hurdles faced by the Department in developing these centers;

(5) information on the number of security clearances attained by State, local, and tribal officials participating in the program; and

(6) an examination of the relationship between the Interagency Operational Centers and State, local and regional fusion centers participating in the Department of Homeland Security’s State, Local, and Regional Fusion Center Initiative under section 511 of the Implementing the Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), with a particular emphasis on—

(A) how the centers collaborate and coordinate their efforts; and

(B) the resources allocated by the Coast Guard to both initiatives.

##### SEC. 705. MARITIME SECURITY RESPONSE TEAMS.

(a) IN GENERAL.—Section 70106 of title 46, United States Code, is amended by striking subsection (c) and inserting the following:

“(c) MARITIME SECURITY RESPONSE TEAMS.—

“(1) IN GENERAL.—In addition to the maritime safety and security teams, the Secretary shall establish no less than two maritime security response teams to act as the Coast Guard’s rapidly deployable counterterrorism and law enforcement response units that can apply advanced interdiction skills in response to threats of maritime terrorism.

“(2) MINIMIZATION OF RESPONSE TIME.—The maritime security response teams shall be stationed in such a way to minimize, to the extent practicable, the response time to any reported maritime terrorist threat.

“(d) COORDINATION WITH OTHER AGENCIES.—To the maximum extent feasible, each maritime safety and security team and maritime security response team shall coordinate its activities with other Federal, State, and local law enforcement and emergency response agencies.”.

##### SEC. 706. COAST GUARD DETECTION CANINE TEAM PROGRAM EXPANSION.

(a) DEFINITIONS.—For purposes of this section:

(1) CANINE DETECTION TEAM.—The term “detection canine team” means a canine and a canine handler that are trained to detect narcotics or explosives, or other threats as defined by the Secretary.

(2) SECRETARY.—The term “Secretary” means the Secretary of Homeland Security.

(b) DETECTION CANINE TEAMS.—

(1) INCREASED CAPACITY.—Not later than 240 days after the date of enactment of this Act, the Secretary shall—

(A) begin to increase the number of detection canine teams certified by the Coast Guard for the purposes of maritime-related security by no fewer than 10 canine teams annually through fiscal year 2012; and

(B) encourage owners and operators of port facilities, passenger cruise liners, oceangoing cargo vessels, and other vessels identified by the Secretary to strengthen security through the use of highly trained detection canine teams.

(2) CANINE PROCUREMENT.—The Secretary, acting through the Commandant of the Coast Guard, shall—

(A) procure detection canine teams as efficiently as possible, including, to the greatest extent possible, through increased domestic breeding, while meeting the performance needs and criteria established by the Commandant;

(B) support expansion and upgrading of existing canine training facilities operated by the department in which the Coast Guard is operating; and

(C) as appropriate, partner with other Federal, State, or local agencies, nonprofit organizations, universities, or the private sector to increase the breeding and training capacity for Coast Guard canine detection teams.

(c) DEPLOYMENT.—The Secretary shall prioritize deployment of the additional canine teams to ports based on risk, consistent with the Security and Accountability For Every Port Act of 2006 (Public Law 109-347).

(d) AUTHORIZATION.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section for fiscal years 2008 through 2012.

##### SEC. 707. COAST GUARD PORT ASSISTANCE PROGRAM.

Section 70110 of title 46, United States Code, is amended by adding at the end the following:

“(f) COAST GUARD ASSISTANCE PROGRAM.—

“(1) IN GENERAL.—The Secretary may lend, lease, donate, or otherwise provide equipment, and provide technical training and support, to the owner or operator of a foreign port or facility—

“(A) to assist in bringing the port or facility into compliance with applicable International Ship and Port Facility Code standards;

“(B) to assist the port or facility in meeting standards established under section 70109A of this chapter; and

“(C) to assist the port or facility in exceeding the standards described in subparagraphs (A) and (B).

“(2) CONDITIONS.—The Secretary—



“(A) shall provide such assistance based upon an assessment of the risks to the security of the United States and the inability of the owner or operator of the port or facility otherwise to bring the port or facility into compliance with those standards and to maintain compliance with them;

“(B) may not provide such assistance unless the port or facility has been subjected to a comprehensive port security assessment by the Coast Guard or a third party entity certified by the Secretary under section 70110A(b) to validate foreign port or facility compliance with International Ship and Port Facility Code standards; and

“(C) may only lend, lease, or otherwise provide equipment that the Secretary has first determined is not required by the Coast Guard for the performance of its missions.”.

#### **SEC. 708. MARITIME BIOMETRIC IDENTIFICATION.**

(a) IN GENERAL.—The Secretary of Homeland Security, acting through the Commandant of the Coast Guard, may conduct, in the maritime environment, a pilot program for the mobile biometric identification of suspected individuals, including terrorists, to enhance border security and for other purposes.

(b) REQUIREMENTS.—The Secretary shall ensure that the pilot program is coordinated with other biometric identification programs within the Department of Homeland Security and shall evaluate the costs and feasibility of expanding the capability to all Coast Guard cutters, stations and deployable maritime teams, and other appropriate Department of Homeland Security maritime vessels and units.

(c) DEFINITION.—For purposes of this section, the term “biometric identification” means use of fingerprint and digital photography images.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized such sums as appropriate to carry out this section.

#### **SEC. 709. REVIEW OF POTENTIAL THREATS.**

Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report analyzing the threat, vulnerability, and consequence of a terrorist attack on gasoline and chemical cargo shipments in port activity areas in the United States.

#### **SEC. 710. PORT SECURITY PILOT.**

The Secretary of Homeland Security shall establish a pilot program to test and deploy preventive radiological or nuclear detection equipment on Coast Guard vessels and other locations in select port regions to enhance border security and for other purposes. The pilot program shall leverage existing Federal grant funding to support this program and the procurement of additional equipment.

#### **SEC. 711. ADVANCE NOTICE OF PORT ARRIVAL OF SIGNIFICANT OR FATAL INCIDENTS INVOLVING U.S. PERSONS.**

(a) REQUIREMENT.—The Secretary of Homeland Security shall require the owner or operator of a cruise ship that embarks or disembarks passengers in a United States port to notify the Secretary of any covered security incident that occurs on the cruise ship in the course of the voyage (or voyage segment) in which a U.S. person is involved, in conjunction with any advance notice of arrival to a United States port required by part 160 of title 33, Code of Federal Regulations.

(b) DEFINITIONS.—For the purposes of this section:

(1) COVERED SECURITY INCIDENT.—The term “covered security incident” means any

criminal act or omission that results in death or bodily injury, all sexual assaults and missing persons, or any other incident that poses a significant threat to the cruise ship, any cruise ship passenger, any port facility, or any person in or near the port.

(2) CRUISE SHIP.—The term “cruise ship” means a vessel on an international voyage that embarks or disembarks passengers at a port of United States jurisdiction to which subpart C of part 160 of title 33, Code of Federal Regulations, applies and that provides overnight accommodations.

(3) U.S. PERSON.—The term “U.S. person” means a citizen of the United States and an alien lawfully admitted for permanent residence (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(20))).

(4) UNITED STATES.—The term “United States” means the 50 States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, the United States Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States.

(c) SAVINGS CLAUSE.—Nothing in this section shall be interpreted to discourage immediate notification to the Secretary of a covered security incident, nor shall this section prohibit earlier notifications of covered security incidents otherwise required by law or regulation.

#### **SEC. 712. SAFETY AND SECURITY ASSISTANCE FOR FOREIGN PORTS.**

(a) IN GENERAL.—Section 70110(e)(1) of title 46, United States Code, is amended by striking the second sentence and inserting the following: “The Secretary shall establish a strategic plan to utilize those assistance programs to assist ports and facilities that are found by the Secretary under subsection (a) not to maintain effective antiterrorism measures in the implementation of port security antiterrorism measures.”.

(b) CONFORMING AMENDMENTS.—

(1) Section 70110 of title 46, United States Code, is amended—

(A) by inserting “or facilities” after “ports” in the section heading;

(B) by inserting “or facility” after “port” each place it appears; and

(C) by striking “PORTS” in the heading for subsection (e) and inserting “PORTS, FACILITIES”.

(2) The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the item relating to section 70110 and inserting the following:

“70110. Actions and assistance for foreign ports or facilities and United States territories”.

#### **SEC. 713. SEASONAL WORKERS.**

(a) STUDY.—The Comptroller General of the United States shall conduct a study on the effects that the Transportation Worker Identification Card (in this section referred to as “TWIC”) required by section 70105 of title 46, United States Code, has on companies that employ seasonal employees.

(b) REPORT.—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the results of the study, including—

(1) costs associated in requiring seasonal employees to obtain TWIC cards on companies

(2) whether the Coast Guard and Transportation Security Administration are processing TWIC applications quickly enough for seasonal workers to obtain TWIC certification;

(3) whether TWIC compliance costs or other factors have led to a reduction in service;

(3) the impact of TWIC on the recruiting and hiring of seasonal and other temporary employees; and

(4) an assessment of possible alternatives to TWIC certification that may be used for seasonal employees including any security vulnerabilities created by those alternatives.

#### **SEC. 714. COMPARATIVE RISK ASSESSMENT OF VESSEL-BASED AND FACILITY-BASED LIQUEFIED NATURAL GAS REGASIFICATION PROCESSES.**

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Commandant of the Coast Guard, shall enter into an arrangement for the performance of an independent study to conduct a comparative risk assessment examining the relative safety and security risk associated with vessel-based and facility-based liquefied natural gas regasification processes conducted within 3 miles from land versus such processes conducted more than 3 miles from land.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Commandant, shall provide a report on the findings and conclusions of the study required by this section to the Committees on Homeland Security, Transportation and Infrastructure, and Energy and Commerce of the House of Representatives, and the Committees on Homeland Security and Governmental Affairs and Commerce, Science, and Transportation of the Senate.

#### **SEC. 715. PILOT PROGRAM FOR FINGERPRINTING OF MARITIME WORKERS.**

(a) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish procedures providing for an individual who is required to be fingerprinted for purposes of obtaining a transportation security card under section 70105 of title 46, United States Code, to be fingerprinted at any facility operated by or under contract with an agency of the Department of Homeland Security that fingerprints the public for the Department.

(b) EXPIRATION.—This section expires on December 31, 2012.

#### **SEC. 716. TRANSPORTATION SECURITY CARDS ON VESSELS.**

Section 70105(b)(2) of title 46, United States Code, is amended—

(1) in subparagraph (B), by inserting after “title” the following: “allowed unescorted access to a secure area designated in a vessel security plan approved under section 70103 of this title”; and

(2) in subparagraph (D), by inserting after “tank vessel” the following: “allowed unescorted access to a secure area designated in a vessel security plan approved under section 70103 of this title”.

#### **SEC. 717. INTERNATIONAL LABOR STUDY.**

The Comptroller General of the United States shall conduct a study of methods to conduct a background security investigation of an individual who possesses a biometric identification card that complies with International Labor Convention number 185 that are equivalent to the investigation conducted on individuals applying for a visa to enter the United States. The Comptroller General shall submit a report on the study within 180 days after the date of enactment of this Act to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

#### **SEC. 718. MARITIME SECURITY ADVISORY COMMITTEES.**

Section 70112 of title 46, United States Code, is amended—

(1) by amending subsection (b)(5) to read as follows:

“(5)(A) The National Maritime Security Advisory Committee shall be composed of—

“(i) at least 1 individual who represents the interests of the port authorities;

“(ii) at least 1 individual who represents the interests of the facilities owners or operators;

“(iii) at least 1 individual who represents the interests of the terminal owners or operators;

“(iv) at least 1 individual who represents the interests of the vessel owners or operators;

“(v) at least 1 individual who represents the interests of the maritime labor organizations;

“(vi) at least 1 individual who represents the interests of the academic community;

“(vii) at least 1 individual who represents the interests of State or local governments; and

“(viii) at least 1 individual who represents the interests of the maritime industry.

“(B) Each Area Maritime Security Advisory Committee shall be composed of individuals who represents the interests of the port industry, terminal operators, port labor organizations, and other users of the port areas.”; and

(2) in subsection (g)—

(A) in paragraph (1)(A), by striking “2008;” and inserting “2010;”;

(B) by repealing paragraph (2);

(C) by striking “(1);” and

(D) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2).

#### SEC. 719. SEAMEN'S SHORESIDE ACCESS.

Each facility security plan approved under section 70103(c) of title 46, United States Code, shall provide a system for seamen assigned to a vessel at that facility, pilots, and representatives of seamen's welfare and labor organizations to board and depart the vessel through the facility in a timely manner at no cost to the individual.

#### SEC. 720. WATERSIDE SECURITY AROUND LIQUEFIED NATURAL GAS TERMINALS AND LIQUEFIED NATURAL GAS TANKERS.

(a) ENFORCEMENT OF SECURITY ZONES.—Consistent with other provisions of law, any security zone established by the Coast Guard around a tanker containing liquified natural gas shall be enforced by the Coast Guard. If the Coast Guard must enforce multiple simultaneous security zones, the Coast Guard shall allocate resources so as to deter to the maximum extent practicable a transportation security incident (as that term is defined in section 70101 of title 46, United States Code).

(b) LIMITATION ON RELIANCE ON STATE AND LOCAL GOVERNMENT.—Any security arrangement approved as part of a facility security plan approved after the date of enactment of this Act under section 70103 of title 46, United States Code, for a liquefied natural gas terminal on or adjacent to the navigable waters of the United States, or to assist in the enforcement of any security zone established by the Coast Guard around a tanker containing liquified natural gas, may not be based upon the provision of security by a State or local government unless the State or local government has entered into a contract, cooperative agreement, or other arrangement with the terminal operator to provide such services and the Secretary of the department in which the Coast Guard is operating, acting through the Commandant of the Coast Guard, ensures that the waterborne patrols operated as part of that security arrangement by a State or local government have the training, resources, personnel, equipment, and experience necessary to deter to the maximum extent practicable a

transportation security incident (as that term is defined in section 70101 of title 46, United States Code).

(c) DETERMINATION REQUIRED FOR NEW LNG TERMINALS.—The Secretary of the department in which the Coast Guard is operating, acting through the Commandant of the Coast Guard, may not approve a facility security plan under section 70103 of title 46, United States Code, for a new liquefied natural gas terminal the construction of which is begun after the date of enactment of this Act unless the Secretary determines that the Coast Guard has available to the sector in which the terminal is located the resources it needs to carry out the navigation and maritime security risk management measures identified in the waterway suitability report prepared pursuant to the Ports and Waterways Safety Act.

### TITLE VIII—COAST GUARD INTEGRATED DEEPWATER PROGRAM

#### SEC. 801. SHORT TITLE.

This title may be cited as the “Integrated Deepwater Program Reform Act”.

#### SEC. 802. IMPLEMENTATION OF COAST GUARD INTEGRATED DEEPWATER ACQUISITION PROGRAM.

(a) USE OF PRIVATE SECTOR ENTITY AS A LEAD SYSTEMS INTEGRATOR.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary may not use a private sector entity as a lead systems integrator for procurements under, or in support of, the Deepwater Program beginning on the earlier of October 1, 2011, or the date on which the Secretary certifies in writing to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that the Coast Guard has available and can retain sufficient contracting personnel and expertise within the Coast Guard, through an arrangement with other Federal agencies, or through contracts or other arrangements with private sector entities, to perform the functions and responsibilities of the lead system integrator in an efficient and cost-effective manner.

(2) COMPLETION OF EXISTING DELIVERY ORDERS AND TASK ORDERS.—The Secretary may use a private sector entity as a lead systems integrator to complete any delivery order or task order under the Deepwater Program that was issued to the lead systems integrator on or before the date of enactment of this Act.

(3) ASSISTANCE OF OTHER FEDERAL AGENCIES.—In any case in which the Secretary is the systems integrator under the Deepwater Program, the Secretary may obtain any type of assistance the Secretary considers appropriate, with any systems integration functions, from any Federal agency with experience in systems integration involving maritime vessels and aircraft.

(4) ASSISTANCE OF PRIVATE SECTOR ENTITIES.—In any case in which the Secretary is the systems integrator under the Deepwater Program, the Secretary may, subject to the availability of appropriations, obtain by grant, contract, or cooperative agreement any type of assistance the Secretary considers appropriate, with any systems integration functions, from any private sector entity with experience in systems integration involving maritime vessels and aircraft.

(b) COMPETITION.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the Secretary shall use full and open competition for each class of asset acquisitions under the Deepwater Program for which an outside contractor is used, if the asset is procured directly by the Coast Guard or by the Integrated Coast

Guard System acting under a contract with the Coast Guard.

(2) EXCEPTION.—The Secretary may use a procurement method that is less than full and open competition to procure an asset under the Deepwater Program, if—

(A) the Secretary determines that such method is in the best interests of the Federal Government; and

(B) by not later than 30 days before the date of the award of a contract for the procurement, the Secretary submits to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report explaining why such procurement is in the best interests of the Federal Government.

(3) LIMITATION ON APPLICATION.—Paragraph (1) shall not apply to a contract, subcontract, or task order that was issued before the date of enactment of this Act, if there is no change in the quantity of assets or the specific type of assets procured.

(c) REQUIRED CONTRACT TERMS.—The Secretary shall include in each contract, subcontract, and task order issued under the Deepwater Program after the date of enactment of this Act the following provisions, as applicable:

(1) TECHNICAL REVIEWS.—A requirement that the Secretary shall conduct a technical review of all proposed designs, design changes, and engineering changes, and a requirement that the contractor must specifically address all engineering concerns identified in the technical reviews, before any funds may be obligated.

(2) RESPONSIBILITY FOR TECHNICAL REQUIREMENTS.—A requirement that the Secretary shall maintain the authority to establish, approve, and maintain technical requirements.

(3) COST ESTIMATE OF MAJOR CHANGES.—A requirement that an independent cost estimate must be prepared and approved by the Secretary before the execution of any change order costing more than 5 percent of the unit cost approved in the Deepwater Program baseline in effect as of May 2007.

(4) PERFORMANCE MEASUREMENT.—A requirement that any measurement of contractor and subcontractor performance must be based on the status of all work performed, including the extent to which the work performed met all cost, schedule, and mission performance requirements outlined in the Deepwater Program contract.

(5) EARLY OPERATIONAL ASSESSMENT.—For the acquisition of any cutter class for which an Early Operational Assessment has not been developed—

(A) a requirement that the Secretary of the Department in which the Coast Guard is operating shall cause an Early Operational Assessment to be conducted by the Department of the Navy after the development of the preliminary design of the cutter and before the conduct of the critical design review of the cutter; and

(B) a requirement that the Coast Guard shall develop a plan to address the findings presented in the Early Operational Assessment.

(6) TRANSIENT ELECTROMAGNETIC PULSE EMANATION.—For the acquisition or upgrade of air, surface, or shore assets for which compliance with transient electromagnetic pulse emanation (TEMPEST) is a requirement, a provision specifying that the standard for determining such compliance shall be the air, surface, or shore asset standard then used by the Department of the Navy.

(7) OFFSHORE PATROL CUTTER UNDERWAY REQUIREMENT.—For any contract issued to acquire an Offshore Patrol Cutter, provisions specifying the service life, fatigue life, days

underway in general Atlantic and North Pacific Sea conditions, maximum range, and maximum speed the cutter shall be built to achieve.

(8) INSPECTOR GENERAL ACCESS.—A requirement that the Department of Homeland Security's Office of the Inspector General shall have access to all records maintained by all contractors working on the Deepwater Program, and shall have the right to privately interview any contractor personnel.

(d) LIFE CYCLE COST ESTIMATE.—

(1) IN GENERAL.—The Secretary shall develop an authoritative life cycle cost estimate for the Deepwater Program.

(2) CONTENTS.—The life cycle cost estimate shall include asset acquisition and logistics support decisions and planned operational tempo and locations as of the date of enactment of this Act.

(3) SUBMITTAL.—The Secretary shall—

(A) submit the life cycle cost estimate to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate within 4 months after the date of enactment of this Act; and

(B) submit updates of the life cycle cost estimate to such Committees annually.

(e) CONTRACT OFFICERS.—The Secretary shall assign a separate contract officer for each class of cutter and aircraft acquired or rehabilitated under the Deepwater Program, including the National Security Cutter, the Offshore Patrol Cutter, the Fast Response Cutter A, the Fast Response Cutter B, maritime patrol aircraft, the aircraft HC-130J, the helicopter HH-65, the helicopter HH-60, and the vertical unmanned aerial vehicle.

(f) TECHNOLOGY RISK REPORT.—The Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report identifying the technology risks and level of maturity for major technologies used on each class of asset acquisitions under the Deepwater Program, including the Fast Response Cutter A (FRC-A), the Fast Response Cutter B (FRC-B), the Offshore Patrol Cutter (OPC), and the Vertical Unmanned Aerial Vehicle (VUAV), not later than 90 days before the date of award of a contract for such an acquisition.

(g) SUBMISSION OF ASSESSMENT RESULTS AND PLANS TO CONGRESS.—The Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(1) the results of each Early Operational Assessment conducted pursuant to subsection (c)(5)(A) and the plan approved by the Commandant pursuant to subsection (c)(5)(B) for addressing the findings of such assessment, within 30 days after the Commandant approves the plan; and

(2) a report describing how the recommendations of each Early Operational Assessment conducted pursuant to subsection (c)(5)(A) on the first in class of a new cutter class have been addressed in the design on which construction is to begin, within 30 days before initiation of construction.

#### SEC. 803. CHIEF ACQUISITION OFFICER.

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

##### “§ 56. Chief Acquisition Officer

“(a) ESTABLISHMENT OF AGENCY CHIEF ACQUISITION OFFICER.—The Commandant shall appoint or designate a career reserved em-

ployee as Chief Acquisition Officer for the Coast Guard, who shall—

“(1) have acquisition management as that official's primary duty; and

“(2) report directly to the Commandant to advise and assist the Commandant to ensure that the mission of the Coast Guard is achieved through the management of the Coast Guard's acquisition activities.

“(b) AUTHORITY AND FUNCTIONS OF THE CHIEF ACQUISITION OFFICER.—The functions of the Chief Acquisition Officer shall include—

“(1) monitoring the performance of acquisition activities and acquisition programs of the Coast Guard, evaluating the performance of those programs on the basis of applicable performance measurements, and advising the Commandant regarding the appropriate business strategy to achieve the mission of the Coast Guard;

“(2) increasing the use of full and open competition in the acquisition of property and services by the Coast Guard by establishing policies, procedures, and practices that ensure that the Coast Guard receives a sufficient number of sealed bids or competitive proposals from responsible sources to fulfill the Government's requirements (including performance and delivery schedules) at the lowest cost or best value considering the nature of the property or service procured;

“(3) ensuring the use of detailed performance specifications in instances in which performance-based contracting is used;

“(4) making acquisition decisions consistent with all applicable laws and establishing clear lines of authority, accountability, and responsibility for acquisition decisionmaking within the Coast Guard;

“(5) managing the direction of acquisition policy for the Coast Guard, including implementation of the unique acquisition policies, regulations, and standards of the Coast Guard;

“(6) developing and maintaining an acquisition career management program in the Coast Guard to ensure that there is an adequate professional workforce; and

“(7) as part of the strategic planning and performance evaluation process required under section 306 of title 5 and sections 1105(a)(28), 1115, 1116, and 9703 of title 31—

“(A) assessing the requirements established for Coast Guard personnel regarding knowledge and skill in acquisition resources management and the adequacy of such requirements for facilitating the achievement of the performance goals established for acquisition management;

“(B) in order to rectify any deficiency in meeting such requirements, developing strategies and specific plans for hiring, training, and professional development; and

“(C) reporting to the Commandant on the progress made in improving acquisition management capability.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following: “56. Chief Acquisition Officer.”

(c) SPECIAL RATE SUPPLEMENTS.—

(1) REQUIREMENT TO ESTABLISH.—Not later than 1 year after the date of enactment of this Act and in accordance with part 9701.333 of title 5, Code of Federal Regulations, the Commandant of the Coast Guard shall establish special rate supplements that provide higher pay levels for employees necessary to carry out the amendment made by this section.

(2) SUBJECT TO APPROPRIATIONS.—The requirement under paragraph (1) is subject to the availability of appropriations.

#### SEC. 804. TESTING AND CERTIFICATION.

(a) IN GENERAL.—The Secretary shall—

(1) cause each cutter, other than a National Security Cutter, acquired by the Coast Guard and delivered after the date of enactment of this Act to be classed by the American Bureau of Shipping, before acceptance of delivery;

(2) cause the design and construction of each National Security Cutter, other than National Security Cutter 1 and 2, to be certified by an independent third party with expertise in vessel design and construction certification to be able to meet a 185-underway-day requirement under general Atlantic and North Pacific sea conditions for a period of at least 30 years;

(3) cause all electronics on all aircraft, surface, and shore assets that require TEMPEST certification and that are delivered after the date of enactment of this Act to be tested and certified in accordance with TEMPEST standards and communications security (COMSEC) standards by an independent third party that is authorized by the Federal Government to perform such testing and certification; and

(4) cause all aircraft and aircraft engines acquired by the Coast Guard and delivered after the date of enactment of this Act to be certified for airworthiness by an independent third party with expertise in aircraft and aircraft engine certification, before acceptance of delivery.

(b) FIRST IN CLASS OF A MAJOR ASSET ACQUISITION.—The Secretary shall cause the first in class of a major asset acquisition of a cutter or an aircraft to be subjected to an assessment of operational capability conducted by the Secretary of the Navy.

(c) FINAL ARBITER.—The Secretary shall be the final arbiter of all technical disputes regarding designs and acquisitions of vessels and aircraft for the Coast Guard.

#### SEC. 805. NATIONAL SECURITY CUTTERS.

(a) NATIONAL SECURITY CUTTERS 1 AND 2.—

(1) REPORT ON OPTIONS UNDER CONSIDERATION.—The Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(A) within 120 days after the date of enactment of this Act, a report describing in detail the cost increases that have been experienced on National Security Cutters 1 and 2 since the date of the issuance of the task orders for construction of those cutters and explaining the causes of these cost increases; and

(B) within 180 days after the date of enactment of this Act, a report on the options that the Coast Guard is considering to strengthen the hulls of National Security Cutter 1 and National Security Cutter 2, including—

(i) the costs of each of the options under consideration;

(ii) a schedule for when the hull strengthening repairs are anticipated to be performed; and

(iii) the impact that the weight likely to be added to each the cutter by each option will have on the cutter's ability to meet both the original performance requirements included in the Deepwater Program contract and the performance requirements created by contract Amendment Modification 00042 dated February 7, 2007.

(2) DESIGN ASSESSMENT.—Not later than 30 days before the Coast Guard signs any contract, delivery order, or task order to strengthen the hull of either of National Security Cutter 1 or 2 to resolve the structural design and performance issues identified in the Department of Homeland Security Inspector General's report OIG-07-23 dated January 2007, the Secretary shall submit to

the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate all results of an assessment of the proposed hull strengthening design conducted by the Naval Surface Warfare Center, Carderock Division, including a description in detail of the extent to which the hull strengthening measures to be implemented on those cutters will enable the cutters to meet a 185-underway-day requirement under general Atlantic and North Pacific sea conditions for a period of at least 30 years.

(b) NATIONAL SECURITY CUTTERS 3 THROUGH 8.—Not later than 30 days before the Coast Guard signs any contract, delivery order, or task order authorizing construction of National Security Cutters 3 through 8, the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate all results of an assessment of the proposed designs to resolve the structural design, safety, and performance issues identified by the Department of Homeland Security Office of Inspector General report OIG-07-23 for the hulls of those cutters conducted by the Naval Surface Warfare Center, Carderock Division, including a description in detail of the extent to which such designs will enable the cutters to meet a 185-underway-day requirement under general Atlantic and North Pacific sea conditions.

#### SEC. 806. MISCELLANEOUS REPORTS.

(a) IN GENERAL.—The Secretary shall submit the following reports to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate:

(1) Within 4 months after the date of enactment of this Act, a justification for why 8 National Security Cutters are required to meet the operational needs of the Coast Guard, including—

(A) how many days per year each National Security Cutter will be underway at sea;

(B) where each National Security Cutter will be home ported;

(C) the amount of funding that will be required to establish home port operations for each National Security Cutter;

(D) the extent to which 8 National Security Cutters deployed without vertical unmanned aerial vehicles (VUAV) will meet or exceed the mission capability (including surveillance capacity) of the 12 Hamilton-class high endurance cutters that the National Security Cutters will replace;

(E) the business case in support of constructing National Security Cutters 3 through 8, including a cost-benefit analysis; and

(F) an analysis of how many Offshore Patrol Cutters would be required to provide the patrol coverage provided by a National Security Cutter.

(2) Within 4 months after the date of enactment of this Act, a report on—

(A) the impact that deployment of a National Security Cutter and other cutter assets without the vertical unmanned aerial vehicle (VUAV) will have on the amount of patrol coverage that will be able to be provided during missions conducted by the National Security Cutter and all other cutters planned to be equipped with a VUAV;

(B) how the coverage gap will be made up;

(C) an update on the current status of the development of the VUAV; and

(D) the timeline detailing the major milestones to be achieved during development of

the VUAV and identifying the delivery date for the first and last VUAV.

(3) Within 30 days after the elevation to flag-level for resolution of any design or other dispute regarding the Deepwater Program contract or an item to be procured under that contract, including a detailed description of the issue and the rationale underlying the decision taken by the flag officer to resolve the issue.

(4) Within 4 months after the date of enactment of this Act, a report detailing the total number of change orders that have been created by the Coast Guard under the Deepwater Program before the date of enactment of this Act, the total cost of these change orders, and their impact on the Deepwater Program schedule.

(5) Within 180 days after the date of enactment of this Act, a report detailing the technology risks and level of maturity for major technologies used on maritime patrol aircraft, the HC-130J, and the National Security Cutter.

(6) Not less than 60 days before signing a contract to acquire any vessel or aircraft, a report comparing the cost of purchasing that vessel or aircraft directly from the manufacturer or shipyard with the cost of procuring it through the Integrated Coast Guard System.

(7) Within 30 days after the Program Executive Officer of the Deepwater Program becomes aware of a likely cost overrun exceeding 5 percent of the overall asset acquisition contract cost or schedule delay exceeding 5 percent of the estimated asset construction period under the Deepwater Program, a report by the Commandant containing a description of the cost overrun or delay, an explanation of the overrun or delay, a description of Coast Guard's response, and a description of significant delays in the procurement schedule likely to be caused by the overrun or delay.

(8) Within 90 days after the date of enactment of this Act, articulation of a doctrine and description of an anticipated implementation of a plan for management of acquisitions programs, financial management (including earned value management and cost estimating), engineering and logistics management, and contract management, that includes—

(A) a description of how the Coast Guard will cultivate among uniformed personnel expertise in acquisitions management and financial management;

(B) a description of the processes that will be followed to draft and ensure technical review of procurement packages, including statements of work, for any class of assets acquired by the Coast Guard;

(C) a description of how the Coast Guard will conduct an independent cost estimating process, including independently developing cost estimates for major change orders; and

(D) a description of how Coast Guard will strengthen the management of change orders.

(9) Within 4 months after the date of enactment of this Act, a report on the development of a new acquisitions office within the Coast Guard describing the specific staffing structure for that directorate, including—

(A) identification of all managerial positions proposed as part of the office, the functions that each managerial position will fill, and the number of employees each manager will supervise; and

(B) a formal organizational chart and identification of when managerial positions are to be filled.

(10) Ninety days prior to the issuance of a Request for Proposals for construction of an Offshore Patrol Cutter, a report detailing the service life, fatigue life, maximum range, maximum speed, and number of days under-

way under general Atlantic and North Pacific Sea conditions the cutter shall be built to achieve.

(11) The Secretary shall report annually on the percentage of the total amount of funds expended on procurements under the Deepwater Program that has been paid to each of small businesses and minority-owned businesses.

(12) Within 120 days after the date of enactment of this Act, a report on any Coast Guard mission performance gap due to the removal of Deepwater Program assets from service. The report shall include the following:

(A) A description of the mission performance gap detailing the geographic regions and Coast Guard capabilities affected.

(B) An analysis of factors affecting the mission performance gap that are unrelated to the Deepwater Program, including deployment of Coast Guard assets overseas and continuous vessel shortages.

(C) A description of measures being taken in the near term to fill the mission performance gap, including what those measures are and when they will be implemented.

(D) A description of measures being taken in the long term to fill the mission performance gap, including what those measures are and when they will be implemented.

(E) A description of the potential alternatives to fill the mission performance gap, including any acquisition or lease considered and the reasons they were not pursued.

#### (b) REPORT REQUIRED ON ACCEPTANCE OF DELIVERY OF INCOMPLETE ASSET.—

(1) IN GENERAL.—If the Secretary accepts delivery of an asset after the date of enactment of this Act for which a contractually required certification cannot be achieved within 30 days after the date of delivery or with any system that is not fully functional for the mission for which it was intended, the Secretary shall submit to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the United States Senate within 30 days after accepting delivery of the asset a report explaining why acceptance of the asset in such a condition is in the best interests of the United States Government.

(2) CONTENTS.—The report shall—

(A) specify the systems that are not able to achieve contractually required certifications within 30 days after the date of delivery and the systems that are not fully functional at the time of delivery for the missions for which they were intended;

(B) identify milestones for the completion of required certifications and to make all systems fully functional; and

(C) identify when the milestones will be completed, who will complete them, and the cost to complete them.

#### SEC. 807. USE OF THE NAVAL SEA SYSTEMS COMMAND, THE NAVAL AIR SYSTEMS COMMAND, AND THE SPACE AND NAVAL WARFARE SYSTEMS COMMAND TO ASSIST THE COAST GUARD IN EXERCISING TECHNICAL AUTHORITY FOR THE DEEPWATER PROGRAM AND OTHER COAST GUARD ACQUISITION PROGRAMS.

(a) FINDINGS.—Congress finds that the Coast Guard's use of the technical, contractual, and program management oversight expertise of the Department of the Navy in ship and aircraft production complements and augments the Coast Guard's organic expertise as it procures assets for the Deepwater Program.

(b) INTER-SERVICE TECHNICAL ASSISTANCE.—The Secretary may enter into a memorandum of understanding or a memorandum of agreement with the Secretary of

the Navy to provide for the use of the Navy Systems Commands to assist the Coast Guard with the oversight of Coast Guard major acquisition programs. Such memorandum of understanding or memorandum of agreement shall, at a minimum provide for—

(1) the exchange of technical assistance and support that the Coast Guard Chief Engineer and the Coast Guard Chief Information Officer, as Coast Guard Technical Authorities, may identify;

(2) the use, as appropriate, of Navy technical expertise; and

(3) the temporary assignment or exchange of personnel between the Coast Guard and the Navy Systems Commands to facilitate the development of organic capabilities in the Coast Guard.

(c) **TECHNICAL AUTHORITIES.**—The Coast Guard Chief Engineer, Chief Information Officer, and Chief Acquisition Officer shall adopt, to the extent practicable, procedures that are similar to those used by the Navy Senior Acquisition Official to ensure the Coast Guard Technical Authorities, or designated Technical Warrant Holders, approve all technical requirements.

(d) **COORDINATION.**—The Secretary, acting through the Commandant of the Coast Guard, may coordinate with the Secretary of the Navy, acting through the Chief of Naval Operations, to develop processes by which the assistance will be requested from the Navy Systems Commands and provided to the Coast Guard.

(e) **REPORT.**—Not later than 120 days after the date of enactment of this Act and every twelve months thereafter, the Commandant of the Coast Guard shall report to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the activities undertaken pursuant to such memorandum of understanding or memorandum of agreement.

#### **SEC. 808. DEFINITIONS.**

In this title:

(1) **DEEPWATER PROGRAM.**—The term “Deepwater Program” means the Integrated Deepwater Systems Program described by the Coast Guard in its report to Congress entitled “Revised Deepwater Implementation Plan 2005”, dated March 25, 2005. The Deepwater Program primarily involves the procurement of cutter and aviation assets that operate more than 50 miles offshore.

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

### **TITLE IX—MINORITY SERVING INSTITUTIONS**

#### **SEC. 901. MSI MANAGEMENT INTERNSHIP PROGRAM.**

(a) **ESTABLISHMENT AND PURPOSE.**—The Commandant of the Coast Guard shall establish a two part management internship program for students at minority serving institutions (MSI) to intern at Coast Guard headquarters or a Coast Guard regional office, to be known as the “MSI Management Internship Program”, to develop a cadre of civilian, career mid-level and senior managers for the Coast Guard.

(b) **OPERATION.**—The MSI Management Internship Program shall be managed by the Secretary of Homeland Security, acting through the Commandant of the Coast Guard, in coordination with National Association for Equal Opportunity in Higher Education, the Hispanic Association of Colleges and Universities, and the American Indian Higher Education Consortium.

(c) **CRITERIA FOR SELECTION.**—Participation in the MSI Management Internship Program shall be open to sophomores, juniors, and seniors at minority serving institutions,

with an emphasis on such students who are majoring in management or business administration, international affairs, political science, marine sciences, criminal justice, or any other major related to homeland security.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$2,000,000 to the Commandant to carry out this section.

#### **SEC. 902. MSI INITIATIVES.**

(a) **ESTABLISHMENT OF MSI STUDENT PRE-COMMISSIONING INITIATIVE.**—The Commandant of the Coast Guard shall establish an MSI component of the College Student Pre-Commissioning Initiative (to be known as the “MSI Student Pre-Commissioning Initiative Program”) to ensure greater participation by students from MSIs in the College Student Pre-Commissioning Initiative.

(b) **PARTICIPATION IN OFFICER CANDIDATE SCHOOL.**—The Commandant of the Coast Guard shall ensure that graduates of the MSI Student Pre-Commissioning Initiative Program are included in the first enrollment for Officer Candidate School that commences after the date of enactment of this title and each enrollment period thereafter.

(c) **REPORTS.**—Not later than 90 days after the conclusion of each academic year with respect to which the College Student Pre-Commissioning Initiative and the MSI Student Pre-Commissioning Initiative Program is carried out beginning with the first full academic year after the date of the enactment of this title, the Commandant shall submit to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce of the Senate a report on the number of students in the College Student Pre-Commissioning Initiative and the number of students in the MSI Student Pre-Commissioning Initiative Program, outreach efforts, and demographic information of enrollees including, age, gender, race, and disability.

(d) **ESTABLISHMENT OF MSI AVIATION OFFICER CORPS INITIATIVE.**—The Commandant of the Coast Guard shall establish an MSI Aviation Officer Corps Initiative to increase the diversity of the Coast Guard Aviation Officer Corps through an integrated recruiting, accession, training, and assignment process that offers guaranteed flight school opportunities to students from minority serving institutions.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$3,000,000 to the Commandant to carry out this section.

#### **SEC. 903. COAST GUARD-MSI COOPERATIVE TECHNOLOGY PROGRAM.**

(a) **ESTABLISHMENT.**—The Commandant of the Coast Guard shall establish a Coast Guard Laboratory of Excellence-MSI Cooperative Technology Program at three minority serving institutions to focus on priority security areas for the Coast Guard, such as global maritime surveillance, resilience, and recovery.

(b) **COLLABORATION.**—The Commandant shall encourage collaboration among the minority serving institutions selected under subsection (a) and institutions of higher education with institutional research and academic program resources and experience.

(c) **PARTNERSHIPS.**—The heads of the laboratories established at the minority serving institutions pursuant to subsection (a) may seek to establish partnerships with the private sector, especially small, disadvantaged businesses, to—

(1) develop increased research and development capacity;

(2) increase the number of baccalaureate and graduate degree holders in science, tech-

nology, engineering, mathematics (STEM), and information technology or other fields critical to the mission of the Coast Guard; and

(3) strengthen instructional ability among faculty.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$2,500,000 to the Commandant to carry out this section, including for instrumentation acquisition and funding undergraduate student scholarships, graduate fellowships, and faculty-post doctoral study.

#### **SEC. 904. DEFINITION.**

For purposes of this title, the terms “minority serving institution”, “minority serving institutions”, and “MSI” mean a historically Black college or university (as defined in section 322 of the Higher Education Act of 1965), a Hispanic-serving institution (as defined in section 502 of such Act), a Tribal College or University (as defined in section 316 of such Act), a Predominantly Black institution (as defined in section 499A(c) of such Act), or a Native American-serving nontribal institution (as defined in section 499A(c) of such Act).

### **TITLE X—APPEALS TO NATIONAL TRANSPORTATION SAFETY BOARD**

#### **SEC. 1001. RIGHTS OF APPEAL REGARDING LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS.**

(a) **DENIAL OF ISSUANCE OR RENEWAL.**—

(1) **LICENSES AND CERTIFICATES OF REGISTRY.**—Section 7101 of title 46, United States Code, is amended by adding at the end the following new subsection:

“(j) **APPEALS TO THE NATIONAL TRANSPORTATION SAFETY BOARD.**—

“(1) **IN GENERAL.**—An individual whose application for the issuance or renewal of a license or certificate of registry has been denied under this chapter by the Secretary may appeal that decision to the National Transportation Safety Board, unless the individual holds a license or certificate that—

“(A) is suspended at the time of the denial; or

“(B) was revoked within the one-year period ending on the date of the denial.

“(2) **PROCEDURE.**—The Board shall conduct a hearing on the appeal. The Board is not bound by findings of fact of the Secretary but is bound by all validly adopted interpretations of laws and regulations the Secretary carries out unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law. At the end of the hearing, the Board shall decide whether the individual meets the requirements for issuance or renewal of the license or certificate of registry under applicable regulations and standards. The Secretary is bound by the Board's decision.”

(2) **MERCHANT MARINERS' DOCUMENTS.**—Section 7302 of title 46, United States Code, is amended by adding at the end the following new subsection:

“(h) **APPEALS TO THE NATIONAL TRANSPORTATION SAFETY BOARD.**—

“(1) **IN GENERAL.**—An individual whose application for the issuance or renewal of a merchant mariners' document has been denied under this chapter by the Secretary may appeal that decision to the National Transportation Safety Board, unless the individual holds a merchant mariners' document that—

“(A) is suspended at the time of the denial; or

“(B) was revoked within the one-year period ending on the date of denial.

“(2) **PROCEDURE.**—The Board shall conduct a hearing on the appeal. The Board is not bound by findings of fact of the Secretary but is bound by all validly adopted interpretations of laws and regulations the Secretary

carries out unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law. At the end of the hearing, the Board shall decide whether the individual meets the requirements for issuance or renewal of the document under applicable regulations and standards. The Secretary is bound by the Board's decision."

(b) **SUSPENSION AND REVOCATION.**—Chapter 77 of title 46, United States Code, is amended—

(1) in section 7702—

(A) by striking subsection (b); and

(B) by redesignating subsections (c) and (d) as subsections (b) and (c), respectively;

(2) by adding at the end the following new sections:

**"§ 7707. Appeals to the National Transportation Safety Board**

"(a) **IN GENERAL.**—An individual whose license, certificate of registry, or merchant mariners' document has been suspended or revoked under this chapter by the Secretary may appeal that decision within 30 days to the National Transportation Safety Board. The Board shall affirm or reverse the order after providing notice and an opportunity for a hearing on the record. In conducting the hearing under this section, the Board is not bound by findings of fact of the Secretary but is bound by all validly adopted interpretations of laws and regulations the Secretary carries out and of written agency policy guidance available to the public related to sanctions to be imposed under this section, unless the Board finds an interpretation is arbitrary, capricious, or otherwise not according to law.

"(b) **EFFECTIVENESS OF ORDER PENDING APPEAL.**—

"(1) **IN GENERAL.**—Except as provided in paragraph (2), upon the filing by an individual of an appeal with the Board under this subsection, the order of the Secretary suspending or revoking the license, certificate of registry, or merchant mariners' document is stayed.

"(2) **EXCEPTION.**—If the Secretary notifies the Board that the Secretary has determined there exists an emergency affecting safety in maritime transportation requires the immediate effectiveness of the order—

"(A) the order shall remain in effect pending disposition of the appeal;

"(B) the Board shall make a final disposition of the appeal not later than 60 days after the Secretary so notifies the Board; and

"(C) if the Board does not act within such 60-day period, the order shall continue in effect unless modified by the Secretary.

"(c) **REVIEW OF EMERGENCY ORDER.**—A person affected by the immediate effectiveness of the Secretary's order under subsection (b)(2) may petition for a review by the Board under procedures promulgated by the Board of the Secretary's determination that an emergency exists. Such petition shall be filed with the Board not later than 48 hours after the order is received by the person. If the Board finds that an emergency does not exist that requires the immediate application of the order in the interest of safety in maritime transportation, the order shall be stayed, notwithstanding subsection (b). The Board shall dispose of a petition under this subsection not later than 5 days after the date on which the petition is filed.

"(d) **JUDICIAL REVIEW.**—An individual who is substantially affected by an order of the Board under this section, or the Secretary if the Secretary decides that an order of the Board will have a significant adverse effect on carrying out this part, may obtain judicial review of the order. The Secretary shall be made a party to the judicial review proceedings. In those proceedings, findings of

fact of the Board are conclusive if supported by substantial evidence.

**"§ 7708. Limitations on the Coast Guard's conduct of administrative proceedings**

"The Coast Guard shall not conduct any administrative proceeding under section 7101, 7302, 7503, chapter 77, or section 9303 of this title under any contractual relationship or interagency agreement with the National Transportation Safety Board after October 1, 2009."; and

(3) in the analysis at the beginning of the chapter by adding at the end the following new items:

"Sec. 7707. Appeals to the National Transportation Safety Board.

"Sec. 7708. Limitations on the Coast Guard's conduct of administrative proceedings."

(c) **EFFECTIVE DATE.**—This section shall take effect on October 1, 2008.

**SEC. 1002. AUTHORITIES OF NATIONAL TRANSPORTATION SAFETY BOARD.**

(a) **REVIEW OF OTHER AGENCY ACTION.**—Section 1133 of title 49, United States Code, is amended by striking paragraph (3) and inserting the following:

"(3) the denial, amendment, modification, suspension, or revocation of a license, certificate, document, or register in a proceeding under section 7101, 7302, 7503, or 9303, or chapter 77, of title 46; and"

(b) **JUDICIAL REVIEW.**—

(1) **IN GENERAL.**—Section 1153 of title 49, United States Code, is amended—

(A) in the heading for subsection (b) by inserting "and maritime" after "aviation"; and

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

"(d) **SECRETARY SEEKING JUDICIAL REVIEW OF MARITIME MATTERS.**—If the Secretary of the department in which the Coast Guard is operating decides that an order of the Board under chapter 77 of title 46 will have a significant impact on carrying out this chapter with respect to a maritime matter, the Secretary may obtain judicial review of the order. Findings of fact of the Board are conclusive in those proceedings if supported by substantial evidence."

(c) **EFFECTIVE DATE.**—This section shall take effect on October 1, 2008.

**SEC. 1003. TRANSFER OF PENDING APPEALS TO THE NATIONAL TRANSPORTATION SAFETY BOARD.**

(a) **ADMINISTRATION OF PENDING DOCKET.**—

(1) **TRANSFER OF PENDING CASES.**—On October 1, 2008, any pending cases remaining undecided by the Coast Guard Office of Administrative Law Judges shall be transferred to the National Transportation Safety Board for adjudication. Such cases shall be sequenced into the docket of the National Transportation Safety Board Office of Administrative Law Judges in the same order as the dates of filing with the Coast Guard.

(2) **DETAIL OF ADMINISTRATIVE LAW JUDGES.**—The Secretary of the department in which the Coast Guard is operating shall, if requested by the Chairman of the National Transportation Safety Board, make available to the Board via temporary detail not to exceed 180 days, and thereafter at the discretion of the Secretary, Administrative Law Judges currently employed by the Coast Guard sufficient to address the docket of maritime enforcement cases transferred by this subsection to the National Transportation Safety Board and those subsequently filed with the National Transportation Safety Board.

(3) **ADMINISTRATIVE ASSISTANCE.**—The Secretary of the department in which the Coast Guard is operating shall, if requested by the Chairman of the National Transportation Safety Board, make available assistance

from the administrative offices of the Coast Guard Office of the Administrative Law Judges sufficient administrative personnel and other resources adequate to effect an orderly transfer of pending cases to the National Transportation Safety Board.

(b) **TRANSFER OF FUNDS.**—For each of fiscal years 2009 and 2010, 80 percent of all funding appropriated for the Coast Guard's Office of Administrative Law Judges shall be transferred as an interagency transfer to the National Transportation Safety Board and used for the Safety Board Office of Administrative Law Judges.

(c) **MARITIME ENFORCEMENT APPEALS ACTIVITY.**—

(1) **IN GENERAL.**—The National Transportation Safety Board may establish within the National Transportation Safety Board Office of Administrative Law Judges a maritime enforcement appeals activity, to operate in concert or parallel with the aviation enforcement appeals activity currently existing, sufficient to handle maritime enforcement appeals under title 46, United States Code, as amended by this title.

(2) **FILLING OF ADMINISTRATIVE LAW JUDGE POSITIONS.**—Any Administrative Law Judge position established by the National Transportation Safety Board to address the cases and responsibilities transferred under this section shall be filled through the established Administrative Law Judge hiring process.

(3) **LIMITATION ON EFFECT.**—This section shall not be construed—

(A) to transfer from the Coast Guard any personnel, offices, or equipment funded under this provision; or

(B) to authorize requiring any person to transfer from the Coast Guard to the National Transportation Safety Board.

(4) **EXEMPTION FROM REGULATIONS RELATING TO REDUCTIONS IN FORCE.**—Any redesignation of agency responsibilities under this title is exempt from subpart C of part 351 of title 5, Code of Federal Regulations, and does not constitute a transfer of function (as that term is defined in section 351.203 of that title) for purposes of that subpart.

**SEC. 1004. RULEMAKING REQUIREMENTS.**

(a) **INTERIM FINAL RULE.**—The National Transportation Safety Board shall issue an interim final rule as a temporary regulation implementing this title (including the amendments made by this title) as soon as practicable after the date of enactment of this Act, without regard to chapter 5 of title 5, United States Code. All regulations prescribed under the authority of this subsection that are not earlier superseded by final regulations shall expire not later than 1 year after the date of enactment of this Act.

(b) **INITIATION OF RULEMAKING.**—The Board may initiate a rulemaking to implement this title (including the amendments made by this title) as soon as practicable after the date of enactment of this Act. The final rule issued pursuant to that rulemaking may supersede the interim final rule issued under this section.

**SEC. 1005. ADMINISTRATIVE LAW JUDGE RECRUITING PROGRAM.**

(a) **IN GENERAL.**—Within 60 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall establish a program to recruit qualified individuals from appropriate sources in an effort to achieve a workforce drawn from all segments of society in the Coast Guard's Administrative Law Judge program. This program shall include—

(1) improved outreach efforts to include organizations outside the Federal Government in order to increase the number of minority candidates in the selection pool for Administrative Law Judges from which the Coast Guard selects their judges; and



(2) recruitment of minority candidates for Coast Guard Administrative Law Judges from other Federal agencies.

(b) **REPORT.**—The Secretary shall provide a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by October 1 of each year detailing the activities of the Coast Guard to comply with the requirements of this section.

#### **TITLE XI—MARINE SAFETY**

##### **SEC. 1101. MARINE SAFETY.**

(a) **ESTABLISH MARINE SAFETY AS A COAST GUARD FUNCTION.**—Chapter 5 of title 14, United States Code, is further amended by adding at the end the following new section:

##### **“§ 100. Marine safety**

“To protect life, property, and the environment on, under, and over waters subject to the jurisdiction of the United States and on vessels subject to the jurisdiction of the United States, the Commandant shall promote maritime safety as follows:

“(1) By taking actions necessary and in the public interest to protect such life, property, and the environment.

“(2) Based on the following priorities:

“(A) Preventing marine casualties and threats to the environment.

“(B) Minimizing the impacts of marine casualties and environmental threats.

“(C) Maximizing lives and property saved and environment protected in the event of a marine casualty.”.

(b) **CLERICAL AMENDMENT.**—The analysis at the beginning of such chapter is amended by adding at the end the following new item:

“100. Marine safety.”.

##### **SEC. 1102. MARINE SAFETY STAFF.**

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

##### **“§ 57. Marine safety staff**

“(a) **ASSISTANT COMMANDANT FOR MARINE SAFETY.**—(1) There shall be in the Coast Guard an Assistant Commandant for Marine Safety who shall be a Rear Admiral or civilian from the Senior Executive Service (career reserved) selected by the Secretary.

“(2) The Assistant Commandant for Marine Safety shall serve as the principal advisor to the Commandant regarding marine safety, and carry out the duties and powers delegated and imposed by the Secretary under section 631(b).

“(b) **CHIEF OF MARINE SAFETY.**—(1) There shall be in each Coast Guard sector a Chief of Marine Safety who—

“(A) shall be at least a Commander or civilian at level GS-14; and

“(B) shall be colocated with the Coast Guard officer in command of that sector.

“(2) The chief of marine safety for a sector—

“(A) is responsible for all individuals who, on behalf of the Coast Guard, inspect or examine vessels, conduct marine casualty investigations, or perform other marine safety responsibilities defined in section 631(b) in the sector; and

“(B) if not the Coast Guard officer in command of that sector, is the principle advisor to that officers regarding marine safety matters in that sector.

“(c) **QUALIFICATIONS.**—(1) The Assistant Commandant for Marine Safety and the Chiefs of Marine Safety of sectors, and all marine safety inspectors, investigators, examiners, and other professional staff assigned to the marine safety program of the Coast Guard, shall be appointed on the basis of their—

“(A) knowledge, skill, and practical experience in—

“(i) the construction and operation of commercial vessels; and

“(ii) judging the character, strength, stability, and safety qualities of such vessels and their equipment; and

“(B) knowledge about the qualifications and training of vessel personnel.

“(2) Marine inspectors shall have the training, experience, and qualifications equivalent to that required for a surveyor of a similar position of a classification society recognized by the Secretary under section 3316 of title 46 for the type of vessel, system, or equipment that is inspected.

“(3) Marine casualty investigators shall have the training, experience, and qualifications in investigation, accident reconstruction, human factors, and documentation equivalent to that required for a marine casualty investigator of the National Transportation Safety Board.

“(4) The Chief of Marine Safety of a sector shall be a qualified marine casualty investigator and marine inspector qualified to inspect vessels, vessel systems, and equipment commonly found in the sector.

“(5) Each individual signing a letter of qualification for marine safety personnel must hold a letter of qualification for the type they are signing.

“(6) The Assistant Commandant for Marine Safety shall be a qualified marine casualty investigator and a marine inspector qualified for types of vessels, vessel systems, and equipment.

##### **“§ 58. Limited duty officers**

“(a) **ESTABLISHMENT.**—The Commandant shall establish in the Coast Guard a limited duty officer program for marine safety.

“(b) **OFFICER ELIGIBILITY.**—(1) Only commissioned officers in the Coast Guard with grade not above commander and chief warrant officers who have more than four years of marine safety experience may serve as limited duty officers under such program.

“(2) The Commandant may establish other limitations on eligibility that the Commandant believes are necessary for the good of the marine safety program.

“(3) Notwithstanding section 41a and chapter 11 of this title, the Commandant shall, by regulation, establish procedures pertaining to—

“(A) the promotion of commissioned officers and chief warrant officers who serve as limited duty officers, including the maintenance of a separate promotion list for commissioned officers who serve as limited duty officers;

“(B) the discharge, retirement, and revocation of commissions of such officers; and

“(C) the separation for cause of such officers.

“(4) The Commandant shall ensure that the procedures promulgated under paragraph (3)(A) encourage a specialization in marine safety and do not, in any way, inhibit or prejudice the orderly promotion or advancement of commissioned officers and chief warrant officers who serve as limited duty officers.

“(5) The Commandant shall, by regulation, prescribe a step increase in the pay system for limited duty officers in the marine safety program.

“(c) **RECRUITMENT.**—(1) The Commandant shall, by regulation, establish procedures pertaining to the recruitment of graduates from the United States Merchant Marine Academy and the State maritime colleges and individuals holding licenses issued under chapter 71 of title 46 to serve as limited duty officers.

“(2) Not later than the date of the submission of the President's budget request under section 1105 of title 31 for each fiscal year, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the

Committee on Commerce, Science, and Transportation of the Senate a report on the Coast Guard's efforts to recruit graduates from the United States Merchant Marine Academy and the State maritime colleges and individuals holding licenses issued under chapter 71 of title 46 to serve as limited duty officers. The report shall include information on the number of graduates recruited, the lengths of service, the retention rates, and other activities undertaken by the Coast Guard to sustain or increase the numbers of recruits and officers.

##### **“§ 59. Center for Expertise for Marine Safety**

“(a) **ESTABLISHMENT.**—The Commandant of the Coast Guard may establish and operate a one or more Centers for Expertise for Marine Safety (in this section referred to as a ‘Center’).

“(b) **MISSIONS.**—The Centers shall—

“(1) be used to provide and facilitate education, training, and research in marine safety including vessel inspection and casualty investigation;

“(2) develop a repository of information on marine safety; and

“(3) perform any other missions as the Commandant may specify.

“(c) **JOINT OPERATION WITH EDUCATIONAL INSTITUTION AUTHORIZED.**—The Commandant may enter into an agreement with an appropriate official of an institution of higher education to—

“(1) provide for joint operation of a Center; and

“(2) provide necessary administrative services for a Center, including administration and allocation of funds.

“(d) **ACCEPTANCE OF DONATIONS.**—(1) Except as provided in paragraph (2), the Commandant may accept, on behalf of a Center, donations to be used to defray the costs of the Center or to enhance the operation of the Center. Those donations may be accepted from any State or local government, any foreign government, any foundation or other charitable organization (including any that is organized or operates under the laws of a foreign country), or any individual.

“(2) The Commandant may not accept a donation under paragraph (1) if the acceptance of the donation would compromise or appear to compromise—

“(A) the ability of the Coast Guard or the department in which the Coast Guard is operating, any employee of the Coast Guard or the department, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner; or

“(B) the integrity of any program of the Coast Guard, the department in which the Coast Guard is operating, or of any person involved in such a program.

“(3) The Commandant shall prescribe written guidance setting forth the criteria to be used in determining whether or not the acceptance of a donation from a foreign source would have a result described in paragraph (2).

##### **“§ 60. Marine industry training program.**

“(a) **IN GENERAL.**—The Commandant shall, by policy, establish a program under which an officer, member, or employee of the Coast Guard may be assigned to a private entity to further the institutional interests of the Coast Guard with regard to marine safety, including for the purpose of providing training to an officer, member, or employee. Policies to carry out the program—

“(1) with regard to an employee of the Coast Guard, shall include provisions, consistent with sections 3702 through 3704 of title 5, as to matters concerning—

“(A) the duration and termination of assignments;

“(B) reimbursements; and

“(C) status, entitlements, benefits, and obligations of program participants; and

“(2) shall require the Commandant, before approving the assignment of an officer, member, or employee of the Coast Guard to a private entity, to determine that the assignment is an effective use of the Coast Guard’s funds, taking into account the best interests of the Coast Guard and the costs and benefits of alternative methods of achieving the same results and objectives.

“(b) ANNUAL REPORT.—Not later than the date of the submission each year of the President’s budget request under section 1105 of title 31, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that describes—

“(1) the number of officers, members, and employees of the Coast Guard assigned to private entities under this section;

“(2) the specific benefit that accrues to the Coast Guard for each assignment.”.

(b) CERTIFICATES OF INSPECTION.—Section 3309 of title 46, United States Code, is amended by adding at the end the following:

“(d) A certificate of inspection issued under this section shall be signed by the individuals that inspected the vessel.”.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

“57. Marine safety staff.

“58. Limited duty officers.

“59. Center for Expertise for Marine Safety.

“60. Marine industry training program.”.

#### SEC. 1103. MARINE SAFETY MISSION PRIORITIES AND LONG TERM GOALS.

(a) IN GENERAL.—Chapter 21 of title 46, United States Code, is further amended by adding after section 2116, as added by section 313 of this Act, the following new section:

#### “§2117. Marine Safety Strategy, goals, and performance assessments

“(a) LONG-TERM STRATEGY AND GOALS.—In conjunction with existing federally required strategic planning efforts, the Secretary shall develop a long-term strategy for improving vessel safety and the safety of individuals on vessels. The strategy shall include the issuance each year of an annual plan and schedule for achieving the following goals:

“(1) Reducing the number and rates of marine casualties.

“(2) Improving the consistency and effectiveness of vessel and operator enforcement and compliance programs.

“(3) Identifying and targeting enforcement efforts at high-risk vessels and operators.

“(4) Improving research efforts to enhance and promote vessel and operator safety and performance.

“(b) CONTENTS OF STRATEGY AND ANNUAL PLANS.—

“(1) MEASURABLE GOALS.—The strategy and annual plans shall include specific numeric or measurable goals designed to achieve the goals set forth in subsection (a). The purposes of the numeric or measurable goals are the following:

“(A) To increase the number of safety examinations on all high-risk vessels.

“(B) To eliminate the backlog of marine safety-related rulemakings.

“(C) To improve the quality and effectiveness of marine safety information databases by ensuring that all Coast Guard personnel accurately and effectively report all safety, casualty, and injury information.

“(D) To provide for a sufficient number of Coast Guard marine safety personnel, and provide adequate facilities and equipment to carry out the powers and duties delegated and imposed by the Secretary under section 631(b).

“(2) RESOURCE NEEDS.—The strategy and annual plans shall include estimates of—

“(A) the funds and staff resources needed to accomplish each activity included in the strategy and plans; and

“(B) the staff skills and training needed for timely and effective accomplishment of each goal.

“(c) SUBMISSION WITH THE PRESIDENT’S BUDGET.—Beginning with fiscal year 2010 and each fiscal year thereafter, the Secretary shall submit to Congress the strategy and annual plan at the same time as the President’s budget submission under section 1105 of title 31.

“(d) ACHIEVEMENT OF GOALS.—

“(1) PROGRESS ASSESSMENT.—No less frequently than semiannually, the Coast Guard Commandant and the Assistant Commandant for Marine Safety shall jointly assess the progress of the Coast Guard toward achieving the goals set forth in subsection (b). The Commandant and the Assistant Commandant shall jointly convey their assessment to the employees of the Assistant Commandant and shall identify any deficiencies that should be remedied before the next progress assessment.

“(2) REPORT TO CONGRESS.—The Secretary shall report annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

“(A) on the performance of the marine safety program in achieving the goals of the marine safety strategy and annual plan under subsection (a) for the year covered by the report;

“(B) on the program’s mission performance in achieving numerical measurable goals established under subsection (b); and

“(C) recommendations on how to improve performance of the program.”.

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

“2117. Marine Safety Strategy, goals, and performance assessments.”.

#### SEC. 1104. POWERS AND DUTIES.

Section 631 of title 14, United States Code, is amended—

(1) by inserting “(a)” before the first sentence; and

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

“(b) The Assistant Commandant for Marine Safety shall serve as the principle advisor to the Commandant regarding—

“(1) the operation, regulation, inspection, identification, manning, and measurement of vessels, including plan approval and the application of load lines;

“(2) approval of materials, equipment, appliances, and associated equipment;

“(3) the reporting and investigation of marine casualties and accidents;

“(4) the licensing, certification, documentation, protection and relief of merchant seamen;

“(5) suspension and revocation of licenses and certificates;

“(6) enforcement of manning requirements, citizenship requirements, control of log books;

“(7) documentation and numbering of vessels;

“(8) State boating safety programs;

“(9) commercial instruments and maritime liens;

“(10) the administration of bridge safety;

“(11) administration of the navigation rules;

“(12) the prevention of pollution from vessels;

“(13) ports and waterways safety;

“(14) waterways management; including regulation for regattas and marine parades;

“(15) aids to navigation; and

“(16) other duties and powers of the Secretary related to marine safety and stewardship.

“(c) OTHER AUTHORITY NOT AFFECTED.—Nothing in subsection (b) affects—

“(1) the authority of Coast Guard officers and members to enforce marine safety regulations using authority under section 89 of this title; or

“(2) the exercise of authority under section 91 of this title and the provisions of law codified at sections 191 through 195 of title 50 on the date of enactment of this paragraph.”.

#### SEC. 1105. APPEALS AND WAIVERS.

(a) IN GENERAL.—Chapter 5 of title 14, United States Code, is further amended by inserting at the end the following new section:

#### “§ 102. Appeals and waivers

“Except for the Commandant of the Coast Guard, any individual adjudicating an appeal of a decision or granting a waiver regarding marine safety, including inspection or manning and threats to the environment, shall be a qualified specialist with the training, experience and qualifications in marine safety to judge the facts and circumstances involved in the appeal or waiver and make a judgment regarding the merits of the appeal or waiver. In the case of an appeal or waiver involving an inspected vessel, vessel systems or equipment, the individual shall hold a letter of qualification to inspect the type of vessel, vessel systems or equipment involved in the appeal or waiver.”.

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

“102. Appeals and waivers.”.

#### SEC. 1106. COAST GUARD ACADEMY.

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

#### “§ 199. Marine safety curriculum

“The Commandant of the Coast Guard shall ensure that professional courses of study in marine safety are provided at the Coast Guard Academy, and during other officer accession programs, to give Coast Guard cadets and other officer candidates a background and understanding of the marine safety program. These courses may include such topics as program history, vessel design and construction, vessel inspection, casualty investigation, and administrative law and regulations.”.

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

“199. Marine safety curriculum.”.

#### SEC. 1107. GEOGRAPHIC STABILITY.

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is further amended by inserting after section 336 the following new section:

#### “§ 337. Geographic stability

“The Commandant shall establish procedures that provide geographic stability to interested Coast Guard officers, employees, and members assigned to the marine safety program carried out under section 100 who have a minimum of 10 years of service in the marine safety program.”.

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

“337. Geographic stability.”.

#### SEC. 1108. APPRENTICE PROGRAM.

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is further amended by inserting after section 337, as added by section 1107 of this Act, the following new section:

#### “§ 338. Apprentice program

“Any officer, member, or employee of the Coast Guard in training to become a marine

inspector shall serve a minimum of one-year apprenticeship, unless otherwise directed by the Commandant of the Coast Guard, under the guidance of a qualified inspector before conducting unsupervised inspections of vessels under part B of subtitle II of title 46. The Commandant may authorize shorter apprentice periods for certain qualifications, as appropriate.”.

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

“338. Apprentice program.”.

**SEC. 1109. REPORT REGARDING CIVILIAN MARINE INSPECTORS.**

Not later than one year after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on Coast Guard's efforts to recruit and retain civilian marine inspectors and investigators and the impact of such recruitment and retention efforts on Coast Guard organizational performance.

The CHAIRMAN. No amendment to that amendment shall be in order except those printed in part B of the report. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. OBERSTAR

The CHAIRMAN. It is now in order to consider amendment No. 1 printed in House Report 110-604.

Mr. OBERSTAR. Mr. Chairman, I rise in strong support of the manager's amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 1 offered by Mr. OBERSTAR:

At the end of title II add the following:

**SEC. \_\_\_\_ . POLICY ON SEXUAL HARASSMENT AND SEXUAL VIOLENCE AT THE COAST GUARD ACADEMY.**

(a) REQUIRED POLICY.—Under guidance prescribed by the Secretary of the department in which the Coast Guard is operating, the Commandant of the Coast Guard shall direct the Superintendent of the Coast Guard Academy to prescribe a policy on sexual harassment and sexual violence applicable to the cadets and other personnel of the Academy.

(b) MATTERS TO BE SPECIFIED IN POLICY.—The policy on sexual harassment and sexual violence prescribed under this section shall include specification of the following:

(1) Programs to promote awareness of the incidence of rape, acquaintance rape, and other sexual offenses of a criminal nature that involve cadets or other Academy personnel.

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

(A) if the cadet chooses to report an occurrence of sexual harassment or sexual violence, a specification of the person or persons to whom the alleged offense should be reported and the options for confidential reporting;

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

(C) procedures on the preservation of evidence potentially necessary for proof of criminal sexual assault.

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

(4) Any other sanction authorized to be imposed in a substantiated case of sexual harassment or sexual violence involving a cadet or other Academy personnel in rape, acquaintance rape, or any other criminal sexual offense, whether forcible or nonforcible.

(5) Required training on the policy for all cadets and other Academy personnel, including the specific training required for personnel who process allegations of sexual harassment or sexual violence involving Academy personnel.

(c) ANNUAL ASSESSMENT.—

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

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

(A) to measure—

(i) the incidence, during that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have been reported to officials of the Academy; and

(ii) the incidence, in that program year, of sexual harassment and sexual violence events, on or off the Academy reservation, that have not been reported to officials of the Academy; and

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

(i) the policies, training, and procedures on sexual harassment and sexual violence involving Academy personnel;

(ii) the enforcement of such policies;

(iii) the incidence of sexual harassment and violence involving Academy personnel in such program year; and

(iv) any other issues relating to sexual harassment and violence involving Academy personnel.

(d) ANNUAL REPORT.—

(1) The Commandant of the Coast Guard shall direct the Superintendent of the Coast Guard Academy to submit to the Commandant a report on sexual harassment and sexual violence involving Academy personnel for each of the 2009, 2010, 2011, 2012, and 2013 Academy program years.

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

(A) The number of sexual assaults, rapes, and other sexual offenses involving Academy personnel that have been reported to Academy officials during the program year, and the number of the reported cases that have been substantiated.

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

(C) In the report for the 2009 Academy program year, a discussion of the survey conducted under subsection (b), together with an analysis of the results of the survey and a discussion of any initiatives undertaken on the basis of such results and analysis.

(D) In the report for each of the subsequent Academy program years, the results of the annual survey conducted in such program year under subsection (b).

(E) A plan for the actions that are to be taken in the following Academy program year regarding prevention of and response to sexual harassment and sexual violence involving Academy personnel.

(3) The Commandant of the Coast Guard shall transmit the annual report on the Coast Guard Academy required under this subsection, together with the Commandant's comments on the report, to the Secretary and the Board of Visitors of the Academy.

(4) The Secretary shall transmit the annual report, together with the Secretary's comments on the report, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(5) The report for the 2009 Academy program year for the Academy shall be submitted to the Commandant of the Coast Guard not later than one year after the date of the enactment of this Act.

(6) In this subsection, the term “Academy program year” with respect to a year, means the Academy program year that ends in that year.

At the end of title II add the following:

**SEC. \_\_\_\_ . HOME PORT OF COAST GUARD VESSELS IN GUAM.**

Section 96 of title 14, United States Code, is amended—

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

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

At the end of title III add the following:

**SEC. \_\_\_\_ . DELEGATION OF AUTHORITY TO CLASSIFICATION SOCIETIES REGARDING OFFSHORE FACILITIES.**

Section 3316 of title 46, United States Code, is amended by adding at the end the following new subsection:

“(d)(1) The Secretary may delegate to the American Bureau of Shipping or another classification society recognized by the Secretary as meeting acceptable standards for such a society, for a United States offshore facility, the authority to—

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

“(B) conduct inspections and examinations.

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

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

“(B) to the extent the government of the foreign country accepts plan review, inspections, or examinations conducted by the American Bureau of Shipping and provides equivalent access to inspect, certify, and provide related services to offshore facilities located in that country or operating under the authority of that country.

“(3) When an inspection or examination has been delegated under this subsection, the Secretary's delegate—

“(A) shall maintain in the United States complete files of all information derived from or necessarily connected with the inspection or examination for at least 2 years after the United States offshore facility ceases to be certified; and

“(B) shall permit access to those files at all reasonable times to any officer, employee, or member of the Coast Guard designated—

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

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

“(4) For purposes of this section—

“(A) the term ‘offshore facility’ means any installation, structure, or other device (including any vessel not documented under chapter 121 of this title or the laws of another country) that is fixed or floating, dynamically holds position or is temporarily or permanently attached to the seabed or subsoil under the sea, and is used for the purpose of exploring for, developing, producing, or storing the resources from that seabed or subsoil; and

“(B) the term ‘United States offshore facility’ means any offshore facility, fixed or floating, that dynamically holds position or is temporarily or permanently attached to the seabed or subsoil under the territorial sea of the United States or the outer Continental Shelf (as that term is defined in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331)).”

At the end of title III add the following:

**SEC. \_\_\_\_ . REQUIREMENT FOR PILOTS TO CARRY AND UTILIZE PORTABLE ELECTRONIC NAVIGATIONAL DEVICE.**

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

**“SEC. 4B. PORTABLE ELECTRONIC DEVICE FOR NAVIGATION PURPOSES.**

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

“(1) require that any pilot licensed under subtitle II of title 46, United States Code, while serving under the authority of that license as pilot on a covered vessel operating in waters designated in the regulation shall carry and utilize a portable electronic device that is—

“(A) equipped for navigational purposes; and

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

“(2) require such pilots to obtain training in the use of such electronic devices, and prescribe requirements for such training after consultation with State or local pilotage authorities on specific equipment and practices in the waters designated in the regulation.

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

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

At the end of title IV add the following:

**SEC. \_\_\_\_ . NEWTOWN CREEK, NEW YORK CITY, NEW YORK.**

(a) STUDY.—The Administrator of the Environmental Protection Agency shall conduct a study on the public health, safety, and environmental concerns related to the underground petroleum spill on the Brooklyn shoreline of Newtown Creek, New York City, New York, in Greenpoint, Brooklyn, New York.

(b) FULL-SITE CHARACTERIZATION AND COLLECTION OF NEW FIELD EVIDENCE.—In carrying out the study under this section, the Administrator shall conduct a full-site characterization of the underground petroleum spill, including the investigation, collection, and analysis of new and updated data and field evidence on the extent of the petroleum spill, including any portion of the spill that has been diluted into surrounding waters, and any surrounding soil contamination or soil vapor contamination.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Ad-

ministrator shall submit a report containing the results of the study to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

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

Page 158, beginning at line 16, strike “such information to the Secretary” and insert “to the Secretary all the entries entered in the ballast water record book during the preceding month, and transmit such additional information”.

Page 172, after line 17, insert the following: “The vessels to which this paragraph applies shall conduct ballast water treatment in accordance with subsection (f) when it applies.

The CHAIRMAN. Pursuant to House Resolution 1126, the gentleman from Minnesota (Mr. OBERSTAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I yield myself 2 minutes.

The manager’s amendment authorizes the Coast Guard to delegate to classification societies the Coast Guard’s authority for safety plan review and construction inspections of offshore oil structures. It allows this authority to be delegated to foreign classification societies to the extent that the government of the country in which the classification society is headquartered accepts documents prepared by our classification society, the American Bureau of Shipping, on behalf of the leaseholder, and does not limit the ABS to this process.

I also want to thank several colleagues for agreeing to have their amendments incorporated into the manager’s amendment to expedite consideration of the bill: The gentlewoman from California (Mrs. TAUSCHER); the gentlewoman from California (Ms. LORETTA SANCHEZ); the gentleman from Wisconsin (Mr. KIND); the gentlewoman from Guam (Ms. BORDALLO); and the gentleman from New York (Mr. WEINER).

The Tauscher amendment requires federally licensed pilots to use portable electronic devices with navigational charts capable of being connected to an Automatic Identification System.

The Sanchez amendment requires the Superintendent of the Coast Guard to prescribe a policy on sexual harassment and sexual violence.

The Kind amendment deals with monthly ballast water treatment reports to the Secretary, requiring them. In addition, the amendment provides that no-ballast-on-board vessels will be required to conduct ballast water treatment, when applicable.

The Bordallo amendment requires Coast Guard vessels homeported in Guam to be repaired at shipyards in the U.S., including Guam shipyards. The same requirement applies to all other Coast Guard cutters homeported elsewhere in the United States.

The Weiner amendment requires the Environmental Protection Agency to

conduct a study on health, safety and environmental concerns related to an underground petroleum spill on the Brooklyn, New York, shoreline.

All those amendments are incorporated into the manager’s amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. LATOURETTE. Mr. Chairman, I ask unanimous consent to control the time in opposition to the amendment, although I don’t oppose the amendment.

The CHAIRMAN. Without objection, the gentleman from Ohio is recognized for 5 minutes.

There was no objection.

Mr. LATOURETTE. Mr. Chairman, I have asked for the time in opposition to the amendment for the purpose of engaging the distinguished chairman of the Transportation and Infrastructure Committee in a colloquy relative to the issue of recreational boating.

Mr. Chairman, as you know, during the consideration of this measure before the Rules Committee, I offered several amendments related to discharges from recreational vessels. Those amendments were not made in order under the rule.

I am still concerned about the impact the proposed regulations may have on more than 16 million recreational boaters in the United States. At the Rules Committee, you were more than gracious in suggesting that we would work together to develop legislation, hold hearings in the committee and move legislation quickly to the House on this subject.

I would ask the chairman, and in saying this I also want to give a tip of the hat to CANDICE MILLER of Michigan, who has been a real champion on this issue as well, but I would ask the chairman if you would be willing to work with us to bring legislation to the House floor and to get it prompt consideration, as this deadline is now approaching in September?

I yield to the gentleman from Minnesota.

Mr. OBERSTAR. I thank the gentleman for yielding.

Most certainly. I urged the gentleman at Rules in discussions to introduce a bill dealing with this authority under the Clean Water Act so that we would have a very strong authoritative base for the legislation, and that we will move quickly in committee to move it through subcommittee, full committee and to the House floor as promptly as the House legislative schedule will permit.

Mr. LATOURETTE. Reclaiming my time, I thank the chairman very much. I want to thank the chairman for not only his work on the bill, the manager’s amendment, but also this issue. I look forward to working with him to solve this problem which is looming out there for these 16 million boaters that never thought they would need a discharge petition when they went walleye fishing on Lake Erie.

Mr. Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I yield 1 minute to the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Chairman, I thank the gentleman for yielding, and I rise in support of the manager's amendment and the underlying bill. I want to thank Chairman OBERSTAR for including the Sanchez amendment in his manager's amendment.

My amendment will require the United States Coast Guard Academy to establish comprehensive policies, training programs, surveys and reports on sexual harassment and sexual violence involving cadets or Academy personnel.

□ 1145

Several years ago, I added a similar amendment to the Department of Defense authorization bill to require the military academies under the Armed Services Committee jurisdiction to establish the same types of policies, and I am pleased that this amendment will ensure that all of our military service academies are treated the same; that they all have plans to prevent sexual assault, and that we know the incidents and allegations of sexual assault and that we know how to handle them.

This amendment also requires the academies to conduct surveys to get feedback on sexual harassment and sexual violence in the workplace, and this amendment will help to reduce the incidents of sexual assault and it will make our academies safer environments.

I urge my colleagues to support the manager's amendment.

Mr. OBERSTAR. May I inquire whether the gentleman has further speakers.

Mr. LATOURETTE. I would advise the distinguished chairman, I have no other speakers and am prepared to yield back whenever you are finished.

Mr. OBERSTAR. I yield the balance of our time to the gentleman from Maryland, the Chair of the subcommittee.

Mr. CUMMINGS. I want to thank the chairman for yielding.

Mr. Chairman, I support the amendment that you have offered, and I thank you again for your leadership on the Coast Guard authorization and all of the transportation issues that our Nation faces.

The manager's amendment includes provisions offered by several of our colleagues that would make a number of important improvements to H.R. 2830. Among other provisions, the manager's amendment would implement recommendations recently made by the Government Accountability Office to require the Commandant of the Coast Guard to prescribe a policy to combat sexual assault and sexual harassment at the Coast Guard Academy. And I do commend my colleague, Ms. SANCHEZ,

for her hard work on this issue. As a member of the Naval Academy Board of Visitors, this is an issue that I have worked on very hard, not only there, but with regard to our Coast Guard Academy.

The amendment would also allow the Coast Guard to delegate some regulatory functions, including facility inspections regarding offshore facilities, to classifications societies.

Further, the amendment would authorize the Coast Guard to issue regulations to require a pilot to carry on board the vessel he or she is operating a computer equipped with electronic charts of the navigation areas the vessel will transit.

I would strongly support this amendment, and I thank the sponsors and thank the chairman for sponsoring it.

Mr. LATOURETTE. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Minnesota (Mr. OBERSTAR).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. LATOURETTE

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 110-604.

Mr. LATOURETTE. Mr. Chairman, I have an amendment at the desk made in order under the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 2 offered by Mr. LATOURETTE:

In section 720 (page 257, line 10), after "resources" insert ", including State and local government resources available in accordance with subsection (b),".

The CHAIRMAN. Pursuant to House Resolution 1126, the gentleman from Ohio (Mr. LATOURETTE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio.

Mr. LATOURETTE. Mr. Chairman, I yield myself such time as I might consume.

Mr. Chairman, I indicated during the opening remarks general debate on this bill that this is an amendment which I cosponsored with Representative BOUSTANY, and it would authorize the Coast Guard to consider qualified State and local security assets, personnel and resources, made available to a liquefied natural gas terminal when determining whether security resources are available to carry out necessary security measures.

This language carries out an agreement that was developed in a colloquy with Chairman CUMMINGS during our subcommittee's and the full committee's consideration of the bill.

Mr. Chairman, all of us want to ensure the highest levels of security at LNG terminals and other at-risk assets. This amendment would do that by leveraging the collective resources of Federal, State, local, and private sec-

tor officials. I urge all members to support this amendment.

I reserve the balance of my time.

Mr. OBERSTAR. Mr. Chairman, I rise to claim time in opposition to the amendment, though I don't intend to oppose it.

The CHAIRMAN. Without objection, the gentleman from Minnesota is recognized for 5 minutes.

There was no objection.

Mr. OBERSTAR. I indeed support the amendment offered by the gentleman from Ohio, who is our ranking member on the Coast Guard subcommittee, which he offers in conjunction with the distinguished gentleman from Louisiana (Mr. BOUSTANY), also a very good friend and colleague and committee member.

The amendment addresses section 720 of the substitute regarding waterside security around LNG tankers and terminals. It provides that the Coast Guard may consider security assets and personnel provided by State and local officials who are contracted for or otherwise made available to an LNG terminal operator in determining whether security resources are available to carry out our waterside security measures.

The Coast Guard has, as we have so often discussed, limited resources to undertake its many missions. Partnering with State and local officials or contracted waterside security services will be in effect force multipliers for the Coast Guard. So we support that initiative.

I reserve the balance of my time.

Mr. LATOURETTE. Mr. Chairman, at this time it is my pleasure to yield 1 minute to the distinguished gentleman from New Jersey, a valuable member of the full committee, subcommittee, and the former Chair of the Coast Guard Subcommittee, Mr. LOBIONDO.

Mr. LOBIONDO. I want to thank Mr. LATOURETTE.

Mr. OBERSTAR, let me thank you and Mr. CUMMINGS for your very thoughtful approach to these critically important issues, and to Mr. MICA and Mr. LATOURETTE for your diligence in these areas.

Mr. Chairman, I appreciate your consideration of this important issue, and Mr. LATOURETTE's thoughtful approach to making sure that we do not have a chilling effect on the future development of LNG in our country. It would effectively block the construction of a widely supported plant that is just north of my district that could definitely help provide much needed relief for home heating costs.

The bill I believe would also have the potential to undermine our security by not the allowing the Coast Guard to determine the personnel and assets necessary to escort LNG shipments. This should be a decision by the Coast Guard. I believe they are best able to do this, and the LaTourette amendment represents a very reasonable and realistic compromise which will give the Coast Guard the flexibility they

need to ensure the security of LNG shipments as well as to deal with the other potential threats in our ports and waterways. I strongly urge all members to support the amendment.

Mr. OBERSTAR. How much time remains?

The CHAIRMAN. The gentleman from Minnesota has 4 minutes remaining. The gentleman from Ohio has 3 minutes remaining.

Mr. OBERSTAR. I yield such time as he may consume to the distinguished Chair of the subcommittee, the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. Mr. Chairman, the amendment offered by Mr. LATOURETTE and Mr. BOUSTANY, the ranking member on the Coast Guard subcommittee, would amend section 720, a section that addresses waterside security around LNG terminals and tankers, and I fully support it.

Subsection C of that section requires that, before the Coast Guard can approve a facility's security plan for a new LNG terminal, the service must determine that it has available to the sector in which the terminal is to be located the resources it needs to carry out the risk mitigation measures identified in the waterway suitability report for that terminal. This amendment would include State and local resources in the assessment, which is a good thing.

With the adoption of this amendment and with the measures already included in subsection C, section 720, we will ensure that the Coast Guard's resources do not have to be diverted from other high-priority missions as determined by the commandant to secure LNG operations.

The Coast Guard will be able to depend upon those State and local law enforcement resources that have the proven training, resources, personnel, equipment, and experience necessary to combat a terrorist attack, to conduct waterborne patrols around LNG facilities.

I emphasize that the State and local law enforcement cannot and should not be seen as replacements for the Coast Guard resources, as the Coast Guard is our Nation's maritime time security agency.

Further, having the Coast Guard, our trained maritime security agency, defend our communities from the risk of a terrorist attack on an LNG terminal in the neighborhood is not an unwarranted and unnecessary subsidy. As our Nation continues to approve new LNG terminals, we must commit to ensuring that all of the resources, particularly Coast Guard resources, necessary to secure these facilities are in place. I fully support the amendment.

Mr. LATOURETTE. Mr. Chairman, I yield myself such time as I might consume to, one, thank the distinguished chairmen of the subcommittee and the full committee for working with us to massage this language and for accepting our amendment.

It is now my pleasure to yield 1 minute to the coauthor of the amend-

ment with me, who spoke during the course of the general debate and who, when this issue was coming up, because of the importance of natural gas and because of the importance of natural gas in the gulf coast, immediately came to me and said, can we continue to work on this as we bring it to the floor? And I again want to commend Mr. BOUSTANY and his colleagues from the gulf coast for bringing this to our attention.

Mr. BOUSTANY. Mr. Chairman, I want to commend the chairman of the full committee, Mr. OBERSTAR, and the chairman of the subcommittee, Mr. CUMMINGS, for working with us on this amendment. It truly was a bipartisan effort as we went through the process, and I think it does strengthen the bill overall. It is a good balanced approach. It helps the Coast Guard, and I think it does meet security needs. I sincerely thank both of you gentlemen for working with us and accepting this amendment.

I also want to thank my good friend, Mr. LATOURETTE, the ranking member on the subcommittee, for working with me step by step through this process, and I am deeply grateful for the work that he has done on this. I think this amendment will strengthen the bill. It provides for our security needs, and it is a sensible approach.

Mr. OBERSTAR. Mr. Chairman, I yield myself 10 seconds.

Does the gentleman from Ohio have any further speakers?

Mr. LATOURETTE. I would advise that I am prepared to close if the gentleman is.

Mr. OBERSTAR. If the gentleman is concluding, I will conclude on our side.

Mr. LATOURETTE. It's a good amendment. I hope we can all vote for it.

I yield back the balance of my time.

Mr. OBERSTAR. We accept the amendment on this side, and urge all Members to vote for it.

I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Ohio (Mr. LATOURETTE).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY MS. MATSUI

The CHAIRMAN. It is now in order to consider amendment No. 3 printed in House Report 110-604.

Ms. MATSUI. Mr. Chairman, I have an amendment at the desk.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 3 offered by Ms. MATSUI:

At the end of section 711 add the following new subsection:

(d) AVAILABILITY OF INCIDENT DATA VIA INTERNET.—

(1) WEBSITE.—The Secretary shall maintain, on an Internet site of the department in which the Coast Guard is operating, a numerical accounting of the missing persons and alleged crimes in covered security incidents for which the Secretary receives notification under subsection (a). The data shall

be updated no less frequently than quarterly, aggregated by cruise line, and each cruise line shall be identified by name.

(2) ACCESS TO WEBSITE.—Each cruise line taking on or discharging passengers in the United States shall include on its Internet site a link to the Internet site referred to in paragraph (1), that is available to the public.

The CHAIRMAN. Pursuant to House Resolution 1126, the gentlewoman from California (Ms. MATSUI) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from California.

Ms. MATSUI. Mr. Chairman, I yield myself such time as I might consume.

Over 10 million Americans travel on cruise lines each year. Unfortunately, many are unaware that they are at risk of being victims of crime while on their vacations. And, it concerns me even more that these victims have inadequate access to assistance or law enforcement in the aftermath of a crime.

In recent years, the media has reported on a number of high-profile cases of passengers falling overboard, passengers going missing, and passengers being raped and sexually assaulted. Sadly, many of these cases remain unresolved, and the perpetrators of sexual violence and other violent crimes on cruise ships are rarely brought to justice.

I became personally involved after a constituent of mine, Laurie Dishman, came to me for assistance after she had been a victim of a violent crime on a cruise ship.

As a result of continued cases of crimes on the high seas, and with the leadership of Chairman CUMMINGS, this Congress has held two hearings on safety on cruise ships. We learned that we must take action to inform people of exposure to risk while on cruise vacations. Mr. Chairman, sometimes even cruise ships need sunshine.

Our amendment seeks to do just that by requiring the Coast Guard to post on-line the number of deaths, missing persons, and reported crimes committed on cruise ships. The amendment also requires cruise lines to include a link to this data base on their public web sites. Our amendment would create transparency and promote a culture of accountability by allowing the public access to the number of crimes reported.

Prevention can be just as powerful as enforcement, and we all know that prevention starts with making people aware of the potential for a crime to occur. With prevention and enforcement, it is our hope that the tragic events that so many passengers have endured will not be repeated. I urge my colleagues to support this amendment.

I reserve the balance of my time.

□ 1200

Mr. OBERSTAR. Mr. Chairman, I rise to claim the time in opposition to the amendment, although I don't intend to oppose it.

The CHAIRMAN. Without objection, the gentleman from Minnesota is recognized for 5 minutes.



There was no objection.

Mr. OBERSTAR. The amendment of the gentlewoman arises out of a very tragic case on which the committee held an extensive hearing, and attempted to address the issue in language within the pending bill.

Her amendment would go to the heart of this issue, establishing a Web site, updated quarterly, aggregated by cruise line, and providing a link to the site on their own Web site. These requirements will allow passengers to review the safety record of a cruise line before booking their cruise. I think that is a very important protection, especially for women who are often alone and can be subjected to violence, as we have seen in the course of these hearings. I support the amendment.

Mr. LATOURETTE. Would the gentleman yield?

Mr. OBERSTAR. I am delighted to yield to the gentleman from Ohio.

Mr. LATOURETTE. I thank the gentleman. I had intended to claim the time in opposition, even though I am not opposed to the amendment. I would indicate to the chairman and the sponsors of the amendment that we are prepared to accept the amendment.

I do have some concerns about the scope of the alleged incidents that will be reported via the Web site and the manner in which it will be presented, but I pledge to work with the amendment's sponsors as we move this bill to conference to facilitate those.

Ms. MATSUI. Madam Chairman, I yield 1 minute to the gentleman from Texas (Mr. POE).

Mr. POE. Madam Chairman, I thank the gentlelady from California for yielding, and I want to thank Ms. MATSUI and her brave constituent, Laurie Dishman, for bringing this very important issue before Congress.

Every year 10 million American citizens board cruise ships and sail from American ports. These cruise ships are floating cities. But unlike cities, there are no peace officers or properly trained security personnel to protect passengers on board these ships. There is really no oversight or accountability for the cruise industry to properly or timely report secret crimes that occur on ships.

Our amendment just requires the Coast Guard to publicly maintain and regularly update a numerical accounting of crimes and number of missing persons on each ship. This is common-sense. We value information on college campuses, and this Congress under the Cleary Act requires reporting of crimes on college campuses. But when there is a crime on the high sea, it is a public relations cover-up because of the travel industry.

This amendment will create a better-informed passenger and, of course, safer cruise ships.

Mr. OBERSTAR. Madam Chairman, I yield 2 minutes to the distinguished Chair of the Rail Subcommittee, the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. I want to start out by thanking Chairmen OBERSTAR and CUMMINGS and Ranking Members MICA and LATOURETTE for all of their hard work on this bill.

We have given the Coast Guard so much responsibility, and they have been up to the challenge.

I have great respect for my colleague from California, but I rise to express my serious concern with her pending amendment. As a Member from the State of Florida, which has 14 ports and numerous cruise lines, I have a particular interest in the cruise industry. The cruise industry is one of the most important economic engines in the State of Florida. Over 5 million passengers embarked from Florida in 2005 and the industry contributed more than \$6 billion in direct spending. In addition, the cruise industry is the second largest employer for Florida, generating more than 125,000 jobs.

Before coming to Congress I owned a travel agency, and I can tell you that a cruise is one of the most cost-effective, safe and enjoyable vacations one can take. In fact, I recently sent my mother on a cruise.

The cruise industry is highly regulated by State, Federal and international laws. They ensure that passengers are safe and have a sound safety and security record. It is apparent from the FBI statistics that crime against U.S. passengers on cruise ships are very rare.

The proposed amendment would unfairly penalize the cruise industry and require the public posting of crime allegations, organized by the name of the cruise line. No other private industry is required to provide such information on an Internet site.

The bill unfairly penalizes the cruise industry without any evidence or justification for this measure.

Requiring the reporting of allegations of crimes onboard ships would be misleading to the public as there is no distinction between an allegation and an actual crime committed. That is why if a local government requires the reporting of allegations of crime, no specific business is identified since in many instances these allegations are unfounded.

In closing, I will continue to work to make sure that the cruise industry is one of the safest industries in this country.

Ms. MATSUI. Madam Chairman, I yield 1 minute to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY of New York. I thank the gentlelady for yielding and for her very strong support and thoughtful work on this legislation, and I am proud to join Congresswoman MATSUI and Congressmen SHAYS and POE on this amendment which would require the Coast Guard to maintain an online database about missing persons and alleged crimes committed on cruise ships and to require cruise lines to include a link to this database on their public Web sites.

Like my good friend from Florida, I also represent many fine ports and many fine cruise lines that have taken steps to improve their procedures. But certainly individuals going on trips should know the track records of cruise lines, and know the steps they have taken to improve safety. The absolute most important part of a vacation is to make sure you have a safe, enjoyable time.

This is a commonsense amendment, and it will provide the public with valuable information before booking their trips, as well as give an indication of where there are challenges in the industry and improvements that have taken place. I urge an "aye" vote.

Mr. OBERSTAR. Madam Chairman, I yield 1 minute to the distinguished gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Madam Chairman, before beginning, Ms. MATSUI, do you have 30 seconds you could yield me?

Ms. MATSUI. And I yield 30 seconds to the gentleman from Connecticut.

Mr. SHAYS. I thank both Members for their courtesy in yielding me this time.

I have a different view than some of my colleagues. This industry may be highly regulated by State, Federal and international governments, but because all are involved, no one takes ownership.

I had an experience with a constituent, George Smith, who was lost at sea on his honeymoon on board a cruise ship in the Mediterranean. We had hearings on this tragedy, and had people contact us with unbelievable stories of someone missing, the family never being notified, the cruise line taking the person's possessions and putting them in a lost-and-found and then selling them, of sexual assaults and thefts, and no information being provided about the crimes to the proper authorities.

What this language does, the Matsui amendment, requires the secretary of the Department of Homeland Security to maintain a numerical account of missing persons and alleged crimes committed on cruise ships. The database will be updated quarterly and aggregated by the cruise line industry.

It requires cruise lines to include a link to this database on their public Web site. The public has a right to know about the exact circumstances that take place on board cruise ships.

This is a sensible amendment. It needs to pass. And I thank her for introducing it.

Ms. MATSUI. In closing, Madam Chairman, providing public access and crime statistics is an important part of crime prevention. I thank my cosponsors and supporters of this amendment, and urge my colleagues to support transparency in the cruise industries.

Madam Chairman, I yield back the balance of my time.

Mr. OBERSTAR. I yield the balance of my time to the gentleman from Maryland (Mr. CUMMINGS).

Mr. CUMMINGS. This issue, as the chairman of the subcommittee, I have to tell you that this has been a very, very difficult issue. We have done two hearings out of a total of 17. It has been extremely emotional. But on balance, I think that this is a good amendment. I want to congratulate Ms. MATSUI and all of the cosponsors.

I think we have to protect the public; but at the same time, we have to make sure that we are fair to the cruise industry. This is an ongoing thing. We have discussions on other matters regarding cruise ships and passengers. I think this is a good amendment, and I support it.

The Acting CHAIRMAN (Mrs. JONES of Ohio). The question is on the amendment offered by the gentlewoman from California (Ms. MATSUI).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MR. POE

The Acting CHAIRMAN. It is now in order to consider amendment No. 4 printed in House Report 110-604.

Mr. POE. Madam Chairman, I have an amendment at the desk made in order on behalf of myself and Mr. LUNGREN of California.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 4 offered by Mr. POE:

At the end of the bill add the following new title:

**TITLE \_\_\_\_—ADDITIONAL MISCELLANEOUS PROVISIONS**

**SEC. \_\_\_\_ OPERATION OF SUBMERSIBLE OR SEMI-SUBMERSIBLE VESSEL WITHOUT NATIONALITY.**

(a) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following new section:

**“§2285. Operation of submersible or semi-submersible vessel without nationality**

“(a) FINDINGS AND DECLARATIONS.—Congress finds and declares that operating or embarking in a submersible or semi-submersible vessel without nationality and on an international voyage is a serious international problem, facilitates transnational crime, including drug trafficking, and terrorism, and presents a specific threat to the safety of maritime navigation and the security of the United States.

“(b) OFFENSES.—

“(1) IN GENERAL.—Whoever knowingly or intentionally operates by any means or embarks in any submersible or semi-submersible vessel that is without nationality and that is navigating or has navigated into, through or from waters beyond the outer limit of the territorial sea of a single country or a lateral limit of that country's territorial sea with an adjacent country, shall be punished as prescribed in subsection (h).

“(2) ATTEMPTS AND CONSPIRACIES.—Whoever attempts or conspires to violate this section shall be punished as prescribed in subsection (h).

“(c) DEFINITIONS.—In this section, the term—

“(1) ‘submersible vessel’ means a vessel that is capable of operating below the surface of the water, and includes manned and unmanned watercraft.

“(2) ‘semi-submersible vessel’ means any watercraft constructed or adapted to be capable of putting much of its bulk under the surface of the water.

“(3) ‘vessel without nationality’ has the same meaning as section 70502(d) of title 46.

“(d) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over the offenses described in this section, including an attempt or conspiracy to commit such offense.

“(e) CLAIM OF NATIONALITY OR REGISTRY.—“(1) A claim of nationality or registry under this section includes only—

“(A) possession on board the vessel and production of documents evidencing the vessel's nationality as provided in article 5 of the 1958 Convention on the High Seas;

“(B) flying its nation's ensign or flag; or

“(C) a verbal claim of nationality or registry by the master or individual in charge of the vessel.

“(2) The failure of any submersible or semi-submersible vessel to display registry numbers or a national ensign or flag shall create a rebuttable presumption that the vessel is without nationality, as defined in this section.

“(f) FEDERAL ACTIVITIES.—Nothing in this section applies to lawfully authorized activities carried out by or at the direction of the United States Government.

“(g) APPLICABILITY OF OTHER PROVISIONS.—Sections 70504 and 70505 of title 46 apply to this section.

“(h) PENALTIES.—

“(1) VIOLATIONS.—A person violating this section shall be fined under this title, imprisoned not more than 20 years, or both.

“(2) CONSECUTIVE SENTENCE.—Notwithstanding any other provision of law, a term of imprisonment imposed under this section shall be consecutive to the sentence of imprisonment for any other offense.”.

(b) CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding at the end the following new item:

“2285. Operation of submersible or semi-submersible vessel without nationality.”.

The Acting CHAIRMAN. Pursuant to House Resolution 1126, the gentleman from Texas (Mr. POE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. POE. Madam Chairman, I yield myself such time as I may consume.

This is a photograph regarding the amendment we will talk about this morning. These are mini-submarines. They are currently being made in the jungles of Colombia, alongside much of the drugs that they carry, probably from the Revolutionary Armed Forces of Colombia which is the military wing of the Colombian Communist Party.

These vessels are made out of fiberglass. They are about 100-feet long. They carry a crew of five and up to 13 tons of drugs with a street value of about \$300 million. They travel about 14 miles per hour, and they are barely below the surface. They are constructed to remain below the surface of the water, making them difficult for the U.S. Navy and the Coast Guard to track. And they can travel all of the way from the north coast of South America to the southeastern United States without refueling.

These vessels that the Coast Guard are encountering are stateless vessels with no legitimate use. They are built for stealth and the capability to rapidly scuttle the illicit drugs they are carrying.

What happens is when the United States Coast Guard or the Navy comes upon one of these vessels, the crew scuttles the ship, it sinks, and all of the contraband sinks to the bottom of the ocean. The only one prosecution that has taken place, reflected here on the bottom, occurred when a bale of cocaine floated back to the surface. The five crewmen are now being prosecuted in Tampa, Florida. And let me mention that these vessels can not only be used for drugs, they can bring explosives into the United States. They come up our waterways. They can attack crude ships, ships that are bringing in oil tankers, our military ships like the U.S.S. *Cole*, or even cruise ships, as we mentioned earlier.

This amendment would simply state the findings of Congress that these stateless vehicles have no legitimate use on international waters, and the crew that is operating one of these is committing a Federal crime.

Madam Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Madam Chairman, I claim the time in opposition, though I do not intend to oppose the amendment.

The Acting CHAIRMAN. Without objection, the gentleman from Minnesota is recognized for 5 minutes.

There was no objection.

Mr. OBERSTAR. I thank the gentleman from Texas, a member of our committee, for offering this amendment.

The Coast Guard in the past 4 months has had 23 cases involving semi-submersible vessels, and the Coast Guard intelligence sector predicts that 85 cases will occur this year, possibly a projection of 120 such cases next year.

This amendment deals with stateless submersible or semi-submersible vessels on international voyages, and makes it a finding of Congress that they are a serious international problem that facilitates transnational crimes, including drug trafficking and terrorism, a serious threat to U.S. maritime security navigation, and I appreciate the gentleman offering the amendment.

I reserve the balance of my time.

Mr. POE. I yield 2 minutes to the gentleman from California (Mr. DANIEL E. LUNGREN).

Mr. DANIEL E. LUNGREN of California. I thank the gentleman for yielding.

Madam Chairman, this is an important amendment. This is an attempt by us to get our criminal laws to catch up with the technology used by the bad guys, essentially.

□ 1215

If you were to look at one of these in the open sea, you would find out how difficult it is to spot them actually, even from the air. They are a very effective means by which they can deliver illegal drugs to this country, which they have done.

The Coast Guard has done a remarkable job in fighting this. But this law

will give us the ability to prosecute cases that are, we are incapable of prosecuting at the present time.

It will also alleviate the danger that is posed to our members of the Coast Guard in their attempt to retrieve the contraband that is thrown overboard when the perpetrators of these kinds of activities find that they are being chased by the Coast Guard. In this case, it will be illegal to be utilizing these kind of vessels for this type of purpose, but you will not have to prove the contraband actually is there.

This is an effective means by which we are giving an additional tool to our Coast Guard men and women around the world, and also to our prosecutors, to ensure that we deal with the continuing problem of drug trade.

But, in addition to that, as the gentleman from Texas mentioned, this could be used for delivering weapons of mass destruction to our shores. For that reason, if no other, I would hope we would get a unanimous vote in support of this amendment.

Mr. OBERSTAR. I will reserve the balance of our time. I will yield to the gentleman from Maryland to close on our side. So the gentleman may proceed with his speakers.

Mr. POE. Madam Chairman, I inquire as to how much time is left on each side.

The Acting CHAIRMAN. The gentleman from Texas has 1½ minutes. The gentleman from Minnesota has 4 minutes.

Mr. POE. Madam Chairman, I yield 30 seconds to my friend from Texas (Mr. CULBERSON).

Mr. CULBERSON. Madam Chairman, I won't take the whole time. Just to tell you I just returned from a briefing at the Coast Guard with Admiral Allen. They brought this to my attention. One of these vehicles can carry up to a billion dollars worth of drugs. They can carry weapons of mass destruction.

If the vessel sinks before the Coast Guard can get on it, they lose all the evidence. So this is a vitally important amendment to the Coast Guard to enforce our laws and protect this Nation. And I hope we will all support it.

Mr. OBERSTAR. The gentleman may close and we will close on our side.

Mr. POE. I want to thank the chairman of the committee and the chairman of the subcommittee for their support on this important legislation. It will make our country safer. I hope that it is adopted by our Congress immediately.

With that, I yield back the remainder of my time.

Mr. OBERSTAR. I yield to the gentleman from Maryland, Chair of the Coast Guard Subcommittee, the balance of our time.

Mr. CUMMINGS. Madam Chairman, may I inquire as to how much time we have.

The Acting CHAIRMAN. The gentleman has 4 minutes.

Mr. CUMMINGS. Thank you, Mr. Chairman, for yielding.

I also rise in support of this very important amendment. This amendment would make it a crime to operate on an international voyage a submersible or semi-submersible vessel utilized to traffic drugs or support other illegal activities.

The use of the submersible vehicles to attempt to smuggle drugs from foreign ports to the United States is on the rise, and such vehicles are capable of carrying vast quantities of drugs.

I'm very familiar with this issue, having been former ranking member of the Drug Subcommittee of the Government Reform Committee, and now chairman of this subcommittee. The very drugs that these folks are trying to bring into this country, they're trying to bring them on these kind of boats. I've actually seen these boats. And someone said it a moment ago.

It is so important that we keep up with the drug smugglers. They are constantly trying to find new methods to avoid capture and prosecution, and so this is a good thing.

In August of last year, for instance, the Coast Guard and other Federal partners seized a semi-submersible vessel carrying cocaine estimated to be worth more than \$350 million.

And, by the way, Madam Chairman, I also note that this year the Coast Guard has taken in and seized more drugs than in any year in its history.

As someone who represents the City of Baltimore, I know firsthand the destruction that drugs can cause. And I know that every gram that is kept off our streets is a victory over the forces that destroy lives and communities.

I also know that the profit available from drug drives and smugglers, they continually try to come up with these new techniques, and this is our effort, Mr. POE's effort to address this.

With that, Madam Chairman, I wholeheartedly support this amendment. I want to thank Mr. POE for sponsoring it.

Mr. PAUL. Madam Chairman, I rise in opposition to this amendment because it strikes me as unconstitutional to make it a Federal crime to operate a submersible or semi-submersible vehicle that is not registered with a country if it navigates through international waters. I believe that this amendment, aside from being unconstitutional, is dangerously broad and may well lead to the persecution of individuals who are in no way engaging in illegal activity. I am concerned that this may lead to the prosecution of, for example, a scientific organization that builds and operates a submersible research vessel and operates it in international waters. Are these organizations going to be forced to register their activities with the U.S. Government or face a 20 year jail term? The real intent of this amendment is to add yet another draconian weapon in the arsenal of the government's failed war on drugs. This amendment may well have chilling unintended consequences for individuals and organizations that have nothing to do with drug or human smuggling and as such I cannot support the Poe amendment.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. POE).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. CUMMINGS. Madam Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Texas will be postponed.

AMENDMENT NO. 5 OFFERED BY MR. MCNERNEY

The Acting CHAIRMAN. It is now in order to consider amendment No. 5 printed in House Report 110-604.

Mr. MCNERNEY. Madam Chairman, I have an amendment at the desk.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 5 offered by Mr. MCNERNEY:

At the end of the bill add the following new title.

**TITLE —ADDITIONAL MISCELLANEOUS PROVISIONS**

**SEC. —. LEGAL AUTHORITY OF THE COAST GUARD TO CARRY OUT ITS HOMELAND SECURITY MISSIONS NOT IMPAIRED.**

The provisions of this Act governing the marine safety mission of the Coast Guard shall not impair the legal authority of the Coast Guard to carry out its homeland security missions including—

(1) protecting ports, waterways, coastal security, and the marine transportation system from an act of terrorism;

(2) securing our borders against aliens seeking to unlawfully enter the United States, illegal drugs, firearms, and weapons of mass destruction at ports, waterways, and throughout the marine transportation system;

(3) preventing human smuggling operations at ports, waterways, and throughout the marine transportation system;

(4) maintaining defense readiness to rapidly deploy defensive port operations and security operations and environmental defense operations;

(5) coordinating efforts and intelligence with Federal, State, and local agencies to deter, detect, and respond to the threat of terrorism at ports, on waterways, and throughout the marine transportation system;

(6) preventing Osama Bin Laden, al Qaeda, or any other terrorist or terrorist organization from attacking the United States or any United States person;

(7) protecting the United States or any United States person from threats posed by weapons of mass destruction or other threats to national security.

The Acting CHAIRMAN. Pursuant to House Resolution 1126, the gentleman from California (Mr. MCNERNEY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. MCNERNEY. Madam Chairman, since the terrible events of September 11, 2001, we have relied heavily on the brave men and women of the U.S. Coast Guard to be our eyes and ears against terrorism along our coastal borders and at more than 300 of our Nation's ports.

The Coast Guard's homeland security mission isn't new. It began more than

200 years ago when the service was founded. Yet, today, we are more focused on the need to provide maritime security. The Coast Guard has ramped up its efforts to ensure that we don't allow people into this country who intend to do us harm or weapons to unleash upon us.

We have improved our ability to deal with potential terrorist threats, but we must keep up the progress. America's security is our paramount responsibility, and our goals must be always to counteract threats against our citizens, address the dangers posed by terrorists, and eliminate the potential for introduction of weapons of mass destruction.

My congressional district is home to the Port of Stockton, one of the largest inland ports in the Nation. While it is an economic engine for California's Central Valley, moving everything from agricultural products to wind turbines, it may be viewed as a potential entry point for those who intend to do us harm. Thankfully, the Coast Guard understands the risk and provides constant security that insures continued business and peace of mind.

I believe that it's important to highlight the dual responsibilities of the Coast Guard, and we should ensure that the Coast Guard's homeland security missions are not lessened by the licensing and regulatory functions of the Guard.

My amendment is both simple and needed. It outlines formally that none of the changes to the marine safeguard mission of the Coast Guard shall impair in any way, the homeland security mission of the Coast Guard. It is important to note that we are not creating new authorizations. We are simply outlining formally the continued importance of protecting our waterways and ports, maintaining coastal security, and securing our borders against aliens seeking to unlawfully enter the United States.

Americans deserve to know that our ports and waterways are protected. This amendment does just that by clarifying the Coast Guard's homeland security missions are strengthened by the legislation we are doing today.

I consider all of my colleagues support for this commonsense amendment, and I reserve the balance of my time.

Mr. LATOURETTE. Madam Chairman, I ask unanimous consent to control the time in opposition, even though I am not opposed to the amendment.

The Acting CHAIRMAN. Without objection, the gentleman from Ohio is recognized for 5 minutes.

There was no objection.

Mr. LATOURETTE. Madam Chairman, we are prepared to accept this amendment. The Coast Guard is a multi-mission military service that must have the ability and flexibility to respond to numerous concerns and threats in the maritime domain.

We share the concern of the sponsor that no one Coast Guard mission

should be elevated in precedence to the expense of the service's many other responsibilities.

I want to congratulate Mr. MCNERNEY, a new Member of the House, for bringing this amendment to the floor, bringing it to our attention.

I would be happy to yield to the distinguished chairman for any observations he would have.

Mr. OBERSTAR. I thank the gentleman for yielding time.

It was our purpose from the very outset of crafting the marine safety provisions of this bill to delineate clearly the responsibilities of the Coast Guard on safety, on its safety mission, and on the new emphasis within the Department of Homeland Security on their security responsibilities.

In fact, this was an issue, I would say to the gentleman from Ohio, that then Chairman YOUNG and I raised with the President at the White House some 6 plus years ago when he first proposed the Department of Homeland Security, that the bill, as proposed, the proposition set forth by the administration, did not distinguish between search, rescue, safety responsibilities of the Coast Guard and these new emphasis duties on security. We do that now in this legislation. The amendment of the gentleman from California will further delineate that distinction.

I thank the gentleman for yielding this time, and I thank the gentleman for his amendment.

Mr. LATOURETTE. I would ask the chairman of the subcommittee, Mr. CUMMINGS, do you want to say anything about the amendment?

I would be happy to yield to the gentleman from Maryland.

Mr. CUMMINGS. I rise in support of the amendment offered by Mr. MCNERNEY. This simple amendment clarifies that the provisions included in the Coast Guard authorization pertaining to the service's marine safety function will not in any way affect the Coast Guard's authority to carry out its Homeland Security missions.

As the chairman has said, basically, what we're trying to do is make sure that, while we understand that this organization is being stretched, we want to make sure that it takes on its functions effectively and efficiently. I think this amendment simply strengthens the legislation and, therefore, I support it.

Mr. LATOURETTE. I thank both chairmen and want to again congratulate Mr. MCNERNEY on his amendment. I would yield back the balance of my time.

Mr. MCNERNEY. Madam Chairman, the purpose of this bill is just to erase any ambiguity that we want the Coast Guard to be involved in homeland security.

I yield back the balance of my time.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. MCNERNEY).

The question was taken; and the Acting Chairman announced that the ayes appeared to have it.

Mr. MCNERNEY. Madam Chairman, I demand a recorded vote.

The Acting CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from California will be postponed.

AMENDMENT NO. 6 OFFERED BY MR. BILIRAKIS

The Acting CHAIRMAN. It is now in order to consider amendment No. 6 printed in House Report 110-604.

Mr. BILIRAKIS. Madam Chairman, I have an amendment at the desk made in order under the rule.

The Acting CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 6 offered by Mr. BILIRAKIS:

Strike section 708 and insert the following:  
**SEC. 708. MARITIME BIOMETRIC IDENTIFICATION.**

(a) IN GENERAL.—Within one year after the date of the enactment of this Act, the Secretary of Homeland Security, acting through the Commandant of the Coast Guard, shall conduct, in the maritime environment, a program for the mobile biometric identification of suspected individuals, including terrorists, to enhance border security and for other purposes.

(b) REQUIREMENTS.—The Secretary shall ensure the program required in this section is coordinated with other biometric identification programs within the Department of Homeland Security.

(c) COST ANALYSIS.—Within 90 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Appropriations and Homeland Security of the House of Representatives and the Committees on Appropriations and Homeland Security and Governmental Affairs of the Senate an analysis of the cost of expanding the Coast Guard's biometric identification capabilities for use by the Coast Guards Deployable Operations Group, cutters, stations, and other deployable maritime teams considered appropriate by the Secretary, and any other appropriate Department of Homeland Security maritime vessels and units. The analysis may include a tiered plan for the deployment of this program that gives priority to vessels and units more likely to encounter individuals suspected of making illegal border crossings through the maritime environment.

(d) DEFINITION.—For the purposes of this section, the term "biometric identification" means use of fingerprint and digital photography images.

The Acting CHAIRMAN. Pursuant to House Resolution 1126, the gentleman from Florida (Mr. BILIRAKIS) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

Mr. BILIRAKIS. I yield myself as much time as I may consume.

I rise to offer an amendment to the Coast Guard Authorization Act that will strengthen maritime security. My amendment would replace section 708 of the bill which incorporates language from a stand-alone bill I have introduced with tougher language that would codify and expand a Coast Guard pilot program to collect biometric information on aliens interdicted at sea.

My amendment requires the Coast Guard to move forward on this program within 1 year, and provide a cost

analysis to Congress on expanding these capabilities in other Coast Guard and Department of Homeland Security vessels and units.

As part of this analysis, my amendment would encourage DHS to give priority to expanding mobile biometric collection capabilities to assets and areas that are most likely to encounter illegal border crossings in the maritime environment.

□ 1230

The efforts of the Coast Guard in this area show great promise. Since the collection of limited biometrics on individuals interdicted at sea began, the Coast Guard has collected biometric data from 1,513 migrants resulting in nearly 300 matches against databases of wanted criminals, immigration violators, and others who have previously encountered government authorities. Instead of being released to repeat their dangerous and illegal behavior, these individuals are now detained and prosecuted.

The U.S. Attorney's Office in San Juan, Puerto Rico, has prosecuted more than 118 individuals for violations of U.S. laws, immigration laws, and other offenses based substantially on information obtained through the biometrics program.

The Coast Guard reports that illegal migration in the Mona Pass area, an area between the Dominican Republic and Puerto Rico, has been reduced by 50 percent in the past year as a direct result of the biometrics program.

By leveraging its relationships within DHS, the Coast Guard now has access to millions of fingerprint files it can use to positively identify individuals encountered at sea, those who are without identification and are suspected of attempting an illegality and illegally entering the United States. Now that the Coast Guard has determined the most effective way to collect biometrics at sea, the Department of Homeland Security needs to determine the most appropriate way to move forward and expand this effort as cost effectively as possible, which is what my amendment requires.

Given the success of existing efforts on biometrics by the Coast Guard, I believe it is imperative that we strengthen section 708 of the underlying bill on clarifying congressional intent in this area so that these efforts are cost effective and will do the most good. It is clear the collection of biometrics at sea by the Coast Guard is already helping greatly deter illegal migration and prevent the capture and release of dangerous individuals.

I urge the distinguished Members of this House to help further that effort by voting for this amendment.

Madam Chairman, I reserve the balance of my time.

Mr. OBERSTAR. Madam Chairman, I rise to claim the time in opposition, though I do not intend to oppose the amendment.

The Acting CHAIRMAN. Without objection, the gentleman from Minnesota is recognized for 5 minutes.

There was no objection.

Mr. OBERSTAR. I do support the amendment offered by the distinguished gentleman from Florida with whose father I had the pleasure to serve, a person of great personal distinction who served this body very well and with whom I had a delightful personal relationship. And I always appreciated that friendship.

I thank the gentleman for offering this amendment which requires biometric identification of suspected persons, including terrorists, to strengthen border security. Fingerprinting, digital photos, and other technology can be used to identify illegal migrants, smugglers, and terrorists. It will be useful in establishing a database.

It parallels what we do in the TSA for aviation security and in other areas of security. It will be a valuable asset in the ongoing struggle against terrorism, and I appreciate the gentleman offering the amendment.

I am happy to yield to the gentleman from Ohio.

Mr. LATOURETTE. I want to congratulate Mr. BILIRAKIS on this amendment, and we all had the privilege of serving with his dad, Mike, and he's a "Gus" off the old block, and he's doing a fine job not only in this amendment but also the Waterway Watch program.

We're prepared to accept the amendment. The Coast Guard has operated a pilot program in Mona Pass, Puerto Rico. It has been extremely successful. We're aware that the Coast Guard intends to expand the program in the Caribbean Basin to make it a permanent program. His amendment would accomplish these goals.

For that reason, I support the amendment and congratulate Mr. BILIRAKIS.

Mr. BILIRAKIS. Madam Chairman, I would like to thank Chairman THOMPSON and also thank Ranking Member KING for supporting this good bill and my amendment. Thank you very much.

Mr. OBERSTAR. I yield to close on our side to the gentleman from Maryland.

Mr. CUMMINGS. Madam Chairman, this amendment merely, simply stated, makes sense. It amends section 708 to require the creation of a program that will enable the Coast Guard to test the use of biometrics technology to identify individuals intercepted by the service. I have actually seen this procedure and have seen this biometric equipment in operation. This allows us to use our resources, our limited resources that the Coast Guard has, in an efficient and effective manner; and it also will allow us to be able to learn exactly who these terrorists might be and get identification information on them immediately.

And so I want to thank the gentleman for providing us with this amendment, which makes our bill better.

Mr. BILIRAKIS. I also want to thank Chairman OBERSTAR for the kind words and Mr. LATOURETTE, my good friend. This is a great amendment. Thanks for your cooperation. I appreciate it.

The Acting CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. BILIRAKIS).

The amendment was agreed to.

Mr. OBERSTAR. Madam Chairman, I move that the Committee do now rise. The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Ms. ZOE LOFGREN of California) having assumed the chair, Mrs. JONES of Ohio, Acting Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2830) to authorize appropriations for the Coast Guard for fiscal year 2008, and for other purposes, had come to no resolution thereon.

#### TEMPORARY EXTENSION OF FARM PROGRAMS

Mr. HOLDEN. Madam Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 2903) to amend Public Law 110-196 to provide for a temporary extension of programs authorized by the Farm Security and Rural Investment Act of 2002 beyond April 25, 2008, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. LUCAS. Madam Speaker, reserving the right to object, I rise in support of the temporary farm bill extension. It will extend the provisions of the 2002 farm bill an additional week to give our committee more time to finish the farm bill.

We continue to work towards an agreement on this very complex piece of legislation. While there is a significant amount of work that has been accomplished, there is more that remains to be done. And the House and Senate conferees have been meeting this week and continue to meet. The staff has worked diligently to bring this bill together.

The farm bill is a critical piece of legislation for this country. It's the commodity title, it's the social attraction problems, conservation, rural development and a variety of other things. It is something that must be accomplished and we on the Agriculture Committee, Congressman HOLDEN and myself, take very seriously as we work in that direction.

Mr. HOLDEN. Madam Speaker, will the gentleman yield?

Mr. LUCAS. I yield to the gentleman from Pennsylvania.

Mr. HOLDEN. Madam Speaker, I agree with my friend from Oklahoma. This legislation is desperately needed in rural America and in agriculture country. The conferees are making progress, but Chairman PETERSON and Ranking Member GOODLATTE are not on the floor right now because they are in meetings with the Ways and Means