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COAST GUARD AUTHORIZATION ACT OF 2007

OCTOBER 30, 2007.—Ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 2830]

[Including Committee Cost Estimate]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2830) to authorize appropriations for the Coast Guard for fiscal year 2008, and for other purposes, having considered the same, report favorably thereon with amendment and recommend that the bill as amended do pass.

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THE AMENDMENT

[The bill being reported by the Committee on the Judiciary is unchanged from the bill as reported by the Committee on Homeland Security, except for the following changes:]

Strike title VI and insert the following:

TITLE VI—ALIEN SMUGGLING

SEC. 601. MARITIME LAW ENFORCEMENT.

(a) PENALTIES.—Subsection (b) of section 2237 of title 18, United States Code, is amended to read as follows:

"(b)(1) Whoever intentionally violates this section shall, unless the offense is described in paragraph (2), be fined under this title or imprisoned for not more than 5 years, or both.

"(2) If the offense—

"(A) is committed in the course of a violation of section 274 of the Immigration and Nationality Act (alien smuggling); chapter 77 (peonage, slavery, and trafficking in persons), section 111 (shipping), 111A (interference with vessels), 113 (stolen property), or 117 (transportation for illegal sexual activity) of this title; chapter 705 (maritime drug law enforcement) of title 46, or title II of the Act of June 15, 1917 (Chapter 30; 40 Stat. 220), the offender shall be fined under this title or imprisoned for not more than 10 years, or both;

"(B) results in serious bodily injury (as defined in section 1365 of this title) or transportation under inhumane conditions, the offender shall be fined under this title, imprisoned not more than 15 years, or both; or

"(C) results in death or involves kidnaping, an attempt to kidnap, the conduct required for aggravated sexual abuse (as defined in section 2241 without regard to where it takes place), or an attempt to commit such abuse, or an attempt to kill, be fined under such title or imprisoned for any term of years or life, or both.".

(b) LIMITATION ON NECESSITY DEFENSE.—Section 2237(c) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(c)";

(2) by adding at the end the following:

"(2) In a prosecution for a violation of this section, no defense based on necessity can be raised unless the defendant—

"(A) as soon as practicable upon reaching shore, delivered the person with respect to which the necessity arose to emergency medical or law enforcement personnel;

"(B) as soon as practicable, reported to the Coast Guard the circumstances of the necessity resulting giving rise to the defense; and

"(C) did not bring, attempt to bring, or in any manner intentionally facilitate the entry of any alien, as that term is defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(3)), into the land territory of the United States without lawful authority, unless exigent circumstances existed that placed the life of that alien in danger, in which case the reporting requirement of subparagraph (B) is satisfied by notifying the Coast Guard as soon as practicable after delivering that person to emergency medical or law enforcement personnel ashore.".

(c) DEFINITION.—Section 2237(e) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following:

"(5) the term 'transportation under inhumane conditions' means the transportation of persons in an engine compartment, storage compartment, or other confined space, transportation at an excessive speed, transportation of a number of persons in excess of the rated capacity of the means of transportation, or intentionally grounding a vessel in which persons are being transported.".

SEC. 602. AMENDMENT TO THE SENTENCING GUIDELINES.

(a) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, if appropriate, amend the sentencing guidelines and policy statements applicable to persons convicted of alien smuggling offenses and criminal failure to heave to or obstruction of boarding.

(b) CONSIDERATIONS.—In carrying out this subsection, the Sentencing Commission, shall—

(1) consider providing sentencing enhancements or stiffening existing enhancements for those convicted of offenses described in paragraph (1) of this subsection that—

(A) involve a pattern of continued and flagrant violations;

(B) are part of an ongoing commercial organization or enterprise;

(C) involve aliens who were transported in groups of 10 or more;

(D) involve the transportation or abandonment of aliens in a manner that endangered their lives; or

(E) involve the facilitation of terrorist activity; and

(2) consider cross-references to the guidelines for Criminal Sexual Abuse and Attempted Murder.

(c) EXPEDITED PROCEDURES.—The Commission may promulgate the guidelines or amendments under this subsection in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

In the paragraph (2)(A) of the matter proposed to be inserted by section 208(a), insert "committed in their presence" after "United States".

In the table of sections in section 2 of the bill amend the entiries relating to title VI to read as follows:

TITLE VI—ALIEN SMUGGLING

Sec. 601. Maritime law enforcement.
Sec. 602. Amendment to the sentencing guidelines.

PURPOSE AND SUMMARY

The Committee on the Judiciary is considering the bill H.R. 2830, the Coast Guard Authorization Act of 2007, on sequential referral from the Committees on Transportation and Infrastructure and on Homeland Security. The Committee is making two changes to the bill dealing with subjects in the reported bill that are within the Committee's Rule X jurisdiction: criminal prohibitions and en-

forcement powers against smuggling of aliens by sea; and criminal law enforcement powers granted to Coast Guard personnel.

BACKGROUND AND NEED FOR THE LEGISLATION

TITLE VI—ALIEN SMUGGLING

Title VI of the bill as reported by the other two committees deals with prohibitions and enforcement powers against alien smuggling. The provisions of Title VI as reported are inconsistent with the approach taken in H.R. 2399, the Alien Smuggling and Terrorism Prevention Act of 2007, legislation developed by Representative Baron Hill with the assistance of the Judiciary Committee, which passed the House on May 22, 2007, by a vote of 412 to zero. Among other things, those provisions in the reported bill do not adequately address smugglers who abuse aliens or who smuggle them as part of a terrorist plot; nor do they distinguish between hardened criminals who smuggle human cargo for profit and persons who are aiding family members or acting for humanitarian purposes. Nor do those provisions address the law governing the principal means of interdiction at sea, the "Failure to Heave To" statute.

The Committee has worked on a bipartisan basis, and in close consultation with the Department of Justice and the Coast Guard, to determine how best to bring the preferred approach taken in H.R. 2399 to the more limited scope of H.R. 2830. The amendments adopted by the Committee strike Title VI as reported by the other committees, replacing it with two provisions from H.R. 2399.

The first provision the Committee is incorporating from H.R. 2399 strengthens the "Failure to Heave To" statute, 18 U.S.C. 2237, to give the Coast Guard important enforcement tools against alien smuggling on the High Seas—including tough penalties for those who lead the Coast Guard on dangerous chases, and for those who risk their passengers' lives by intentionally ramming their boats onto shore at high speed in an attempt to discharge their human cargo. The provision makes it a felony, punishable by up to 10 years in prison, to flee from the Coast Guard in the course of alien smuggling, human trafficking, or narcotics smuggling offenses, and creates the first Federal crime that recognizes smuggling humans under inhumane conditions as grounds for an increased sentence.

The other provision directs the Sentencing Commission to adopt appropriate sentencing enhancements for alien smuggling involving terrorism, moving large groups of aliens, or abandoning aliens in harsh conditions—such as leaving them in rickety boats or on sandbars, knowing that they will die when the sea takes them.

These two provisions from H.R. 2399 will help provide a strong disincentive against inhumane smuggling and against resisting the lawful authority of the Coast Guard.

SECTION 208—ENFORCEMENT AUTHORITY

Section 208 of the bill as reported by the other two committees transfers provisions now in Title 46 of the United States Code, Shipping, to Title 14, Coast Guard. These provisions set forth certain law enforcement powers for Coast Guard personnel acting in performance of their official duties. One of those powers is the authority to "make an arrest without warrant for any offense against

the United States committed in their presence." In transferring these provisions to title 14, the phrase "committed in their presence" was omitted in the bill as reported by the other committees. The Committee has reinserted this phrase, believing it important to retain as a clarification that the government's power to make warrantless arrests is circumscribed by the Fourth and Fifth Amendments to the Constitution.

HEARINGS

The Committee did not hold hearings on H.R. 2830.

COMMITTEE CONSIDERATION

On October 24, 2007, the Committee met in open session and ordered the bill H.R. 2830 favorably reported as amended, by voice vote, a quorum being present.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 2830.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because the amendments made by the Committee do not provide new budgetary authority or increased tax expenditures

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COMMITTEE COST ESTIMATE

The Congressional Budget Office (CBO) estimate of the costs of implementing H.R. 2830 as reported by the Committee on the Judiciary was not available at the time of filing this report. When the Congressional Budget Office letter setting forth its official cost estimate becomes available, it will be printed in the Congressional Record. In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee estimates the costs as follows:

COST TO THE FEDERAL GOVERNMENT

The Committee does not anticipate that the bill will have any significant effect on the Federal budget. Title VI of the bill as referred to the Committee included enhanced criminal fines that could be ordered by a sentencing court, but were not mandatory.

The amendment to Title VI made in the Committee instead continues the general Title 18 fine structure, but adjusts the maximum prison terms for specified aggravated violations of the "Failure To Heave To" statute. Although the CBO estimated that the increased fine structure in the bill as referred to the Committee would result in increased revenues to the Federal Government, the Committee does not believe the different approach taken in Title VI as reported will have any significantly different budgetary effect.

The change made to section 208 of the bill by the Committee merely preserves a limitation in current law on the authority of Coast guard personnel to make warrantless arrests. The Committee does not anticipate that this will have any appreciable budgetary effect.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states, pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 2830 will improve the Nation's ability to protect against alien smuggling, other criminal violations at sea, and violent interference with Coast Guard enforcement activities.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for its amendments to this legislation in article 1, section 8, [clauses 3, 9 and 11] of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, the amendments made by the Judiciary Committee to H.R. 2830 do not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(d), 9(e), or 9(f) of rule XXI.

SECTION-BY-SECTION ANALYSIS

The bill as amended strikes Title VI as reported by the other committees, and in its place substitutes an amendment to the Failure to Heave To statute and a directive to the Sentencing Commission. The bill as amended also provides a clarification to Section 208 of the bill as reported by the other committees.

Section 601. Failure to Heave To. Section 601 of the bill as amended by the Committee amends the Failure to Heave To statute, 18 U.S.C. 2237, which makes it a Federal crime to evade the Coast Guard or disobey a Coast Guard order. It toughens the sentencing structure of section 2237 by providing increased statutory maximum penalties if the offense involved certain other crimes, such as alien smuggling, human trafficking, transportation for immoral purposes, or narcotics trafficking (10 year maximum); resulted in serious injury or involved or transportation under inhumane conditions (15 year maximum); or involved death, rape, kidnaping, or an attempt to kill (any term of years or life).

Section 60l as amended by the Committee also provides a definition of "transportation under inhumane conditions" to establish for the first time in Federal law that it is illegal to transport persons in an engine compartment, storage compartment, or other confined space; to transport persons at an excessive speed or in excess of the rated capacity of the means of transportation; or to intentionally ground a vessel in which persons are being transported. The Committee is concerned about the practice of running boats ashore at high speed for the smuggled passengers to scatter upon landing, a practice that has resulted in death or serious permanent injury in a number of cases in the Florida straits and Puerto Rico.

Section 602. Sentencing Guidelines. Section 602 of the bill as amended by the Committee directs the United States Sentencing Commission to consider providing sentencing enhancements (or stiffening existing enhancements) for those convicted of offenses that: involve a pattern of continued and flagrant violations or are part of an ongoing commercial organization or enterprise; involve aliens who were transported in groups of 10 or more; involve the transportation of aliens in a manner that endangered their lives; involve the abandonment of aliens in desolate or isolated conditions or the discharge of passengers onto spits of land or sandbars that are submerged at high tide; or involve the facilitation of terrorism. The Commission is also directed to consider cross-references to the guidelines for Criminal Sexual Abuse and Attempted Murder. It is expected that enhanced sentencing guidelines for these offenses will provide an additional deterrent to organized alien smuggling rings that purposely engage in high-risk smuggling or act with depraved indifference to human life.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 14, UNITED STATES CODE

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PART I—REGULAR COAST GUARD

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CHAPTER 3—COMPOSITION AND ORGANIZATION

Sec.
41. Grades and ratings.

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[42. Number and distribution of commissioned officers.]
42. Number and distribution of commissioned officers on active duty promotion list.

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[47. Vice Commandant; assignment.]
47. Vice Commandant; appointment.

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[50. Area Commanders.

[50a. Chief of Staff.]
50. Vice admirals.

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55. District Ombudsmen.
56. Chief Acquisition Officer.

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[§ 42. Number and distribution of commissioned officers

[(a) The total number of commissioned officers, excluding commissioned warrant officers, on active duty in the Coast Guard shall not exceed 6,700 in each fiscal year 2004, 2005, and 2006.

[(b) The commissioned officers on the active duty promotion list shall be distributed in grade in the following percentages, respectively: rear admiral 0.375; rear admiral (lower half) 0.375; captain 6.0; commander 15.0; lieutenant commander 22.0. The Secretary shall prescribe the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign. The Secretary may, as the needs of the Coast Guard require, reduce the percentage applicable to any grade above lieutenant commander, and in order to compensate for such reduction increase correspondingly the percentage applicable to any lower grade.

[(c) The Secretary shall, at least once each year, make a computation to determine the number of officers on the active duty promotion list authorized to be serving in each grade. The number in each grade shall be computed by applying the applicable percentage to the total number of such officers serving on active duty on the date the computation is made. In making computations under this section the nearest whole number shall be regarded as the authorized number in any case where there is a fraction in the final result.

[(d) The numbers resulting from such computations 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 who are not included on the active duty promotion list, officers serving as extra numbers in grade under sections 432 and 433 of this title, and officers serving with other departments or agencies on a reimbursable basis or excluded under the provisions of section 324(d) of title 49, shall not be counted in determining authorized strengths under subsection (c) and shall not count against those strengths. 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.]

§ 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.

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§ 47. Vice Commandant; [assignment] *appointment*

The President may appoint, by and with the advice and consent of the Senate, one Vice Commandant who shall rank next after the Commandant, shall perform such duties as the Commandant may prescribe and shall act as Commandant during the absence or disability of the Commandant or in the event that there is a vacancy in the office of Commandant. The Vice Commandant shall be selected from the officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendation for such appointment. The Vice Commandant shall, while so serving, have the grade of [vice admiral] *admiral* with pay and allowances of that grade. The appointment and grade of a Vice Commandant shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in [subsection] *section* 51(d) of this title.

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[§ 50. Area commanders

[(a) The President may appoint, by and with the advice and consent of the Senate, a Commander, Atlantic Area, and a Commander, Pacific Area, each of whom shall be an intermediate commander between the Commandant and the district commanders in his respective area and shall perform such duties as the Commandant may prescribe. The area commanders shall be appointed from officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendations for such appointments.

[(b) An area commander shall, while so serving, have the grade of vice admiral with pay and allowances of that grade. The appointment and grade of an area commander shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in subsection 51(d) of this title.

[§ 50a. Chief of Staff

[(a) The President may appoint, by and with the advice and consent of the Senate, a Chief of Staff of the Coast Guard who shall rank next after the area commanders and who shall perform duties as prescribed by the Commandant. The Chief of Staff shall be appointed from the officers on the active duty promotion list serving above the grade of captain. The Commandant shall make recommendations for the appointment.

[(b) The Chief of Staff shall have the grade of vice admiral with the pay and allowances of that grade. The appointment and grade of the Chief of Staff shall be effective on the date the officer assumes that duty, and shall terminate on the date the officer is detached from that duty, except as provided in section 51(d) of this title.]

§ 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.

§ 51. Retirement

(a) * * *

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(d) An officer serving in the grade of admiral or vice admiral shall continue to hold that grade—

(1) * * *

(2) while awaiting retirement, beginning on the day that officer is relieved from the position of Commandant, Vice Commandant, **[**Area Commander, or Chief of Staff**]** *or Vice Admi-*

rals and ending on the day before the officer's retirement, but not for more than 60 days.

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§ 55. District Ombudsmen

(a) IN GENERAL.—The Commandant may appoint in each Coast Guard District a District Ombudsman to serve as a liaison between representatives of port stakeholders, including the Area Maritime Security Advisory Committees required by section 70112 of title 46 and the Coast Guard.

(b) PURPOSES.—The purposes 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, but not limited to, port and terminal operators, ship owners, labor representatives, and the Coast Guard.

(3) To ensure timely resolution of disputes between the Coast Guard and all petitioners regarding requirements imposed or services provided by the Coast Guard.

(c) FUNCTIONS.—

(1) INVESTIGATIONS.—The District Ombudsman may investigate complaints brought to the attention of the District Ombudsman by a petitioner operating in a port provided such a complaint is not the subject of an administrative, civil, or criminal investigation or other legal proceeding and provided the District Ombudsman receives no benefit, either direct or indirect, from the outcome of the complaint.

(2) GUIDELINES FOR DISPUTES.—

(A) IN GENERAL.—The Commandant of the Coast Guard shall develop guidelines regarding 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 if such a dispute is the subject of an administrative, civil, or criminal investigation or other legal proceeding or if the District Ombudsman receives a benefit, either direct or indirect, from the outcome of the dispute.

(C) PRIORITY.—In providing such assistance, the District Ombudsman shall give priority to complaints brought by petitioners who 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 provided such persons are reasonably available.

(4) ACCESS TO INFORMATION.—Unless otherwise prohibited by law or regulation, the District Ombudsman shall have access to any document, including any record or report, that will aid the District Ombudsman in obtaining the information needed to conduct an investigation of a compliant.

(5) REPORTS.—At the conclusion of an investigation, the District Ombudsman shall submit a report on the findings and rec-

ommendations 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) to the maximum extent practicable, 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 an appropriately cleared 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 Committees on Homeland Security and 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.

§ 56. Chief Acquisition Officer

(a) ESTABLISHMENT OF AGENCY CHIEF ACQUISITION OFFICER.—The Commandant shall appoint or designate a career reserved employee as Chief Acquisition Officer for the Coast Guard, who shall—

(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.

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CHAPTER 5—FUNCTIONS AND POWERS

Sec.
81. Aids to navigation authorized.

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99. Enforcement authority.

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§ 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.

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CHAPTER 7—COOPERATION WITH OTHER AGENCIES

Sec.
141. Cooperation with other agencies, States, territories, and political subdivisions.

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149. Assistance to foreign governments and maritime authorities.

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153. Appointment of judges.

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§ 149. Assistance to foreign governments and maritime authorities

(a) * * *

* * * * * * *

(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.

* * * * * * *

§ 151. Contracts with Government-owned establishments for work and material

(a) IN GENERAL.—All orders or contracts for work or material, under authorization of law, placed with Government-owned establishments by the Coast Guard, shall be considered as obligations in the same manner as provided for similar orders or contracts placed with private contractors, and appropriations for such work or material shall remain available for payment therefor as in the case of orders or contracts placed with private contractors.

(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.

* * * * * * *

§ 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.

CHAPTER 9—COAST GUARD ACADEMY

Sec.
181. Administration of Academy.

* * * * * * *

198. Coast Guard history fellowships.

* * * * * * *

CHAPTER 11—PERSONNEL

OFFICERS

A. APPOINTMENTS

Sec.
211. Original appointment of permanent commissioned officers.

* * * * * * *

[216. Director of Boating Safety Office]

* * * * * * *

GENERAL PROVISIONS

421. Retirement.

* * * * * * *

426. Emergency leave retention authority.

* * * * * * *

§ 214. Appointment of temporary officers

[(a) The President may appoint temporary commissioned officers 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 licensed officers of the United States merchant marine.]

(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.

* * * * * * *

[§ 216. Director of Boating Safety Office

[The initial appointment of the Director of the Boating Safety Office shall be in the grade of Captain.]

* * * * * * *

§ 253. Selection boards; notice of convening; communication with board

(a) Before a board is convened under section 251 of this title, notice of the convening date, the promotion zone to be considered, *and* the officers eligible for consideration[, and the number of officers the board may recommend for promotion] shall be given to the service at large.

* * * * * * *

§ 258. Selection boards; information to be furnished boards

(a) IN GENERAL.—The Secretary shall furnish the appropriate selection board convened under section 251 of this title with[:]—

(1) the number of officers that the board may recommend for promotion to the next higher grade; and

(2) the names and records of all officers who are eligible for consideration for promotion to the grade to which the board will recommend officers for promotion.

(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.

§ 259. Officers to be recommended for promotion

(a) A selection board convened to recommend officers for promotion shall recommend those eligible officers whom the board, *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,* considers best qualified of the officers under consideration for promotion. No officer may be recommended for promotion unless he receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

* * * * * * *

§ 260. Selection boards; reports

(a) * * *

(b) A board convened under section 251 of this title shall certify that, in the opinion of at least a majority of the members if the board has five members, or in the opinion of at least two-thirds of the members if the board has more than five members, the officers recommended for promotion are the best qualified for promotion *to meet the needs of the service (as noted in specific direction furnished the board by the Secretary under section 258 of this title)* of those officers whose names have been furnished to the board.

* * * * * * *

§ 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.

* * * * * * *

CHAPTER 13—PAY, ALLOWANCES, AWARDS, AND OTHER RIGHTS AND BENEFITS

* * * * * * *

Sec.

461. Remission of indebtedness of enlisted members upon discharge.

* * * * * * *

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

* * * * * * *

§ 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 1074i(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.

* * * * * * *

CHAPTER 17—ADMINISTRATION

Sec.
631. Delegation of powers by the Secretary.

* * * * * * *

677. Turnkey selection procedures.

* * * * * * *

§ 637. Stopping vessels; indemnity for firing at or into vessel

(a) * * *

* * * * * * *

(c) A vessel or aircraft is an authorized vessel or authorized aircraft for purposes of this section if—

(1) it is a Coast Guard vessel or aircraft**[**; or**]***;*

(2) it is a surface naval vessel or military aircraft on which one or more members of the Coast Guard are assigned pursuant to section 379 of title 10**[**.**]***; or*

(3) any other vessel or aircraft owned by a government and used for 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.

§ 638. Coast Guard ensigns and pennants

(a) **[**Coast Guard vessels and aircraft**]** *Vessels and aircraft authorized by the Secretary* shall be distinguished from other vessels and aircraft by an ensign, pennant, or other identifying insignia of such design as prescribed by the Secretary. Such ensign, pennant, or other identifying insignia shall be displayed in accordance with regulations prescribed by the Secretary.

* * * * * * *

ARMED FORCES RETIREMENT HOME ACT OF 1991

TITLE XV—ARMED FORCES RETIREMENT HOME

* * * * * * *

SEC. 1502. DEFINITIONS.

For purposes of this title:

(1) * * *

* * * * * * *

[(4) The term "Armed Forces" does not include the Coast Guard when it is not operating as a service in the Navy.**]**

(5) The term "chief personnel officers" means—

(A) * * *

* * * * * * *

(C) the Deputy Chief of Staff for Personnel of the Air Force; **[**and**]**

(D) the Deputy Commandant of the Marine Corps for Manpower and Reserve Affairs**[**.**]***; and*

(E) the Assistant Commandant of the Coast Guard for Human Resources.

(6) The term "senior noncommissioned officers" means the following:

(A) * * *

* * * * * * *

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

* * * * * * *

TITLE 10, UNITED STATES CODE

* * * * * * *

Subtitle A—General Military Law

* * * * * * *

PART IV—SERVICE, SUPPLY, AND PROCUREMENT

* * * * * * *

CHAPTER 165—ACCOUNTABILITY AND RESPONSIBILITY

* * * * * * *

§ 2772. Share of fines and forfeitures to benefit Armed Forces Retirement Home

(a) DEPOSIT REQUIRED.—The Secretary of the military department concerned *or, in the case of the Coast Guard, the Commandant* shall deposit in the Armed Forces Retirement Home

Trust Fund a percentage (determined under subsection (b)) of the following amounts:

(1) * * *

* * * * * * *

[(c) APPLICATION TO COAST GUARD.—In this section, the term "armed forces" does not include the Coast Guard when it is not operating as a service in the Navy.]

* * * * * * *

TITLE 37, UNITED STATES CODE

* * * * * * *

CHAPTER 19—ADMINISTRATION

* * * * * * *

§ 1007. Deductions from pay

(a) * * *

* * * * * * *

(i)(1) * * *

* * * * * * *

(3) The Secretary of Defense *or, in the case of the Coast Guard, the Commandant*, after consultation with the Armed Forces Retirement Home Board, shall determine from time to time the amount to be deducted under paragraph (1) from the pay of enlisted members, warrant officers, and limited duty officers on the basis of the financial needs of the Armed Forces Retirement Home. The amount to be deducted may be fixed at different amounts on the basis of grade or length of service, or both.

[(4) In this subsection, the term "armed forces" does not include the Coast Guard when it is not operating as a service in the Navy.]

[(5)] *(4)* This subsection does not apply to an enlisted member, warrant officer, or limited duty officer of a reserve component.

* * * * * * *

COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2004

* * * * * * *

TITLE VI—MISCELLANEOUS

* * * * * * *

SEC. 605. GREAT LAKES NATIONAL MARITIME ENHANCEMENT INSTITUTE.

(a) * * *

(b) STUDY AND REPORT.—

(1) IN GENERAL.—[The Secretary of Transportation shall conduct a study that] *The Institute shall conduct maritime trans-*

portation studies of the Great Lakes region, including studies that—

(A) [evaluates] *evaluate* short sea shipping market opportunities on the Great Lakes, including the expanded use of freight ferries, improved mobility, and regional supply chain efficiency;

(B) [evaluates] *evaluate* markets for foreign trade between ports on the Great Lakes and draft-limited ports in Europe and Africa;

(C) [evaluates] *evaluate* the environmental benefits of waterborne transportation in the Great Lakes region;

(D) [analyzes] *analyze* the effect on Great Lakes shipping of the tax imposed by section 4461(a) of the Internal Revenue Code of 1986;

(E) [evaluates] *evaluate* the state of shipbuilding and ship repair bases on the Great Lakes;

(F) [evaluates] *evaluate* opportunities for passenger vessel services on the Great Lakes;

(G) [analyzes] *analyze* the origin-to-destination flow of freight cargo in the Great Lakes region that may be transported on vessels to relieve congestion in other modes of transportation;

(H) [evaluates] *evaluate* the economic viability of establishing transshipment facilities for oceangoing cargoes on the Great Lakes;

(I) [evaluates] *evaluate* the adequacy of the infrastructure in Great Lakes ports to meet the needs of marine commerce; [and]

(J) [evaluates] *evaluate* new vessel designs for domestic and international shipping on the Great Lakes[.]*;*

(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.

* * * * * * *

[(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary $1,500,000 for each of fiscal years 2005 and 2006 to carry out paragraph (1).]

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

(A) $2,100,000 for fiscal year 2007;

(B) $2,200,000 for fiscal year 2008;

(C) $2,300,000 for fiscal year 2009;

(D) $2,400,000 for fiscal year 2010; and
(E) $2,500,000 for fiscal year 2011.

* * * * * * *

SEC. 623. INTERIM AUTHORITY FOR DRY BULK CARGO RESIDUE DISPOSAL.

(a) EXTENSION OF INTERIM AUTHORITY.—The Secretary of the Department in which the Coast Guard is operating shall continue to implement and enforce United States Coast Guard 1997 Enforcement Policy for Cargo Residues on the Great Lakes (hereinafter in this section referred to as the "Policy") or revisions thereto, in accordance with that policy, for the purpose of regulating incidental discharges from vessels of residues of dry bulk cargo into the waters of the Great Lakes under the jurisdiction of the United States, until the earlier of—

(1) * * *

(2) September 30, [2008] *2009*.

* * * * * * *

TITLE 46, UNITED STATES CODE

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Subtitle II—Vessels and Seamen

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PART A—GENERAL PROVISIONS

CHAPTER 21—GENERAL

Sec.
2101. General definitions.
* * * * * * *
2116. Termination for unsafe operation.
* * * * * * *

§ 2114. Protection of seamen against discrimination

(a)(1) A person may not discharge or in any manner discriminate against a seaman because—

(A) the seaman in good faith has reported or is about to report to the Coast Guard or other appropriate Federal agency or department that the seaman believes that a violation of a maritime safety law or regulation prescribed under that law or regulation has occurred; [or]

(B) the seaman has refused to perform duties ordered by the seaman's employer because the seaman has a reasonable apprehension or expectation that performing such duties would result in serious injury to the seaman, other seamen, or the public[.]*;*

(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.

* * * * * * *

[(b) A seaman discharged or otherwise discriminated against in violation of this section may bring an action in an appropriate district court of the United States. In that action, the court may order any appropriate relief, including—

[(1) restraining violations of this section;

[(2) reinstatement to the seaman's former position with back pay;

[(3) an award of costs and reasonable attorney's fees to a prevailing plaintiff not exceeding $1,000; and

[(4) an award of costs and reasonable attorney's fees to a prevailing employer not exceeding $1,000 if the court finds that a complaint filed under this section is frivolous or has been brought in bad faith.]

(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.

* * * * * * *

§ 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.

PART B—INSPECTION AND REGULATIONS OF VESSELS

CHAPTER 31—GENERAL

Sec.
3101. Authority to suspend inspection.

* * * * * * *

3104. Survival craft.

* * * * * * *

§ 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.

CHAPTER 32—MANAGEMENT OF VESSELS

* * * * * * *

§ 3202. Application

(a) [MANDATORY APPLICATION.—] *FOREIGN VOYAGES AND FOREIGN VESSELS.*—This chapter applies to a vessel that—

(1) * * *

* * * * * * *

(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.

[(b)] *(c)* VOLUNTARY APPLICATION.—This chapter applies to a vessel not described in subsection (a) of this section if the owner of the vessel requests the Secretary to apply this chapter to the vessel.

[(c)] *(d)* EXCEPTION.—Except as provided in [subsection (b)] *subsection (c)* of this section, this chapter does not apply to—

(1) * * *

* * * * * * *

(4) a vessel operating on the Great Lakes or its tributary and connecting waters *that is not described in subsection (b) of this section*; or

(5) a public vessel.

§ 3203. Safety management system

(a) * * *

* * * * * * *

(c) In prescribing regulations for passenger vessels and small passenger vessels, the Secretary shall consider the characteristics, methods of operation, and nature of the service of these vessels.

* * * * * * *

CHAPTER 33—INSPECTION GENERALLY

* * * * * * *

§ 3316. Classification societies

(a) * * *

(b)(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 vessel documented or to be documented under chapter 121 of this title *or for a floating installation*, the authority to—

(A) * * *

* * * * * * *

(2) The Secretary may make a delegation under paragraph (1) to a foreign classification society only—

(A) to the extent that the government of the foreign country in which the society is headquartered delegates authority and provides access to the American Bureau of Shipping to inspect, certify, and provide related services to vessels documented in that country *or for floating installations*; and

* * * * * * *

(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 vessel *or floating installation* ceases to be certified; and

* * * * * * *

(d) For purposes of this section, the term "floating installation" means any installation, structure, or other device that floats and that either 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)), and is used for the purpose of exploring for, developing, producing, or storing the resources from that seabed or subsoil.

* * * * * * *

CHAPTER 45—UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

Sec.
4501. Application.

* * * * * * *

[4503. Fish processing vessel certification.]
4503. Fishing, fish tender, and fish processing vessel certification.

* * * * * * *

[4508. Commercial Fishing Industry Vessel Safety Advisory Committee.]
4508. Commercial Fishing Safety Advisory Committee.

* * * * * * *

§ 4502. Safety standards

(a) The Secretary shall prescribe regulations which require that each vessel to which this chapter applies shall be equipped with—

(1) * * *

* * * * * * *

[(6) a buoyant apparatus, if the vessel is of a type required by regulations prescribed by the Secretary to be equipped with that apparatus;

[(7) alerting and locating equipment, including emergency position indicating radio beacons, on vessels that operate beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured, and which are owned in the United States or beyond 3 nautical miles from the coastline of the Great Lakes; and]

(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

[(8)] *(7)* a placard as required by regulations prescribed under section 10603(b) of this title.

(b)(1) In addition to the requirements of subsection (a) of this section, the Secretary shall prescribe regulations requiring the installation, maintenance, and use of the equipment in paragraph (2) of this subsection for [documented] vessels to which this chapter applies that—

(A) operate beyond [the Boundary Line] *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*;

* * * * * * *

(2) The equipment to be required is as follows:

(A) * * *

(B) [lifeboats or liferafts] *a survival craft that ensures that no part of an individual is immersed in water* sufficient to accommodate all individuals on board;

* * * * * * *

(D) *marine* radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;

(E) navigation equipment, including compasses, [radar reflectors, nautical charts, and anchors] *nautical charts, and publications*;

(F) first aid equipment[, including medicine chests] *and medical supplies sufficient for the size and area of operation of the vessel*; and

[(G) 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.]

(G) ground tackle sufficient for the vessel.

* * * * * * *

[(f) To ensure compliance with the requirements of this chapter, at least once every 2 years the Secretary shall examine—

[(1) a fish processing vessel; and

[(2) a fish tender vessel engaged in the Aleutian trade.]

(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.

(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 established 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 provide 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 that meets the requirements of subsection (g); 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.

[§ 4503. Fish processing vessel certification]

§ 4503. Fishing, fish tender, and fish processing vessel certification

(a) A [fish processing] vessel to which this section applies may not be operated unless the vessel—

(1) * * *

* * * * * * *

(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) After January 1, 2018, this section applies to a fishing vessel or fish tender vessel that is built before January 1, 2008, and is 25 years of age or older, unless the vessel complies with an alternate safety compliance program prescribed by the Secretary.

* * * * * * *

§ 4506. Exemptions

(a) * * *

[(b) A vessel to which this chapter applies is exempt from section 4502(b)(2)(B) of this title if it—

[(1) is less than 36 feet in length; and

[(2) is operating—

[(A) in internal waters of the United States; or

[(B) within 3 nautical miles from the baselines from which the territorial sea of the United States is measured.]

* * * * * * *

[§ 4508. Commercial Fishing Industry Vessel Advisory Safety Committee]

§ 4508. Commercial Fishing Safety Advisory Committee

(a) The Secretary shall establish a Commercial Fishing [Industry Vessel] Safety Advisory Committee. The Committee—

(1) * * *

* * * * * * *

PART C—LOAD LINES OF VESSELS

CHAPTER 51—LOAD LINES

* * * * * * *

§ 5102. Application

(a) * * *

(b) This chapter does not apply to the following:

(1) * * *

* * * * * * *

(3) a fishing vessel*, unless the vessel is built or undergoes a major conversion completed after January 1, 2008*.

* * * * * * *

PART E—MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS

CHAPTER 71—LICENSES AND CERTIFICATES OF REGISTRY

Sec.

7101. Issuing and classifying licenses and certificates of registry.

* * * * * * *

[7105. Oaths.]

* * * * * * *

7115. Merchant Mariner Medical Advisory Committee.

* * * * * * *

[§ 7105. Oaths

[An applicant for a license or certificate of registry shall take, before the issuance of the license or certificate, an oath before a designated official, without concealment or reservation, that the applicant will perform faithfully and honestly, according to the best skill and judgment of the applicant, all the duties required by law.

[§ 7106. Duration of licenses

[A license issued under this part is valid for 5 years and may be renewed for additional 5-year periods. However, the validity of a license issued to a radio officer is conditioned on the continuous possession by the holder of a first-class or second-class radiotelegraph operator license issued by the Federal Communications Commission.

[§ 7107. Duration of certificates of registry

[A certificate of registry issued under this part is valid for 5 years and may be renewed for additional 5-year periods. However, 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.]

§ 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 continuous 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.

§ 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.

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§ 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 twelve 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) two 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.

CHAPTER 73—MERCHANT MARINERS' DOCUMENTS

Sec.
7301. General.

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[7305. Oaths for holders of merchant mariners' documents.]

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§ 7302. Issuing merchant mariners' documents and continuous discharge books

(a) * * *

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[(f) Except as provided in subsection (g), a merchant mariner's document issued under this chapter is valid for 5 years and may be renewed for additional 5-year periods.]

(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.

* * * * * * *

[§ 7305. Oaths for holders of merchant mariners' documents

[An applicant for a merchant mariner's document shall take, before issuance of the document, an oath that the applicant will perform faithfully and honestly all the duties required by law, and will carry out the lawful orders of superior officers.]

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CHAPTER 75—GENERAL PROCEDURES FOR LICENSING, CERTIFICATION, AND DOCUMENTATION

Sec.
7501. Duplicates.

* * * * * * *

7507. Fingerprinting.
7508. Authority to extend the duration of licenses, certificates of registry, and merchant mariner documents.

* * * * * * *

§ 7502. Records

(a) The Secretary shall maintain [computerized records] *records, including electronic records,* on the issuances, denials, suspensions, and revocations of licenses, certificates of registry, merchant mariners' documents, and endorsements on those licenses, certificates, and documents.

(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.

* * * * * * *

§ 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.

§ 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.

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PART F—MANNING OF VESSELS

CHAPTER 81—GENERAL

Sec.
8101. Complement of inspected vessels.

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8106. Riding gangs.

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CHAPTER 89—SMALL VESSEL MANNING

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§ 8905. Exemptions

(a) * * *

[(b) Section 8904 of this title does not apply to a vessel of less 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 engaged in the offshore mineral and oil industry if the vessel has offshore mineral and oil industry sites or equipment as its ultimate destination or place of departure.**]**

[(c)**]** *(b)* Section 8904 of this title does not apply to an oil spill response vessel while engaged in oil spill response or training activities.

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CHAPTER 103—FOREIGN AND INTERCOASTAL VOYAGES

* * * * * * *

§ 10313. Wages

(a) * * *

* * * * * * *

(g) [When] *(1) Subject to paragraph (2), when* payment is not made as provided under subsection (f) of this section without sufficient cause, the master or owner shall pay to the seaman 2 days' wages for each day payment is delayed.

(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.

* * * * * * *

§ 10315. Allotments

(a) * * *

* * * * * * *

(f) DEPOSITS IN SEAMAN ACCOUNT.—A seaman employed on a passenger vessel capable of carrying more than 500 passengers may authorize, by written request signed by the seaman, 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.

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CHAPTER 105—COASTWISE VOYAGES

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§ 10504. Wages

(a) * * *

* * * * * * *

(c) [When] *(1) Subject to subsection (d), and except as provided in paragraph (2), when* payment is not made as provided under subsection (b) of this section without sufficient cause, the master or owner shall pay to the seaman 2 days' wages for each day payment is delayed.

(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.

* * * * * * *

(f) DEPOSITS IN SEAMAN ACCOUNT.—A seaman employed on a passenger vessel capable of carrying more than 500 passengers may authorize, by written request signed by the seaman, 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.

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CHAPTER 113—OFFICIAL LOGBOOKS

Sec.
11301. Logbook and entry requirements.

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11304. Additional logbook and entry requirements.

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§ 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.

(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.

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PART H—IDENTIFICATION OF VESSELS

CHAPTER 121—DOCUMENTATION OF VESSELS

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SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION

§ 12111. Registry endorsement

(a) * * *

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(d) A vessel or facility for which a registry endorsement is not issued may not engage in regassifying on navigable waters unless the vessel or facility transported the gas from a foreign port.

* * * * * * *

§ 12113. Fishery endorsement

(a) * * *

* * * * * * *

(d) REQUIREMENTS BASED ON LENGTH, TONNAGE, OR HORSEPOWER.—

(1) * * *

(2) REQUIREMENTS.—A vessel subject to this subsection is not eligible for a fishery endorsement unless—

(A)(i) a certificate of documentation was issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997; *and*

(ii) the vessel is not placed under foreign registry after October 21, 1998; **[**and**]**

[(iii) if the fishery endorsement is invalidated after October 21, 1998, application is made for a new fishery endorsement within 15 business days of the invalidation; or**]**

(B) the owner of the vessel demonstrates to the Secretary that the regional fishery management council of jurisdiction established under section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)) has recommended after October 21, 1998, and the Secretary of Commerce has approved, con-

servation and management measures in accordance with the American Fisheries Act (Public Law 105–277, div. C, title II) (16 U.S.C. 1851 note) to allow the vessel to be used in fisheries under the council's authority[.]*; or*

(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.

* * * * * * *

PART J—MEASUREMENT OF VESSELS

CHAPTER 141—GENERAL

* * * * * * *

§ 14101. Definitions

In this part—

(1) * * *

* * * * * * *

(4) "vessel [engaged] *that engages* on a foreign voyage" means a vessel—

(A) [arriving] *that arrives* at a place under the jurisdiction of the United States from a place in a foreign country;

(B) [making] *that makes* a voyage between places outside the United States [(except a foreign vessel engaged on that voyage)];

(C) [departing] *that departs* from a place under the jurisdiction of the United States for a place in a foreign country; or

(D) [making] *that makes* a voyage between a place within a territory or possession of the United States and another place under the jurisdiction of the United States not within that territory or possession.

* * * * * * *

§ 14103. Delegation of authority

(a) * * *

* * * * * * *

(c) For a vessel [intended to be engaged on] *that engages on* a foreign voyage, the Secretary may delegate to another country that is a party to the Convention the authority to measure the vessel and issue an International Tonnage Certificate (1969) under chapter 143 of this title.

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CHAPTER 143—CONVENTION MEASUREMENT

Sec.
14301. Application.

* * * * * * *

[14303. International Tonnage Certificate (1969).]

14303. Tonnage Certificate.

* * * * * * *

§ 14301. Application

[(a) Except as otherwise provided in this section, this chapter applies to the following:

[(1) a documented vessel.

[(2) a vessel that is to be documented under chapter 121 of this title.

[(3) a vessel engaged on a foreign voyage.]

(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.

(b) This chapter does not apply to the following:

(1) a vessel of war[.]*, unless the government of the country to which the vessel belongs elects to measure the vessel under this chapter.*

* * * * * * *

(3) a vessel *of United States or Canadian registry or nationality, or a vessel operated under the authority of the United States or Canada, and that is* operating only on the Great Lakes, unless the owner requests.

(4) [a vessel (except a vessel engaged] *a vessel of United States registry or nationality, or one operated under the authority of the United States (except a vessel that engages* on a foreign voyage) the keel of which was laid or that was at a similar stage of construction before January 1, 1986, unless—

(A) * * *

* * * * * * *

[(5) before July 19, 1994, an existing vessel unless—

[(A) the owner requests; or

[(B) the vessel undergoes a change that the Secretary finds substantially affects the vessel's gross tonnage.]

[(6) a barge (except a barge engaged on a foreign voyage) unless the owner requests.]

(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.

[(c) A vessel made subject to this chapter at the request of the owner may be remeasured only as provided by this chapter.]

[(d) After July 18, 1994, an existing vessel (except an existing vessel referred to in subsection (b)(5)(A) or (B) of this section)] *(c) 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)* may retain its tonnages existing on July 18, 1994, for the application of relevant requirements under international agreements (except the Convention) and other laws of the United States. However, if the vessel undergoes a change substantially affecting its tonnage after July 18, 1994, the vessel shall be remeasured under this chapter.

[(e)] *(d)* This chapter does not affect an international agreement to which the United States Government is a party that is not in conflict with the Convention or the application of IMO Resolutions A.494 (XII) of November 19, 1981, A.540 (XIII) of November 17, 1983, and A.541 (XIII) of November 17, 1983.

§ 14302. Measurement

(a) * * *

[(b) Except as provided in section 1602(a) of the Panama Canal Act of 1979 (22 U.S.C. 3792(a)), a vessel measured under this chapter may not be required to be measured under another law.]

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

* * * * * * *

§ 14303. [International] Tonnage Certificate [(1969)]

(a) After measuring a vessel under this chapter, the Secretary shall issue, on request of the owner, an International Tonnage Certificate (1969) and deliver it to the owner or master of the vessel. *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) The certificate *issued under this section* shall be maintained as required by the Secretary.

* * * * * * *

§ 14305. Optional regulatory measurement

(a) On request of the owner of a [documented vessel measured under this chapter,] *vessel measured under this chapter that is of United States registry or nationality, or a vessel operated under the authority of the United States,* the Secretary also shall measure the vessel under chapter 145 of this title. The tonnages determined under that chapter shall be used in applying—

(1) * * *

* * * * * * *

CHAPTER 145—REGULATORY MEASUREMENT

SUBCHAPTER I—GENERAL

Sec.
14501. Application.

* * * * * * *

SUBCHAPTER II—FORMAL SYSTEMS

14511. Application.

* * * * * * *

14514. Reciprocity for foreign vessels.

* * * * * * *

SUBCHAPTER I—GENERAL

§ 14501. Application

This chapter applies to the following:

[(1) a vessel not measured under chapter 143 of this title if—

[(A) the vessel is to be documented under chapter 121 of this title; or

[(B) the application of a law of the United States to the vessel depends on the vessel's tonnage.]

(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.

(2) [a vessel] *A vessel* measured under chapter 143 of this title if the owner requests that the vessel also be measured under this chapter as provided in section 14305 of this title.

* * * * * * *

§ 14503. Certificate of measurement

(a) The Secretary shall prescribe the certificate to be issued as evidence of a vessel's measurement under this chapter.

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

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SUBCHAPTER II—FORMAL SYSTEMS

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§ 14513. Dual tonnage measurement

(a) * * *

* * * * * * *

(c)(1) If a [vessel's tonnage mark is below the uppermost part of the load line marks,] *vessel is assigned two sets of gross and net tonnages under this section,* each certificate stating the vessel's tonnages shall state the gross and net tonnages when the *vessel's tonnage* mark is submerged and when it is not submerged.

(2) Except as provided in paragraph (1) of this subsection, a certificate stating a vessel's tonnages may state only one set of gross and net tonnages[.] *as assigned under this section.*

§ 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.

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Subtitle VII—Security and Drug Enforcement

Chapter	Sec.
701. Port Security	**70101**
* * * * * * *	
707. Maritime Law Enforcement	***70701***

CHAPTER 701—PORT SECURITY

Sec.
70101. Definitions.

* * * * * * *

[70110. Actions and assistance for foreign ports and United States territories.]
70110. Actions and assistance for foreign ports or facilities and United States territories.

* * * * * * *

[70117. Firearms, arrests, and seizure of property.]

* * * * * * *

§ 70105. Transportation security cards

(a) * * *

* * * * * * *

(c) DETERMINATION OF TERRORISM SECURITY RISK.—

(1) * * *

* * * * * * *

(3) DENIAL OF WAIVER REVIEW.—

(A) * * *

* * * * * * *

(C) CLASSIFIED EVIDENCE.—The Secretary, in consultation with the [National Intelligence Director] *Director of National Intelligence*, shall issue regulations to establish procedures by which the Secretary, as part of a review conducted under this paragraph, may provide to the individual adversely affected by the determination an unclassified summary of classified evidence upon which the denial of a waiver by the Secretary was based.

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§ 70106. Maritime safety and security teams

(a) * * *

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[(c) COORDINATION WITH OTHER AGENCIES.—To the maximum extent feasible, each maritime safety and security team shall coordinate its activities with other Federal, State, and local law enforcement and emergency response agencies.]

(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 Fed-

eral, State, and local law enforcement and emergency response agencies.

* * * * * * *

§ 70110. Actions and assistance for foreign ports *or facilities* and United States territories

(a) IN GENERAL.—If the Secretary finds that a foreign port *or facility* does not maintain effective antiterrorism measures, the Secretary—

(1) may prescribe conditions of entry into the United States for any vessel arriving from that port *or facility*, or any vessel carrying cargo or passengers originating from or transshipped through that port *or facility*;

(2) may deny entry into the United States to any vessel that does not meet such conditions; and

(3) shall provide public notice for passengers of the ineffective antiterrorism measures.

(b) EFFECTIVE DATE FOR SANCTIONS.—Any action taken by the Secretary under subsection (a) for a particular port *or facility* shall take effect—

(1) 90 days after the government of the foreign country with jurisdiction over or control of that port *or facility* is notified under section 70109 unless the Secretary finds that the government has brought the antiterrorism measures at the port *or facility* up to the security level the Secretary used in making an assessment under section 70108 before the end of that 90-day period; or

(2) immediately upon the finding of the Secretary under subsection (a) if the Secretary finds, after consulting with the Secretary of State, that a condition exists that threatens the safety or security of passengers, vessels, or crew traveling to or from the port *or facility*.

(c) STATE DEPARTMENT TO BE NOTIFIED.—The Secretary immediately shall notify the Secretary of State of a finding that a port *or facility* does not maintain effective antiterrorism measures.

(d) ACTION CANCELED.—An action required under this section is no longer required if the Secretary decides that effective antiterrorism measures are maintained at the port *or facility*.

(e) ASSISTANCE FOR FOREIGN [PORTS] *PORTS, FACILITIES,* AND UNITED STATES TERRITORIES.—

(1) IN GENERAL.—The Secretary, in consultation with the Secretary of Transportation, the Secretary of State, and the Secretary of Energy, shall identify assistance programs that could facilitate implementation of port *or facility* security antiterrorism measures in foreign countries and territories of the United States. [The Secretary shall establish a program to utilize the programs that are capable of implementing port security antiterrorism measures at ports in foreign countries and territories of the United States that the Secretary finds to lack effective antiterrorism measures.] *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.*

(2) CARIBBEAN BASIN.—The Secretary, in coordination with the Secretary of State and in consultation with the Organization of American States and the Commandant of the Coast Guard, shall place particular emphasis on utilizing programs to facilitate the implementation of port *or facility* security antiterrorism measures at the ports located in the Caribbean Basin, as such ports pose unique security and safety threats to the United States due to—

(A) * * *

* * * * * * *

(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.

* * * * * * *

[§ 70117. Firearms, arrests, and seizure of property

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

[(1) carry a firearm; and

[(2) while at a facility—

[(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.]

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CHAPTER 705—MARITIME DRUG LAW ENFORCEMENT

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§ 70506. Penalties

(a) * * *

* * * * * * *

(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.

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Subtitle VIII—Miscellaneous

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CHAPTER 801—WRECKS AND SALVAGE

Sec.
80101. Vessel stranded on foreign coast.
[80102. License to salvage on Florida coast.]

* * * * * * *

[§ 80102. License to salvage on Florida coast

[(a) LICENSING REQUIREMENTS.—To be regularly employed in the business of salvaging on the coast of Florida, a vessel and its master each must have a license issued by a judge of the district court of the United States for a judicial district of Florida.

[(b) JUDICIAL FINDINGS.—Before issuing a license under this section, the judge must be satisfied, when the license is for—

[(1) a vessel, that the vessel is seaworthy and properly equipped for the business of saving property shipwrecked and in distress; or

[(2) a master, that the master is trustworthy and innocent of any fraud or misconduct related to property shipwrecked or saved on the coast.]

* * * * * * *

AMERICAN FISHERIES ACT

TITLE II—FISHERIES

Subtitle I—Fishery Endorsements

* * * * * * *

SEC. 203. ENFORCEMENT OF STANDARD.

(a) * * *

* * * * * * *

(g) CERTAIN VESSELS.—The vessels EXCELLENCE (United States official number 967502), GOLDEN ALASKA (United States official number 651041) *and*, OCEAN PHOENIX (United States official number 296779)**[**, 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)**]** shall be exempt from section 12102(c), as amended by this Act, until such time after October 1, 2001 as more than 50 percent of the interest owned and controlled in the vessel changes, provided that the vessel maintains eligibility for a fishery endorsement under the federal law that was in effect the day before the date of the enactment of this Act, and unless**[**, in the case of the NORTHERN TRAVELER or the NORTHERN VOYAGER (or such replacement), the vessel is used in any fishery under the authority of a regional fishery management council other than the New England Fishery Management Council or Mid-Atlantic Fishery Management Council established, respectively, under subparagraphs (A) and (B) of section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1) (A) and (B)), or in the case of the EXCELLENCE, GOLDEN ALASKA, or OCEAN PHOENIX,**]** the vessel is used to harvest any fish.

* * * * * * *

Subtitle II—Bering Sea Pollock Fishery

* * * * * * *

SEC. 208. ELIGIBLE VESSELS AND PROCESSORS.

(a) * * *

* * * * * * *

[(g) REPLACEMENT VESSELS.—In the event of the actual total loss or constructive total loss of a vessel eligible under subsections (a), (b), (c), (d), or (e), the owner of such vessel may replace such vessel with a vessel which shall be eligible in the same manner under that subsection as the eligible vessel, provided that—

[(1) such loss was caused by an act of God, an act of war, a collision, an act or omission of a party other than the owner or agent of the vessel, or any other event not caused by the willful misconduct of the owner or agent;

[(2) the replacement vessel was built in the United States and if ever rebuilt, was rebuilt in the United States;

[(3) the fishery endorsement for the replacement vessel is issued within 36 months of the end of the last year in which the eligible vessel harvested or processed pollock in the directed pollock fishery;

[(4) if the eligible vessel is greater than 165 feet in registered length, of more than 750 gross registered tons (as measured under chapter 145 of title 46) or 1,900 gross registered tons as measured under chapter 143 of that title), or has engines capable of producing more than 3,000 shaft horsepower, the replacement vessel is of the same or lesser registered length, gross registered tons, and shaft horsepower;

[(5) if the eligible vessel is less than 165 feet in registered length, of fewer than 750 gross registered tons, and has engines incapable of producing less than 3,000 shaft horsepower, the replacement vessel is less than each of such thresholds and does not exceed by more than 10 percent the registered length, gross registered tons or shaft horsepower of the eligible vessel; and

[(6) the replacement vessel otherwise qualifies under federal law for a fishery endorsement, including under section 12102(c) of title 46, United States Code, as amended by this Act.]

(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 2007 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 subsection 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 2007.

(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.

* * * * * * *

SEC. 210. FISHERY COOPERATIVE LIMITATIONS.

(a) * * *

(b) CATCHER VESSELS ONSHORE.—

(1) CATCHER VESSEL COOPERATIVES.—Effective January 1, 2000, upon the filing of a contract implementing a fishery cooperative under subsection (a) which—

(A) * * *

* * * * * * *

the Secretary shall allow only such catcher vessels (and catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) to harvest the aggregate percentage of the directed fishing allowance under section 206(b)(1) in the year in which the fishery cooperative will be in effect that is equivalent to the aggregate total amount of pollock harvested by such catcher vessels (and by such catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) in the directed pollock fishery for processing by the inshore component during 1995, 1996, and 1997 relative to the aggregate total amount of pollock harvested in the directed pollock fishery for processing by the inshore component during such years and shall prevent such catcher vessels (and catcher vessels whose owners voluntarily participate pursuant to paragraph (2)) from harvesting in aggregate in excess of such percentage of such directed fishing allowance.

* * * * * * *

(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 2007; 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.

* * * * * * *

SECTION 4 OF THE ACT OF JULY 5, 1884

(Commonly known as the Rivers and Harbors Appropriation Act of 1884)

SEC. 4. (a) * * *

(b) No taxes, tolls, operating charges, fees, or any other impositions whatever shall be levied upon or collected from any vessel or other water craft, or from its passengers or crew, by any non-Federal interest, if the vessel or water craft is operating on any navigable waters subject to the authority of the United States, or under the right to freedom of navigation on those waters, except for—

(1) * * *

(2) reasonable fees charged on a fair and equitable basis that—

(A) * * *

* * * * * * *

(C) do not impose more than a small burden on interstate or foreign commerce; **[**or**]**

(3) property taxes on vessels or watercraft, other than vessels or watercraft that are primarily engaged in foreign commerce if those taxes are permissible under the United States Constitution**[**.**]***; or*

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

SECTION 7 OF THE RIVERS AND HARBORS APPROPRIATIONS ACT OF 1915

SEC. 7. **[**That the**]** *(a) IN GENERAL.—The* Secretary of Homeland Security is hereby authorized, empowered, and directed to define and establish anchorage grounds for vessels in all harbors, rivers, bays, and other navigable waters of the United States whenever it is manifest to the said Secretary that the maritime or commercial

interests of the United States require such anchorage grounds for safe navigation and the establishment of such anchorage grounds shall have been recommended by the Chief of Engineers, and to adopt suitable rules and regulations in relation thereto; and such rules and regulations shall be enforced by the Revenue-Cutter Service under the direction of the Secretary of the Treasury: *Provided,* That at ports or places where there is no revenue cutter available such rules and regulations may be enforced by the Chief of Engineers under the direction of the Secretary of Homeland Security. In the event of the violation of any such rules and regulations by the owner, master, or person in charge of any vessel, such owner, master, or person in charge of such vessel shall be liable to a penalty of **[**$100; and the**]** *up to $10,000. Each day during which a violation continues shall constitute a separate violation. The* said vessel may be holden for the payment of such penalty, and may be seized and proceeded against summarily by libel for the recovery of the same in any United States district court for the district within which such vessel may be and in the name of the officer designated by the Secretary of Homeland Security.

(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.

OIL POLLUTION ACT OF 1990

* * * * * * *

SEC. 2. TABLE OF CONTENTS.

The contents of this Act are as follows:

* * * * * * *

TITLE VII—OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM

Sec. 7001. Oil pollution research and development program.
Sec. 7002. Submerged oil program.

* * * * * * *

TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION

* * * * * * *

SEC. 1004. LIMITS ON LIABILITY.

(a) GENERAL RULE.—Except as otherwise provided in this section, the total of the liability of a responsible party under section 1002 and any removal costs incurred by, or on behalf of, the responsible party, with respect to each incident shall not exceed—

(1) * * *

(2) for any other vessel, $950 per gross ton or $800,000**[**,**]**, whichever is greater;

* * * * * * *

(d) ADJUSTING LIMITS OF LIABILITY.—

(1) * * *

(2) DEEPWATER PORTS AND ASSOCIATED VESSELS.—

(A) * * *

* * * * * * *

(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. 1012. USES OF THE FUND.

(a) * * *

* * * * * * *

(h) PERIOD OF LIMITATIONS FOR CLAIMS.—

(1) REMOVAL COSTS.—No claim may be presented under this title for recovery of removal costs for an incident unless the claim is presented within [6] *3* years after the date of completion of all removal actions for that incident.

* * * * * * *

COAST GUARD AUTHORIZATION ACT OF 1996

* * * * * * *

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.

* * * * * * *

Sec. 103. Quarterly [reports] *report* on drug interdiction.

* * * * * * *

TITLE XI—MISCELLANEOUS

* * * * * * *

SEC. 1120. DOCUMENTATION OF CERTAIN VESSELS.

(a) * * *

* * * * * * *

(c) CERTIFICATES OF DOCUMENTATION FOR GALLANT LADY.—

(1) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289), and section 12106 of title 46, United States Code, and subject to paragraph (2), the Secretary [of Transportation] *of the department in which the Coast Guard is operating* may issue a certificate of documentation with an appropriate endorsement for employment in coastwise trade for each of the following vessels:

[(A) GALLANT LADY (Feadship hull number 645, approximately 130 feet in length).]

(A) the vessel GALLANT LADY (Feadship hull number 672, approximately 168 feet in length).

* * * * * * *

[(3) CONDITION.—The Secretary may not issue a certificate of documentation for a vessel under paragraph (1) unless, not

later than 90 days after the date of enactment of this Act, the owner of the vessel referred to in paragraph (1)(B) submits to the Secretary a letter expressing the intent of the owner to, before April 1, 1998, enter into a contract for the construction in the United States of a passenger vessel of at least 130 feet in length.

[(4) EFFECTIVE DATE OF CERTIFICATES.—A certificate of documentation issued under paragraph (1) shall take effect—

[(A) for the vessel referred to in paragraph (1)(A), on the date of the issuance of the certificate; and

[(B) for the vessel referred to in paragraph (1)(B), on the date of delivery of the vessel to the owner.]

[(5)] *(3)* TERMINATION OF EFFECTIVENESS OF CERTIFICATES.—A certificate of documentation issued for a vessel under paragraph (1) shall expire[—

[(A) on the date of the sale of the vessel by the owner;

[(B) on April 1, 1998, if the owner of the vessel referred to in paragraph (1)(B) has not entered into a contract for construction of a vessel in accordance with the letter of intent submitted to the Secretary under paragraph (3); or

[(C) on such date as a contract referred to in paragraph (2) is breached, rescinded, or terminated (other than for completion of performance of the contract) by the owner of the vessel referred to in paragraph (1)(B).] *on the date of the sale of the vessel by the owner.*

* * * * * * *

COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2006

* * * * * * *

TITLE III—SHIPPING AND NAVIGATION

* * * * * * *

SEC. 311. INTERNATIONAL TONNAGE MEASUREMENT OF VESSELS ENGAGED IN THE ALEUTIAN TRADE.

(a) * * *

(b) OTHER INSPECTION EXEMPTION AND WATCH REQUIREMENT.—Paragraphs (3)(B) and (4) of section 3302(c) of title 46, United States Code, and *paragraphs (1) and (2) of* section 8104(o) of that title are each amended by striking "or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title" and inserting "or less than 500 gross tons as measured under section 14502 of this title, or is less than 2,500 gross tons as measured under section 14302 of this title".

* * * * * * *

TITLE VI—DELAWARE RIVER PROTECTION AND MISCELLANEOUS OIL PROVISIONS

* * * * * * *

SEC. 603. LIMITS ON LIABILITY.

(a) ADJUSTMENT OF LIABILITY LIMITS.—

(1) * * *

(2) OTHER VESSELS.—Section 1004(a)(2) of such Act (**[**33 U.S.C. 2794(a)(2)**]** *33 U.S.C. 2704(a)(2)*) is amended—

(A) * * *

* * * * * * *

TITLE IX—TECHNICAL CORRECTIONS

SEC. 901. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) * * *

* * * * * * *

(r) CORRECTIONS TO DINGELL-JOHNSON SPORT FISH RESTORATION ACT.—

(1) * * *

(2) SECTION 14.—Section 14(a)(1) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777m(a)(1)) is amended by striking "For each of **[**the**]** fiscal years 2006 through 2009, not more than" and inserting "Not more than".

SEC. 902. CORRECTION OF REFERENCES TO SECRETARY OF TRANSPORTATION AND DEPARTMENT OF TRANSPORTATION; RELATED MATTERS.

(a) * * *

* * * * * * *

(c) PUBLIC CONTRACTS.—Section 3732 of the Revised Statutes *of the United States* (41 U.S.C. 11) is amended by striking "of Transportation" each place it appears and inserting "of Homeland Security".

* * * * * * *

(e) SHIPPING.—Title 46, United State Code, is amended—

(1) in section 2109 by striking "a Coast Guard or"; *and*

(2) in section 6308—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; **[**and**]**

* * * * * * *

[(3)**]** *(C)* in subsection (c), as redesignated by this **[**section**]** *paragraph*, by striking "subsection (a)" and inserting "subsections (a) and (b)"; and

[(4)**]** *(D)* in subsection (d), as redesignated by this **[**section**]** *paragraph*, by striking "subsections (a) and (b)" and inserting "subsections (a), (b), and (c)".

* * * * * * *

(h) CONSERVATION.—

(1) SECTION 1029.—Section 1029(e)(2)(B) of the [Bisti/De-Na-Zin Wilderness Expansion and Fossil Protection] *Omnibus Parks and Public Lands Management* Act of 1996 (16 U.S.C. 460kkk(e)(2)(B)) is amended by striking "Secretary of Transportation, to represent the United States Coast Guard." and inserting "Commandant of the Coast Guard.".

* * * * * * *

(k) BRIDGES.—Section 4 of *the Act of March 23, 1906, commonly known as* the General Bridge Act of 1906 (33 U.S.C. [491)] *494),* is amended by striking "of Transportation" *each place it appears* and inserting "of Homeland Security".

* * * * * * *

(o) MERCHANT MARINE ACT, 1920.—Section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883) is amended in the matter following the ninth proviso (pertaining to transportation of a foreign-flag incineration vessel) by striking "Satisfactory inspection shall be certified in writing by the Secretary of Transportation" and inserting "Satisfactory inspection shall be certified, in writing, by the Secretary of Homeland Security[.]".

* * * * * * *

DEEPWATER PORT ACT OF 1974

* * * * * * *

PROCEDURE

SEC. 5. (a) * * *

* * * * * * *

(c)(1) * * *

(2) Each application shall include such financial, technical, and other information as the Secretary deems necessary or appropriate. Such information shall include, but need not be limited to—

(A) * * *

* * * * * * *

(K) the nation of registry for, and the nationality or citizenship of officers and crew serving on board, vessels transporting natural gas that are reasonably anticipated to be servicing the deepwater port;

* * * * * * *

ACT OF OCTOBER 13, 2006

(Public Law 109–347)

AN ACT To improve maritime and cargo security through enhanced layered defenses, and for other purposes.

* * * * * * *

TITLE VII—OTHER MATTERS

* * * * * * *

SEC. 705. PHASEOUT OF VESSELS SUPPORTING OIL AND GAS DEVELOPMENT.

(a) IN GENERAL.—Notwithstanding section 12105(c) of title 46, United States Code, a foreign-flag vessel may be chartered by, or on behalf of, a lessee to be employed for the setting, relocation, or recovery of anchors or other mooring equipment of a mobile offshore drilling unit that is located over the Outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)) for operations in support of exploration, or flow-testing and stimulation of wells, for offshore mineral or energy resources in the Beaufort Sea or the Chukchi Sea adjacent to Alaska—

(1) * * *

(2) for an additional [2] *3*-year period beginning January 1, 2010, if the Secretary of Transportation determines —

(A) * * *

* * * * * * *

NONINDIGENOUS AQUATIC NUISANCE PREVENTION AND CONTROL ACT OF 1990

TITLE I—AQUATIC NUISANCE PREVENTION AND CONTROL

Subtitle A—General Provisions

* * * * * * *

SEC. 1002. FINDINGS AND PURPOSES.

(a) * * *

(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.

[(b)] *(c)* PURPOSES.—The purposes of this Act are—

(1) to [prevent] *eliminate* unintentional introduction and dispersal of nonindigenous species into waters of the United

States through ballast water *treatment* management and other requirements;

(2) to coordinate federally conducted, funded or authorized research, prevention*, detection, monitoring,* control, information dissemination and other activities regarding [the zebra mussel and other] aquatic nuisance species;

(3) to develop and carry out environmentally sound control methods to prevent, *detect,* monitor and control unintentional introductions of nonindigenous species [from pathways other than ballast water exchange];

(4) to understand and minimize economic and ecological impacts of nonindigenous aquatic nuisance species that become established[, including the zebra mussel]; and

(5) to establish a program of research and technology development and assistance to States in the *prevention,* management*,* and removal of [zebra mussels] *aquatic nuisance species*.

SEC. 1003. DEFINITIONS.

As used in this Act, the term—

(1) "Administrator" means the Administrator of the Environmental Protection Agency;

[(1)] *(2)* "aquatic nuisance species" means a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural or recreational activities dependent on such waters;

[(2)] *(3)* "Assistant Secretary" means the Assistant Secretary of the Army (Civil Works);

[(3) "ballast water" means any water and associated sediments used to manipulate the trim and stability of a vessel;]

(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) "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;

[(4)**]** *(8)* "Director" means the Director of the United States Fish and Wildlife Service;

[(5)**]** *(9)* "exclusive economic zone" means the Exclusive Economic Zone of the United States established by Proclamation Number 5030, dated March 10, 1983, and the equivalent zone of Canada;

[(6)**]** *(10)* "environmentally sound" methods, efforts, actions or programs means methods, efforts, actions or programs to prevent introductions or control infestations of aquatic nuisance species that minimize adverse impacts to the structure and function of an ecosystem and adverse effects on non-target organisms and ecosystems and emphasize integrated pest management techniques and nonchemical measures;

(11) "foreign vessel" has the meaning such term has under section 110 of title 46, United States Code;

[(7)**]** *(12)* "Great Lakes" means Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, Lake Superior, and the connecting channels (Saint Mary's River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the Canandian Border), and includes all other bodies of water within the drainage basin of such lakes and connecting channels**[**.**]***;*

[(8)**]** *(13)* "Great Lakes region" means the 8 States that border on the Great Lakes;

[(9)**]** *(14)* "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

[(10)**]** *(15)* "interstate organization" means an entity—

(A) * * *

* * * * * * *

(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);

[(11)**]** *(17)* "nonindigenous species" means any species or other viable biological material that enters an ecosystem beyond its historic range, including any such organism transferred from one country into another;

[(12)**]** *(18)* "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(19) "sediment" means matter that has settled out of ballast water within a vessel;

[(13)**]** *(20)* "Task Force" means the Aquatic Nuisance Species Task Force established under section 1201 of this Act;

[(14)] *(21)* "territorial sea" means the belt of the sea measured from the baseline of the United States determined in accordance with international law, as set forth in Presidential Proclamation Number 5928, dated December 27, 1988;

[(15)] *(22)* "Under Secretary" means the Under Secretary of Commerce for Oceans and Atmosphere;

[(17)] *(23)* "unintentional introduction" means an introduction of nonindigenous species that occurs as the result of activities other than the purposeful or intentional introduction of the species involved, such as the transport of nonindigenous species in ballast or in water used to transport fish, mollusks or crustaceans for aquaculture or other purposes[.]*;*

(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;

[(16)] *(27)* "waters of the United States" means the navigable waters and the territorial sea of the United States; and

(28) "waters subject to the jurisdiction of the United States" means navigable waters and the territorial sea of the United States, the exclusive economic zone, and the Great Lakes.

Subtitle B—Prevention of Unintentional Introductions of Nonindigenous Aquatic Species

[SEC. 1101. AQUATIC NUISANCE SPECIES IN WATERS OF THE UNITED STATES.

[(a) GREAT LAKES GUIDELINES.—

[(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the exchange of ballast water of vessels prior to entering those waters.

[(2) CONTENT OF GUIDELINES.—The guidelines issued under this subsection shall—

[(A) ensure to the maximum extent practicable that ballast water containing aquatic nuisance species is not discharged into the Great Lakes;

[(B) protect the safety of—

[(i) each vessel; and

[(ii) the crew and passengers of each vessel;

[(C) take into consideration different vessel operating conditions; and

[(D) be based on the best scientific information available.

[(b) REGULATIONS.—

[(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary, in consultation with the Task Force, shall issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through the ballast water of vessels.

[(2) CONTENT OF REGULATIONS.—The regulations issued under this subsection shall—

[(A) apply to all vessels equipped with ballast water tanks that enter a United States port on the Great Lakes after operating on the waters beyond the exclusive economic zone;

[(B) require a vessel to—

[(i) carry out exchange of ballast water on the waters beyond the exclusive economic zone prior to entry into any port within the Great Lakes;

[(ii) carry out an exchange of ballast water in other waters where the exchange does not pose a threat of infestation or spread of aquatic nuisance species in the Great Lakes and other waters of the United States, as recommended by the Task Force under section 1102(a)(1); or

[(iii) use environmentally sound alternative ballast water management methods if the Secretary determines that such alternative methods are as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species;

[(C) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.);

[(D) provide for sampling procedures to monitor compliance with the requirements of the regulations;

[(E) prohibit the operation of a vessel in the Great Lakes if the master of the vessel has not certified to the Secretary or the Secretary's designee by not later than the departure of that vessel from the first lock in the St. Lawrence Seaway that the vessel has complied with the requirements of the regulations;

[(F) protect the safety of—

[(i) each vessel; and

[(ii) the crew and passengers of each vessel;

[(G) take into consideration different operating conditions; and

[(H) be based on the best scientific information available.

[(3) ADDITIONAL REGULATIONS.—In addition to promulgating regulations under paragraph (1), the Secretary, in consultation with the Task Force, shall, not later than November 4, 1994, issue regulations to prevent the introduction and spread of aquatic nuisance species into the Great Lakes through ballast water carried on vessels that enter a United States port on the Hudson River north of the George Washington Bridge.

[(4) EDUCATION AND TECHNICAL ASSISTANCE PROGRAMS.—The Secretary may carry out education and technical assistance programs and other measures to promote compliance with the regulations issued under this subsection.

[(c) VOLUNTARY NATIONAL GUIDELINES.—

[(1) IN GENERAL.—Not later than 1 year after the date of enactment of the National Invasive Species Act of 1996, and after providing notice and an opportunity for public comment, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of nonindigenous species in waters of the United States by ballast water operations and other operations of vessels equipped with ballast water tanks.

[(2) CONTENT OF GUIDELINES.—The voluntary guidelines issued under this subsection shall—

[(A) ensure to the maximum extent practicable that aquatic nuisance species are not discharged into waters of the United States from vessels;

[(B) apply to all vessels equipped with ballast water tanks that operate in waters of the United States;

[(C) protect the safety of—

[(i) each vessel; and

[(ii) the crew and passengers of each vessel;

[(D) direct a vessel that is carrying ballast water into waters of the United States after operating beyond the exclusive economic zone to—

[(i) carry out the exchange of ballast water of the vessel in waters beyond the exclusive economic zone;

[(ii) exchange the ballast water of the vessel in other waters where the exchange does not pose a threat of infestation or spread of nonindigenous species in waters of the United States, as recommended by the Task Force under section 1102(a)(1); or

[(iii) use environmentally sound alternative ballast water management methods, including modification of the vessel ballast water tanks and intake systems, if the Secretary determines that such alternative methods are at least as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species;

[(E) direct vessels to carry out management practices that the Secretary determines to be necessary to reduce the probability of unintentional nonindigenous species transfer resulting from—

[(i) ship operations other than ballast water discharge; and

[(ii) ballasting practices of vessels that enter waters of the United States with no ballast water on board;

[(F) provide for the keeping of records that shall be submitted to the Secretary, as prescribed by the guidelines, and that shall be maintained on board each vessel and made available for inspection, upon request of the Secretary and in a manner consistent with subsection (i), in order to enable the Secretary to determine compliance with the guidelines, including—

[(i) with respect to each ballast water exchange referred to in clause (ii), reporting on the precise location and thoroughness of the exchange; and

[(ii) any other information that the Secretary considers necessary to assess the rate of effective compliance with the guidelines;

[(G) provide for sampling procedures to monitor compliance with the guidelines;

[(H) take into consideration—

[(i) vessel types;

[(ii) variations in the characteristics of point of origin and receiving water bodies;

[(iii) variations in the ecological conditions of waters and coastal areas of the United States; and

[(iv) different operating conditions;

[(I) be based on the best scientific information available;

[(J) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

[(K) provide an exemption from ballast water exchange requirements to passenger vessels with operating ballast water systems that are equipped with treatment systems designed to kill aquatic organisms in ballast water, unless the Secretary determines that such treatment systems are less effective than ballast water exchange at reducing the risk of transfers of invasive species in the ballast water of passenger vessels; and

[(L) not apply to crude oil tankers engaged in the coastwise trade.

[(3) EDUCATION AND TECHNICAL ASSISTANCE PROGRAMS.—Not later than 1 year after the date of enactment of the National Invasive Species Act of 1996, the Secretary shall carry out education and technical assistance programs and other measures to encourage compliance with the guidelines issued under this subsection.

[(d) REPORT TO CONGRESS.—Not sooner than 24 months after the date of issuance of guidelines pursuant to subsection (c) and not later than 30 months after such date, and after consultation with interested and affected persons, the Secretary shall prepare and submit to Congress a report containing the information required pursuant to paragraphs (1) and (2) of subsection (e).

[(e) PERIODIC REVIEW AND REVISION.—

[(1) IN GENERAL.—Not later than 3 years after the date of issuance of guidelines pursuant to subsection (c), and not less frequently than every 3 years thereafter, the Secretary shall, in accordance with criteria developed by the Task Force under paragraph (3)—

[(A) assess the compliance by vessels with the voluntary guidelines issued under subsection (c) and the regulations promulgated under this Act;

[(B) establish the rate of compliance that is based on the assessment under subparagraph (A);

[(C) assess the effectiveness of the voluntary guidelines and regulations referred to in subparagraph (A) in reduc-

ing the introduction and spread of aquatic nuisance species by vessels; and

[(D) as necessary, on the basis of the best scientific information available—

[(i) revise the guidelines and regulations referred to in subparagraph (A);

[(ii) promulgate additional regulations pursuant to subsection (f)(1); or

[(iii) carry out each of clauses (i) and (ii).

[(2) SPECIAL REVIEW AND REVISION.—Not later than 90 days after the Task Force makes a request to the Secretary for a special review and revision for coastal and inland waterways designated by the Task Force, the Secretary shall—

[(A) conduct a special review of guidelines and regulations applicable to those waterways in accordance with the review procedures under paragraph (1); and

[(B) as necessary, in the same manner as provided under paragraph (1)(D)—

[(i) revise those guidelines;

[(ii) promulgate additional regulations pursuant to subsection (f)(1); or

[(iii) carry out each of clauses (i) and (ii).

[(3) CRITERIA FOR EFFECTIVENESS.—Not later than 18 months after the date of enactment of the National Invasive Species Act of 1996, the Task Force shall submit to the Secretary criteria for determining the adequacy and effectiveness of the voluntary guidelines issued under subsection (c).

[(f) AUTHORITY OF SECRETARY.—

[(1) GENERAL REGULATIONS.—If, on the basis of a periodic review conducted under subsection (e)(1) or a special review conducted under subsection (e)(2), the Secretary determines that—

[(A) the rate of effective compliance (as determined by the Secretary) with the guidelines issued pursuant to subsection (c) is inadequate; or

[(B) the reporting by vessels pursuant to those guidelines is not adequate for the Secretary to assess the compliance with those guidelines and provide a rate of compliance of vessels, including the assessment of the rate of compliance of vessels under subsection (e)(2),

the Secretary shall promptly promulgate regulations that meet the requirements of paragraph (2).

[(2) REQUIREMENTS FOR REGULATIONS.—The regulations promulgated by the Secretary under paragraph (1)—

[(A) shall—

[(i) not be promulgated sooner than 180 days following the issuance of the report to Congress submitted pursuant to subsection (d);

[(ii) make mandatory the requirements included in the voluntary guidelines issued under subsection (c); and

[(iii) provide for the enforcement of the regula-tions; and

[(B) may be regional in scope.

[(3) INTERNATIONAL REGULATIONS.—The Secretary shall revise regulations promulgated under this subsection to the ex-

tent required to make such regulations consistent with the treatment of a particular matter in any international agreement, agreed to by the United States, governing management of the transfer of nonindigenous aquatic species by vessel.

[(g) SANCTIONS.—

[(1) CIVIL PENALTIES.—Any person who violates a regulation promulgated under subsection (b) or (f) shall be liable for a civil penalty in an amount not to exceed $25,000. Each day of a continuing violation constitutes a separate violation. A vessel operated in violation of the regulations is liable in rem for any civil penalty assessed under this subsection for that violation.

[(2) CRIMINAL PENALTIES.—Any person who knowingly violates the regulations promulgated under subsection (b) or (f) is guilty of a class C felony.

[(3) REVOCATION OF CLEARANCE.—Upon request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance of a vessel required by section 4197 of the Revised Statutes (46 U.S.C. App. 91), if the owner or operator of that vessel is in violation of the regulations issued under subsection (b) or (f).

[(4) EXCEPTION TO SANCTIONS.—This subsection does not apply to a failure to exchange ballast water if—

[(A) the master of a vessel, acting in good faith, decides that the exchange of ballast water will threaten the safety or stability of the vessel, its crew, or its passengers; and

[(B) the recordkeeping and reporting requirements of the Act are complied with.

[(h) COORDINATION WITH OTHER AGENCIES.—In carrying out the programs under this section, the Secretary is encouraged to use, to the maximum extent practicable, the expertise, facilities, members, or personnel of established agencies and organizations that have routine contact with vessels, including the Animal and Plant Health Inspection Service of the Department of Agriculture, the National Cargo Bureau, port administrations, and ship pilots' associations.

[(i) CONSULTATION WITH CANADA, MEXICO, AND OTHER FOREIGN GOVERNMENTS.—In developing the guidelines issued and regulations promulgated 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, in 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 nonindigenous species.

[(j) INTERNATIONAL COOPERATION.—The Secretary, in cooperation with 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 nonindigenous species.

[(k) SAFETY EXEMPTION.—

[(1) MASTER DISCRETION.—The master of a vessel is not required to conduct a ballast water exchange if the master de-

cides that the exchange would threaten the safety or stability of the vessel, its crew, or its passengers because of adverse weather, vessel architectural design, equipment failure, or any other extraordinary conditions.

[(2) OTHER REQUIREMENTS.—(A) IN GENERAL.—Except as provided in subparagraph (B), a vessel that does not exchange ballast water on the high seas under paragraph (1) shall not be restricted from discharging ballast water in any harbor.

[(B) GREAT LAKES.—Subparagraph (A) shall not apply in a case in which a vessel is subject to the regulations issued by the Secretary under subsection (b).

[(3) CRUDE OIL TANKER BALLAST FACILITY STUDY.—(A) Within 60 days of the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, affected shoreside ballast water facility operators, affected crude oil tanker operators, and interested parties, shall initiate a study of the effectiveness of existing shoreside ballast water facilities used by crude oil tankers in the coastwise trade off Alaska in preventing the introduction of nonindigenous aquatic species into the waters off Alaska, as well as the cost and feasibility of modifying such facilities to improve such effectiveness.

[(B) The study required under subparagraph (A) shall be submitted to the Congress by no later than October 1, 1997.

[(l) NON-DISCRIMINATION.—The Secretary shall ensure that vessels registered outside of the United States do not receive more favorable treatment than vessels registered in the United States when the Secretary performs studies, reviews compliance, determines effectiveness, establishes requirements, or performs any other responsibilities under this Act.]

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—

(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.

(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 with the criteria described in subparagraph (A) issued by the vessel's country of registration in accordance with 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) 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 RECORDKEEPING.—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) 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 aquatice nuisance species if preliminary experiments prior to installation of the technology aboard the vessel demonstrate that the technology removed or killed at least 98 percent of organisms larger than 50 microns.

(2) GUIDANCE; 5-YEAR USAGE.—

(A) GUIDANCE.—Not later than one year after the date of enactment of the Ballast Water Treatment Act of 2007, 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 is 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 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 cir-

cumstances 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—

(A) if the vessel operates exclusively—

(i) within the Great Lakes; 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) MARINE SANCTUARIES AND OTHER PROHIBITED AREAS.—A vessel may not conduct ballast water exchange or discharge ballast water under this subsection—

(A) within a national marine sanctuary designated under of the National Marine Sanctuaries Act (16 U.S.C. 1431 et seq.);

(B) 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

(C) in any other waters designated by the Secretary, in consultation with the Under Secretary and the Administrator.

(9) VESSELS WITHOUT PUMPABLE BALLAST WATER.—

(A) APPLICABILITY OF REQUIREMENTS.—Ballast water exchange requirements under this subsection shall apply to vessels that are equipped with ballast water tanks and that enter a port of the United States without pumpable ballast water.

(B) REGULATIONS.—The Secretary shall issue regulations, not later than 180 days after the date of enactment of the Ballast Water Treatment Act of 2007, that are intended to minimize the introduction of nuisance species from vessels that enter the navigable waters without pumpable ballast water, including the requirements that apply under subparagraph (A), and that are at least as stringent as the regulations in effect on the date of enactment such Act.

(C) APPLICATION OF EXISTING REGULATIONS.—The regulations issued by the Secretary under this section, as such regulations were in effect on the day before the date of enactment of the Ballast Water Treatment Act of 2007, shall continue to apply to vessels without pumpable ballast water entering or operating on the navigable waters until the earlier of—

(i) the date on which such vessels are required to conduct ballast water treatment, in accordance with the requirements of subsection (f); or

(ii) the effective date of final regulations required under this paragraph.

(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 discharging 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 as may be specified in regulations issued by the Secretary, after consultation with other appropriate Federal agencies as determined by the Secretary, 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 2007, 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.—Paragraph (1) applies to a vessel to which this section applies beginning on the date of the first dry-docking of the vessel after December 31, 2008, but not later than December 31, 2013.

(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 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) REQUIREMENT TO REVIEW.—The Secretary shall periodically conduct a review to determine whether appropriate technologies are available to achieve the standards set forth in paragraph (1). In reviewing technologies under this subparagraph, the Secretary, after consultation with 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) DEADLINES.—The Secretary shall—

(i) complete an initial review of technologies under subparagraph (A) within 12 months after the date of the enactment of the Ballast Water Treatment Act of 2007; and

(ii) carry out subsequent reviews of technologies under subparagraph (A) no later than 24 months after the date that the previous review was completed.

(C) DELAY IN SCHEDULED APPLICATION.—If the Secretary determines, on the basis of the initial review or any subsequent review conducted under this paragraph, that compliance with the standards set forth in paragraph (1) is not feasible for any class of vessels, the Secretary shall—

(i) delay the date on which such standards apply to that class of vessels for a period of not more than 24 months; and

(ii) recommend action to ensure such compliance in accordance with the revised implementation schedule for that class of vessels by the date established under clause (i).

(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 technologies 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 Secretary shall complete review of ballast water treatment standards in effect under this subsection to determine, after consultation with the Administrator and the heads of other appropriate Federal agencies determined by 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 Secretary shall revise, by regulation, the requirements of this subsection as necessary.

(B) APPLICATION OF ADJUSTED STANDARDS.—In the regulations, the Secretary 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 VESSELS.—

(A) VESSEL LIST.—Not later than one year after the date of enactment of the Ballast Water Treatment Act of 2007, the Secretary shall publish and regularly update a list of vessels 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 an area if the Secretary has determined through a rulemaking proceeding, after consultation with the Administrator and the heads of other appropriate Federal agencies as determined by the Secretary, and rep-

resentatives 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 shall be presumed not to pose a significant risk of introducing aquatic nuisance species unless the Secretary finds otherwise in a rulemaking proceeding under subparagraph (A).

(C) BEST PRACTICES.—The Secretary 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) LABORATORIES.—The Secretary may use any Federal, non-Federal, or foreign laboratory that meets standards established by the Secretary for the purpose of evaluating and certifying ballast water treatment technologies that meet the requirements of this subsection.

(12) PROGRAM TO SUPPORT THE PROMULGATION AND IMPLEMENTATION OF STANDARDS.—

(A) IN GENERAL.—The Secretary, 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 guidance 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 ade-

quate 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) SUSPENSION OF FEDERAL AUTHORITIES.—Not later than 90 days after the date on which a State submits a program (or revision thereof) under this paragraph, the Secretary shall suspend its authorities under subsections (k) and (l) in such State, unless the Secretary determines that

the State program does not meet the requirements of this paragraph. If the Secretary so determines, the Secretary shall notify the State of any revisions or modifications necessary to conform to such requirements.

(D) 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.

(E) 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.

(F) 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.

(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.

(l) 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, 1983 (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) 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.

(r) 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 2007, 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 2007, 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.

SEC. 1102. NATIONAL BALLAST WATER MANAGEMENT INFORMATION.

(a) * * *

(b) ECOLOGICAL AND BALLAST WATER DISCHARGE SURVEYS.—

(1) ECOLOGICAL SURVEYS.—

(A) * * *

(B) REQUIREMENTS FOR SURVEYS.—In conducting the surveys under this paragraph, the Task Force shall, with respect to each such survey—

(i) * * *

(ii) provide an estimate of the effectiveness of ballast water management and other vessel management [guidelines issued and] regulations promulgated under this subtitle in abating invasions of aquatic nuisance species in the waters that are the subject of the survey.

(2) BALLAST WATER DISCHARGE SURVEYS.—

(A) * * *

(B) REQUIREMENTS FOR SURVEYS.—In conducting the surveys under this paragraph, the Secretary shall—

(i) * * *

(ii) assess the effectiveness of [voluntary guidelines issued, and regulations promulgated,] *regulations promulgated* under this subtitle in altering ballast water discharge practices to reduce the probability of accidental introductions of aquatic nuisance species.

* * * * * * *

(c) REPORTS.—

(1) BALLAST EXCHANGE.—Not later than 18 months after the date of enactment of this Act and prior to the effective date of the regulations issued under [section 1101(b)] *section 1101(a)*, the Task Force shall submit a report to the Congress that presents the results of the study required under subsection (a)(1) and makes recommendations with respect to such regulations.

* * * * * * *

(f) NATIONAL BALLAST INFORMATION CLEARINGHOUSE.—

(1) IN GENERAL.—The Secretary shall develop and maintain, in consultation and cooperation with the Task Force and the Smithsonian Institution (acting through the Smithsonian Environmental Research Center), a clearinghouse of national data concerning—

(A) * * *

(B) compliance with the [guidelines issued pursuant to section 1101(c)] *regulations issued pursuant to section 1101*; and

* * * * * * *

(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 the enactment of the Ballast Water Treatment Act of 2007; and

(B) a report on the results of the surveys required under subparagraph (C) of paragraph (1) upon completion of each demonstration concerned.

[SEC. 1103. ARMED SERVICES BALLAST WATER PROGRAMS.

[(a) DEPARTMENT OF DEFENSE VESSELS.—Subject to operational conditions, the Secretary of Defense, in consultation with the Secretary, the Task Force, and the International Maritime Organization, shall implement a ballast water management program for seagoing vessels of the Department of Defense to minimize the risk of introduction of nonindigenous species from releases of ballast water.

[(b) COAST GUARD VESSELS.—Subject to operational conditions, the Secretary, in consultation with the Task Force and the International Maritime Organization, shall implement a ballast water management program for seagoing vessels of the Coast Guard to minimize the risk of introduction of nonindigenous species from releases of ballast water.

[SEC. 1104. BALLAST WATER MANAGEMENT DEMONSTRATION PROGRAM.

[(a) TECHNOLOGIES AND PRACTICES DEFINED.—For purposes of this section, the term "technologies and practices" means those technologies and practices that—

[(1) may be retrofitted—

[(A) on existing vessels or incorporated in new vessel designs; and

[(B) on existing land-based ballast water treatment facilities;

[(2) may be designed into new water treatment facilities;

[(3) are operationally practical;

[(4) are safe for a vessel and crew;

[(5) are environmentally sound;

[(6) are cost-effective;

[(7) a vessel operator is capable of monitoring; and

[(8) are effective against a broad range of aquatic nuisance species.

[(b) DEMONSTRATION PROGRAM.—

[(1) IN GENERAL.—During the 18-month period beginning on the date that funds are made available by appropriations pursuant to section 1301(e), the Secretary of the Interior and the Secretary of Commerce, with the concurrence of and in cooperation with the Secretary, shall conduct a ballast water management demonstration program to demonstrate technologies and practices to prevent aquatic nonindigenous species from being introduced into and spread through ballast water in the Great Lakes and other waters of the United States.]

SEC. 1104. BALLAST WATER TREATMENT TECHNOLOGY EVALUATION AND DEMONSTRATION PROGRAMS.

(a) SHIPBOARD TECHNOLOGY EVALUATION PROGRAM.—

(1) IN GENERAL.—The Secretary shall establish a Shipboard Technology Evaluation Program to evaluate alternative ballast water management methods aboard vessels to prevent aquatic nuisance species from being introduced into and spread through discharges of ballast water in waters of the United States.

(2) LOCATION.—The installation and construction [of the technologies and practices used in the demonstration program] *of alternative ballast water management methods used in the*

program conducted under this subsection shall be performed in the United States.

(3) VESSEL SELECTION.—In demonstrating [technologies and practices on vessels under this subsection, the Secretary of the Interior and the Secretary of Commerce, shall—] *ballast water treatment technologies on vessels under this subsection, the Secretary shall—*

(A) use only vessels that—

[(i) are approved by the Secretary;

[(ii) have ballast water systems conducive to testing aboard-vessel or land-based technologies and practices applicable to a significant number of merchant vessels; and]

(i) have ballast water systems conducive to testing aboard the vessel; and

[(iii)] *(ii)* are—

(I) * * *

* * * * * * *

[(C) seek to use a variety of vessel types, including vessels that—

[(i) call on ports in the United States and on the Great Lakes; and

[(ii) are operated along major coasts of the United States and inland waterways, including the San Francisco Bay and Chesapeake Bay.]

(C) seek to use a variety of vessel types.

* * * * * * *

[(4) SELECTION OF TECHNOLOGIES AND PRACTICES.—In selecting technologies and practices for demonstration under this subsection, the Secretary of the Interior and the Secretary of Commerce shall give priority consideration to technologies and practices identified as promising by the National Research Council Marine Board of the National Academy of Sciences in its report on ships' ballast water operations issued in July 1996.]

(4) SELECTION OF ALTERNATIVE BALLAST WATER MANAGEMENT METHODS.—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.

* * * * * * *

(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.

(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.

[(c)**]** *(d)* AUTHORITIES; CONSULTATION AND COOPERATION WITH INTERNATIONAL MARITIME ORGANIZATION AND TASK FORCE.—

(1) AUTHORITIES.—In conducting the demonstration program under subsection (b), the **[**Secretary of the Interior**]** *Secretary, in consultation with the Under Secretary,* may—

(A) * * *

* * * * * * *

(2) CONSULTATION AND COOPERATION.—The [Secretary of the Interior] *Secretary, in consultation with the Under Secretary,* shall consult and cooperate with the International Maritime Organization and the Task Force in carrying out this section.

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Subtitle C—Prevention and Control of Aquatic Nuisance Species Dispersal

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SEC. 1210. RAPID RESPONSE PLAN.

(a) PREPARATION BY PRESIDENT.—The President shall prepare and publish a national rapid response plan for killing, removing, 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.

Subtitle D—Authorizations of Appropriation

SEC. 1301. AUTHORIZATIONS.

(a) PREVENTION OF UNINTENTIONAL INTRODUCTIONS.—There are authorized to be appropriated to develop and implement the provisions of subtitle B—

(1) * * *

* * * * * * *

(4) for each of fiscal years 1997 through 2002, to carry out paragraphs (1) and (2) of section 1102(b)—

(A) * * *

(B) $1,000,000 to the Secretary; [and]

(5) for each of fiscal years 1997 through 2002—

(A) * * *

(B) $500,000 to the Secretary to carry out section 1102(f)**[.]***;*

(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).

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SECTION 2237 OF TITLE 18, UNITED STATES CODE

§ 2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information

(a) * * *

[(b) Any person who intentionally violates this section shall be fined under this title or imprisoned for not more than 5 years, or both.**]**

(b)(1) Whoever intentionally violates this section shall, unless the offense is described in paragraph (2), be fined under this title or imprisoned for not more than 5 years, or both.

(2) If the offense—

(A) is committed in the course of a violation of section 274 of the Immigration and Nationality Act (alien smuggling); chapter 77 (peonage, slavery, and trafficking in persons), section 111 (shipping), 111A (interference with vessels), 113 (stolen property), or 117 (transportation for illegal sexual activity) of this title; chapter 705 (maritime drug law enforcement) of title 46, or title II of the Act of June 15, 1917 (Chapter 30; 40 Stat. 220), the offender shall be fined under this title or imprisoned for not more than 10 years, or both;

(B) results in serious bodily injury (as defined in section 1365 of this title) or transportation under inhumane conditions, the offender shall be fined under this title, imprisoned not more than 15 years, or both; or

(C) results in death or involves kidnaping, an attempt to kidnap, the conduct required for aggravated sexual abuse (as defined in section 2241 without regard to where it takes place), or an attempt to commit such abuse, or an attempt to kill, be fined under such title or imprisoned for any term of years or life, or both.

(c)*(1)* This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Secretary of the Treasury or the Secretary of Homeland Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

(2) In a prosecution for a violation of this section, no defense based on necessity can be raised unless the defendant—

(A) as soon as practicable upon reaching shore, delivered the person with respect to which the necessity arose to emergency medical or law enforcement personnel;

(B) as soon as practicable, reported to the Coast Guard the circumstances of the necessity resulting giving rise to the defense; and

(C) did not bring, attempt to bring, or in any manner intentionally facilitate the entry of any alien, as that term is defined in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101 (a)(3)), into the land territory of the United States without lawful authority, unless exigent circumstances existed that placed the life of that alien in danger, in which case the reporting requirement of subparagraph (B) is satisfied by notifying the Coast Guard as soon as practicable after delivering that person to emergency medical or law enforcement personnel ashore.

* * * * * * *

(e) In this section—

(1) * * *

* * * * * * *

(3) the term "vessel subject to the jurisdiction of the United States" has the meaning given the term in section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903); **[**and**]**

(4) the term "vessel of the United States" has the meaning given the term in section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903)**[**.**]***; and*

(5) the term "transportation under inhumane conditions" means the transportation of persons in an engine compartment, storage compartment, or other confined space, transportation at an excessive speed, transportation of a number of persons in excess of the rated capacity of the means of transportation, or intentionally grounding a vessel in which persons are being transported.

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