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To amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 10, 2005

Mr. INOUE (for himself, Mr. STEVENS, Mr. AKAKA, Mr. LAUTENBERG, Mr. SARBANES, and Ms. CANTWELL) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

NOVEMBER 16, 2005

Reported by Mr. STEVENS, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements, and for other purposes.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Ballast Water Manage-
3 ment Act of 2005”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) The introduction of aquatic invasive species
7 into the Nation’s waters is one of the most urgent
8 issues facing the marine environment in the United
9 States.

10 (2) The direct and indirect costs of aquatic
11 invasive species to the economy of the United States
12 amount to billions of dollars per year.

13 (3) Invasive species are thought to have been
14 involved in 70 percent of the last century’s
15 extinctions of native aquatic species.

16 (4) Invasive aquatic species are a significant
17 problem in all regions of the United States, includ-
18 ing Hawaii, Alaska, San Francisco Bay, the Great
19 Lakes, the Southeast, and the Chesapeake Bay.

20 (5) Ballast water from ships is one of the larg-
21 est pathways for the introduction and spread of
22 aquatic invasive species.

23 (6) It has been estimated that some 10,000
24 non-indigenous aquatic organisms travel around the
25 globe each day in the ballast water of cargo ships.

1 (7) Over 2 billion gallons of ballast water are
2 discharged in United States waters each year. Bal-
3 last water may be the source of the largest volume
4 of foreign organisms released on a daily basis into
5 American ecosystems.

6 (8) Ballast water has been found to transport
7 not only invasive plants and animals but human dis-
8 eases as well, such as cholera.

9 (9) Invasive species may also be introduced by
10 other vessel conduits, including the hulls of ships.

11 (10) Invasive aquatic species may originate in
12 other countries, or from distinct regions in the
13 United States.

14 (11) An average of 72 percent of all fish species
15 introduced in the Southeast have become estab-
16 lished, many of which are native to the United
17 States but transplanted outside their native ranges.

18 (12) The introduction of non-indigenous species
19 has been closely correlated with the disappearance of
20 indigenous species in Hawaii and other islands.

21 (13) Despite the efforts of more than 20 State,
22 Federal, and private agencies, unwanted alien pests
23 are entering Hawaii at an alarming rate—about 2
24 million times more rapid than the natural rate.

1 (14) Current Federal programs are insufficient
2 to effectively address this growing problem.

3 (15) Preventing aquatic invasive species from
4 being introduced is the most cost-effective approach
5 for addressing this issue, because once established,
6 they are costly and sometimes impossible to control.

7 **SEC. 3. BALLAST WATER MANAGEMENT.**

8 (a) IN GENERAL.—Section 1101 of the Nonindige-
9 nous Aquatic Nuisance Prevention and Control Act of
10 1990 (16 U.S.C. 4711) is amended to read as follows:

11 **“SEC. 1101. BALLAST WATER MANAGEMENT.**

12 “(a) VESSELS TO WHICH SECTION APPLIES.—

13 “(1) IN GENERAL.—This section applies to a
14 vessel that is designed or constructed to carry bal-
15 last water; and

16 “(A) is a vessel of the United States (as
17 defined in section 2101(46) of title 46, United
18 States Code); or

19 “(B) is a foreign vessel that—

20 “(i) is en route to a United States
21 port; or

22 “(ii) has departed from a United
23 States port and is within the exclusive eco-
24 nomic zone.

1 “(2) EXCEPTIONS.—Notwithstanding para-
2 graph (1), this section does not apply to—

3 “(A) permanent ballast water in a sealed
4 tank on a vessel that is not subject to dis-
5 charge;

6 “(B) a vessel of the Armed Forces; or

7 “(C) a vessel, or category of vessels, ex-
8 empted by the Secretary under paragraph (4).

9 “(3) STANDARDS FOR VESSELS OF THE ARMED
10 FORCES.—With respect to a vessel of the Armed
11 Forces that is designed or constructed to carry bal-
12 last water, the Secretary of Defense, after consulta-
13 tion with the Administrator of the Environmental
14 Protection Agency and the Secretary, shall promul-
15 gate ballast water and sediment management stand-
16 ards for such vessels that, so far as is reasonable
17 and practicable, achieve environmental results that
18 are comparable to those achieved by the require-
19 ments of this section in waters subject to the juris-
20 diction of the United States. In promulgating those
21 standards, the Secretary of Defense may take into
22 account the standards promulgated for such vessels
23 under section 312 of the Clean Water Act (33
24 U.S.C. 1322) to the extent that compliance with

1 those standards would meet the requirements of this
2 Act.

3 “(4) VESSEL EXEMPTIONS BY SECRETARY.—

4 The Secretary may exempt a vessel, or category of
5 vessels, from the application of this section if the
6 Secretary determines, after consultation with the
7 Administrator of the Environmental Protection
8 Agency and the Administrator of the National Oee-
9 anic and Atmospheric Administration, that ballast
10 water discharge from the vessel or category of ves-
11 sels will not have an adverse impact (as defined in
12 section 1003(1) of this Act), based on factors includ-
13 ing the origin and destination of the voyages under-
14 taken by such vessel or category of vessels.

15 “(5) COAST GUARD ASSESSMENT AND RE-

16 PORT.—Within 180 days after the date of enactment
17 of the Ballast Water Management Act of 2005, the
18 Commandant of the Coast Guard shall transmit a
19 report to the Senate Committee on Commerce,
20 Science, and Transportation and the House of Rep-
21 resentatives Committee on Transportation and In-
22 frastructure containing—

23 “(A) an assessment of the magnitude of
24 ballast water operations from vessels designed
25 or constructed to carry ballast water that are

1 not described in paragraph (1) that are
 2 transiting waters subject to the jurisdiction of
 3 the United States; and

4 “(B) recommendations, including legisla-
 5 tive recommendations if appropriate, of options
 6 for addressing such ballast water operations.

7 “(b) UPTAKE AND DISCHARGE OF BALLAST WATER
 8 AND SEDIMENT.—

9 “(1) PROHIBITION.—The operator of a vessel to
 10 which this section applies may not conduct the up-
 11 take or discharge of ballast water and sediment ex-
 12 cept as provided in this section.

13 “(2) EXCEPTIONS.—Paragraph (1) does not
 14 apply to the uptake or discharge of ballast water
 15 and sediment in the following circumstances:

16 “(A) The uptake or discharge is solely for
 17 the purpose of—

18 “(i) ensuring the safety of vessel in an
 19 emergency situation; or

20 “(ii) saving a life at sea.

21 “(B) The uptake or discharge is accidental
 22 and the result of damage to the vessel or its
 23 equipment and—

24 “(i) all reasonable precautions to pre-
 25 vent or minimize ballast water and sedi-

1 ment discharge have been taken before and
 2 after the damage occurs, the discovery of
 3 the damage, and the discharge; and

4 “(ii) the owner or officer in charge of
 5 the vessel did not willfully or recklessly
 6 cause the damage.

7 “(C) The uptake or discharge is solely for
 8 the purpose of avoiding or minimizing the dis-
 9 charge of pollution from the vessel.

10 “(D) The uptake and subsequent discharge
 11 on the high seas of the same ballast water and
 12 sediment.

13 “(E) The uptake or discharge of ballast
 14 water and sediment occurs at the same location
 15 where the whole of the ballast water and sedi-
 16 ment that is discharged was taken up and there
 17 is no mixing with unmanaged ballast water and
 18 sediment from another area.

19 “(3) SPECIAL RULE FOR THE GREAT LAKES.—
 20 Paragraph (2) does not apply to a vessel subject to
 21 the regulations under subsection (e)(2) until the ves-
 22 sel is required to conduct ballast water treatment in
 23 accordance with subsection (f) of this section.

24 “(e) VESSEL BALLAST WATER MANAGEMENT
 25 PLAN.—

1 “(1) IN GENERAL.—A vessel to which this sec-
2 tion applies shall conduct all its ballast water man-
3 agement operations in accordance with a ballast
4 water management plan that—

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

7 “(B) is approved by the Secretary.

8 “(2) APPROVAL CRITERIA.—The Secretary may
9 not approve a ballast water management plan unless
10 the Secretary determines that the plan—

11 “(A) describes in detail safety procedures
12 for the vessel and crew associated with ballast
13 water management;

14 “(B) describes in detail the actions to be
15 taken to implement the ballast water manage-
16 ment requirements established under this sec-
17 tion;

18 “(C) describes in detail procedures for dis-
19 posal of sediment at sea and on shore;

20 “(D) designates the officer on board the
21 vessel in charge of ensuring that the plan is
22 properly implemented;

23 “(E) contains the reporting requirements
24 for vessels established under this section; and

1 “(F) meets all other requirements pre-
2 scribed by the Secretary.

3 “(3) COPY OF PLAN ON BOARD VESSEL.—The
4 owner or operator of a vessel to which this section
5 applies shall maintain a copy of the vessel’s ballast
6 water management plan on board at all times.

7 “(d) VESSEL BALLAST WATER RECORD BOOK.—

8 “(1) IN GENERAL.—The owner or operator of a
9 vessel to which this section applies shall maintain a
10 ballast water record book on board the vessel in
11 which—

12 “(A) each operation involving ballast water
13 is fully recorded without delay, in accordance
14 with regulations promulgated by the Secretary;
15 and

16 “(B) each such operation is described in
17 detail, including the location and circumstances
18 of, and the reason for, the operation.

19 “(2) AVAILABILITY.—The ballast water record
20 book—

21 “(A) shall be kept readily available for ex-
22 amination by the Secretary at all reasonable
23 times; and

1 “(B) notwithstanding paragraph (1), may
2 be kept on the towing vessel in the case of an
3 unmanned vessel under tow.

4 “(3) RETENTION PERIOD.—The ballast water
5 record book shall be retained—

6 “(A) on board the vessel for a period of 2
7 years after the date on which the last entry in
8 the book is made; and

9 “(B) under the control of the vessel’s
10 owner for an additional period of 3 years.

11 “(4) REGULATIONS.—In the regulations pre-
12 scribed under this section, the Secretary shall re-
13 quire, at a minimum, that—

14 “(A) each entry in the ballast water record
15 book be signed and dated by the officer in
16 charge of the ballast water operation recorded;
17 and

18 “(B) each completed page in the ballast
19 water record book be signed and dated by the
20 master of the vessel.

21 “(5) ALTERNATIVE MEANS OF RECORD-
22 KEEPING.—The Secretary may provide by regulation
23 for alternative methods of recordkeeping, including
24 electronic recordkeeping, to comply with the require-
25 ments of this subsection.

1 “(e) BALLAST WATER EXCHANGE REQUIRE-
2 MENTS.—

3 “(1) IN GENERAL.—Until a vessel conducts bal-
4 last water treatment in accordance with the require-
5 ments of subsection (f) of this section, the operator
6 of a vessel to which this section applies may not con-
7 duct the uptake or discharge of ballast water unless
8 the operator conducts ballast water exchange, in ac-
9 cordance with regulations prescribed by the Sec-
10 retary, in a manner that results in an efficiency of
11 at least 95 percent volumetric exchange of the bal-
12 last water for each ballast water tank.

13 “(2) SPECIAL RULE FOR VESSELS IN THE
14 GREAT LAKES.—

15 “(A) IN GENERAL.—Notwithstanding any
16 other provision of this subsection, under regula-
17 tions prescribed by the Secretary to prevent the
18 introduction and spread of aquatic nuisance
19 species into the Great Lakes through the ballast
20 water of vessels, operators of vessels equipped
21 with ballast water tanks that enter a United
22 States port on the Great Lakes after operating
23 on the waters beyond the exclusive economic
24 zone shall—

1 “(i) carry out exchange of ballast
2 water on the waters beyond the exclusive
3 economic zone prior to entry into any port
4 within the Great Lakes; or

5 “(ii) carry out an exchange of ballast
6 water in other waters where the exchange
7 does not pose a threat of infestation or
8 spread of aquatic nuisance species in the
9 Great Lakes and other waters of the
10 United States, as recommended by the
11 Task Force under section 1102(a)(1).

12 “(B) ADDITIONAL MATTERS COVERED BY
13 THE REGULATIONS.—The regulations shall—

14 “(i) not affect or supersede any re-
15 quirements or prohibitions pertaining to
16 the discharge of ballast water into waters
17 of the United States under the Federal
18 Water Pollution Control Act (33 U.S.C.
19 1251 et seq.);

20 “(ii) provide for sampling procedures
21 to monitor compliance with the require-
22 ments of the regulations;

23 “(iii) prohibit the operation of a vessel
24 in the Great Lakes if the master of the
25 vessel has not certified to the Secretary or

1 the Secretary's designee by not later than
2 the departure of that vessel from the first
3 lock in the St. Lawrence Seaway that the
4 vessel has complied with the requirements
5 of the regulations;

6 “(iv) protect the safety of—

7 “(I) each vessel; and

8 “(II) the crew and passengers of
9 each vessel;

10 “(v) take into consideration different
11 operating conditions; and

12 “(vi) be based on the best scientific
13 information available.

14 “(C) HUDSON RIVER PORT.—The regula-
15 tions under this paragraph also apply to vessels
16 that enter a United States port on the Hudson
17 River north of the George Washington Bridge.

18 “(D) EDUCATION AND TECHNICAL ASSIST-
19 ANCE PROGRAMS.—The Secretary may carry
20 out education and technical assistance pro-
21 grams and other measures to promote compli-
22 ance with the regulations issued under this
23 paragraph.

24 “(3) EXCHANGE AREAS.—

1 “(A) IN GENERAL.—Except as provided in
2 subparagraphs (B), (C), and (D), the operator
3 of a vessel to which this section applies shall
4 conduct ballast water exchange in accordance
5 with regulations prescribed by the Secretary—

6 “(i) at least 200 nautical miles from
7 the nearest land; and

8 “(ii) in water at least 200 meters in
9 depth.

10 “(B) MINIMUM DISTANCE AND DEPTH.—

11 “(i) IN GENERAL.—Except as pro-
12 vided in subparagraph (C), if the operator
13 of a vessel is unable to conduct ballast
14 water exchange in accordance with sub-
15 paragraph (A), the ballast water exchange
16 shall be conducted in water that is—

17 “(I) as far as possible from land;

18 “(II) at least 50 nautical miles
19 from land; and

20 “(III) in water of at least 200
21 meters in depth.

22 “(ii) LIMITATION.—The operator of a
23 vessel may not conduct ballast water ex-
24 change in accordance with clause (i) in any
25 area with respect to which the Secretary

1 has determined, after consultation with the
2 Administrators of the Environmental Protection Agency and the National Oceanic
3 and Atmospheric Administration, that ballast water exchange in the area will have
4 an adverse impact, notwithstanding the
5 fact that the area meets the distance and
6 depth criteria of clause (i).

7
8
9 “(C) EXCHANGE IN DESIGNATED AREA.—

10 “(i) IN GENERAL.—If the operator of
11 a vessel is unable to conduct ballast water
12 exchange in accordance with subparagraph
13 (B), the operator of the vessel may conduct
14 ballast water exchange in an area that
15 does not meet the distance and depth criteria
16 of subparagraph (B) in such areas as
17 may be designated by the Administrator of
18 the National Oceanic and Atmospheric Administration,
19 determined in consultation
20 with the Secretary and the Administrator
21 of the Environmental Protection Agency,
22 for that purpose.

23 “(ii) CHARTING.—The Administrator
24 of the National Oceanic and Atmospheric
25 Administration, in consultation with the

1 Secretary, shall designate such areas on
2 nautical charts.

3 “(iii) LIMITATION.—The Adminis-
4 trator may not designate an area under
5 clause (i) if a ballast water exchange in
6 that area could have an adverse impact, as
7 determined by the Secretary in consulta-
8 tion with the Administrator of the Envi-
9 ronmental Protection Agency.

10 “(D) SAFETY OR STABILITY EXCEPTION.—

11 “(i) IN GENERAL.—Subparagraphs
12 (A), (B), and (C) do not apply to the dis-
13 charge or uptake of ballast water if the
14 master of a vessel determines that compli-
15 ance with subparagraph (A), (B), or (C),
16 whichever applies, would threaten the safe-
17 ty or stability of the vessel, its crew, or its
18 passengers because of adverse weather,
19 ship design or stress, equipment failure, or
20 any other relevant condition.

21 “(ii) NOTIFICATION REQUIRED.—

22 Whenever the master of a vessel conducts
23 a ballast water discharge or uptake under
24 the exception described in clause (i), the
25 master of the vessel shall notify the Sec-

1 retary as soon as practicable thereafter but
2 no later than 24 hours after the ballast
3 water discharge or uptake commenced.

4 “(iii) LIMITATION ON VOLUME.—The
5 volume of any ballast water taken up or
6 discharged under the exception described
7 in clause (i) may not exceed the volume
8 necessary to ensure the safe operation of
9 the vessel.

10 “(iv) REVIEW OF CIRCUMSTANCES.—
11 If the master of a vessel conducts a ballast
12 water discharge or uptake under the excep-
13 tion described in clause (i) on more than 2
14 out of 6 sequential voyages, the Secretary
15 shall review the circumstances to determine
16 whether those ballast water discharges or
17 uptakes met the requirements of this sub-
18 paragraph. The review under this clause
19 shall be in addition to any other enforce-
20 ment activity by the Secretary.

21 “(E) INABILITY TO COMPLY WITH EX-
22 CHANGE AREA REQUIREMENTS.—

23 “(i) DEVIATION OR DELAY OF VOY-
24 AGE.—In determining the ability of the op-
25 erator of a vessel to conduct ballast water

1 exchange in accordance with the require-
2 ments of subparagraph (A) or (B); a vessel
3 is not required to deviate from its intended
4 voyage or unduly delay its voyage to com-
5 ply with those requirements.

6 “(ii) PARTIAL COMPLIANCE.—An op-
7 erator of a vessel that is unable to comply
8 fully with the requirements of subpara-
9 graph (A) or (B), shall conduct ballast
10 water exchange to the maximum extent
11 feasible in compliance with those subpara-
12 graphs.

13 “(F) SPECIAL RULE FOR THE GREAT
14 LAKES.—This paragraph does not apply to ves-
15 sels subject to the regulations under paragraph
16 (2).

17 “(f) BALLAST WATER TREATMENT REQUIRE-
18 MENTS.—

19 “(1) IN GENERAL.—Subject to the implementa-
20 tion schedule in paragraph (3), before discharging
21 ballast water in waters subject to the jurisdiction of
22 the United States a vessel to which this section ap-
23 plies shall conduct ballast water treatment so that
24 the ballast water discharged will contain—

1 “(A) less than 0.1 living organisms per
2 cubic meter that are 50 or more micrometers in
3 minimum dimension;

4 “(B) less than 0.1 living organisms per
5 milliliter that are less than 50 micrometers in
6 minimum dimension and more than 10 microm-
7 eters in minimum dimension;

8 “(C) concentrations of indicator microbes
9 that are less than—

10 “(i) 1 colony-forming unit of
11 Toxicogenic vibrio cholera (O1 and O139)
12 per 100 milliliters, or less than 1 colony-
13 forming unit of that microbe per gram of
14 wet weight of zoological samples;

15 “(ii) 126 colony-forming units of
16 escherichi coli per 100 milliliters; and

17 “(iii) 33 colony-forming units of intes-
18 tinal enterococci per 100 milliliters; and

19 “(D) concentrations of such indicator mi-
20 crobes as may be specified in regulations pro-
21 mulgated by the Secretary that are less than
22 the amount specified in those regulations.

23 “(2) RECEPTION FACILITY EXCEPTION.—Para-
24 graph (1) does not apply to a vessel that discharges
25 ballast water into a reception facility that meets

1 standards prescribed by the Secretary, in consulta-
2 tion with the Administrator of the Environmental
3 Protection Agency, for the reception of ballast water
4 that provide for the reception of ballast water and
5 its disposal or treatment in a way that does not im-
6 pair or damage the environment, human health,
7 property, or resources. The Secretary may not pre-
8 scribe such standards that are less stringent than
9 any otherwise applicable Federal, State, or local law
10 requirements.

11 “(3) IMPLEMENTATION SCHEDULE.—Para-
12 graph (1) applies to vessels in accordance with the
13 following schedule:

14 “(A) FIRST PHASE.—Beginning January
15 1, 2009, for vessels constructed on or after that
16 date with a ballast water capacity of less than
17 5,000 cubic meters.

18 “(B) SECOND PHASE.—Beginning January
19 1, 2012, for vessels constructed on or after that
20 date with a ballast water capacity of 5,000
21 cubic meters or more.

22 “(C) THIRD PHASE.—Beginning January
23 1, 2014, for vessels constructed before January
24 1, 2009, with a ballast water capacity of 1,500

1 cubic meters or more but not more than 5,000
2 cubic meters.

3 “(D) ~~FOURTH PHASE.~~—Beginning Janu-
4 ary 1, 2016, for vessels constructed—

5 “(i) before January 1, 2009, with a
6 ballast water capacity of less than 1,500
7 cubic meters or 5,000 cubic meters or
8 more; or

9 “(ii) on or after January 1, 2009, and
10 before January 1, 2012, with a ballast
11 water capacity of 5,000 cubic meters or
12 more.

13 “(4) ~~REVIEW OF STANDARDS.~~—

14 “(A) ~~IN GENERAL.~~—In December, 2012,
15 and in every third year thereafter, the Secretary
16 shall review the treatment standards established
17 in paragraph (1) of this subsection to deter-
18 mine, in consultation with the Administrator of
19 the National Oceanic and Atmospheric Admin-
20 istration and the Administrator of the Environ-
21 mental Protection Agency, if the standards
22 should be revised to reduce the amount of orga-
23 nisms or microbes allowed to be discharged
24 using the best available technology economically

1 available. The Secretary shall revise such stand-
2 ards as necessary by regulation.

3 “(B) APPLICATION OF ADJUSTED STAND-
4 ARDS.—In the regulations, the Secretary shall
5 provide for the prospective application of the
6 adjusted standards prescribed under this para-
7 graph to vessels constructed after the date on
8 which the adjusted standards apply and for an
9 orderly phase-in of the adjusted standards to
10 existing vessels.

11 “(5) DELAY OF APPLICATION FOR VESSEL PAR-
12 TICIPATING IN PROMISING TECHNOLOGY EVALUA-
13 TIONS.—

14 “(A) IN GENERAL.—If a vessel participates
15 in a program approved by the Secretary to test
16 and evaluate promising ballast water treatment
17 technologies with the potential to result in
18 treatment technologies achieving a standard
19 that is the same as or more stringent than the
20 standard that applies under paragraph (1) be-
21 fore the first date on which paragraph (1) ap-
22 plies to that vessel, the Secretary may postpone
23 the date on which paragraph (1) would other-
24 wise apply to that vessel for not more than 5
25 years.

1 “(B) VESSEL DIVERSITY.—The Sec-
2 retary—

3 “(i) shall seek to ensure that a wide
4 variety of vessel types and voyages are in-
5 cluded in the program; but

6 “(ii) may not grant a delay under this
7 paragraph to more than 1 percent of the
8 vessels to which subparagraph (A), (B),
9 (C), or (D) of paragraph (3) applies.

10 “(C) TERMINATION OF POSTPONEMENT.—

11 The Secretary may terminate the 5-year post-
12 ponement period if participation of the vessel in
13 the program is terminated without the consent
14 of the Secretary.

15 “(6) FEASIBILITY REVIEW.—

16 “(A) IN GENERAL.—Not less than 2 years
17 before the date on which paragraph (1) applies
18 to vessels under each subparagraph of para-
19 graph (3), the Secretary shall complete a review
20 to determine whether appropriate technologies
21 are available to achieve the standards set forth
22 in paragraph (1) for the vessels to which they
23 apply under the schedule set forth in paragraph
24 (3).

1 “(B) DELAY IN SCHEDULED APPLICA-
2 TION.—If the Secretary determines, on the
3 basis of the review conducted under subpara-
4 graph (A), that compliance with the standards
5 set forth in paragraph (1) in accordance with
6 the schedule set forth in any subparagraph of
7 paragraph (3) is not feasible, the Secretary
8 shall—

9 “(i) extend the date on which that
10 subparagraph first applies to vessels for a
11 period of not more than 36 months; and

12 “(ii) recommend action to ensure that
13 compliance with the extended date schedule
14 for that subparagraph is achieved.

15 “(7) TREATMENT SYSTEM APPROVAL RE-
16 QUIRED.—The operator of a vessel may not use a
17 ballast water treatment system to comply with the
18 requirements of this subsection unless the system is
19 approved by the Secretary. The Secretary shall pro-
20 mulgate regulations establishing a process for such
21 approval.

22 “(g) WARNINGS CONCERNING BALLAST WATER UP-
23 TAKE.—

24 “(1) IN GENERAL.—The Secretary shall notify
25 mariners of any area in waters subject to the jurisdic-

1 diction of the United States in which vessels should
2 not uptake ballast water due to known conditions.

3 “(2) CONTENTS.—The notice shall include—

4 “(A) the coordinates of the area; and

5 “(B) if possible, the location of alternative
6 areas for the uptake of ballast water.

7 “(h) SEDIMENT MANAGEMENT.—

8 “(1) IN GENERAL.—The operator of a vessel to
9 which this section applies may not remove or dispose
10 of sediment from spaces designed to carry ballast
11 water except in accordance with this subsection and
12 the ballast water management plan required under
13 subsection (c).

14 “(2) DESIGN REQUIREMENTS.—

15 “(A) NEW VESSELS.—No person may re-
16 move and dispose of such sediment from a ves-
17 sel to which this section applies in waters sub-
18 ject to the jurisdiction of the United States that
19 is constructed on or after January 1, 2009, un-
20 less the vessel is designed and constructed in a
21 manner that—

22 “(i) minimizes the uptake and entrap-
23 ment of sediment;

24 “(ii) facilitates removal of sediment;
25 and

1 “(iii) provides for safe access for sedi-
2 ment removal and sampling.

3 “(B) EXISTING VESSELS.—The operator of
4 a vessel to which this section applies that was
5 constructed before January 1, 2009, may not
6 remove and dispose of such sediment in waters
7 subject to the jurisdiction of the United States
8 unless—

9 “(i) the vessel has been modified, to
10 the extent practicable and in accordance
11 with regulations promulgated by the Sec-
12 retary, to achieve the objectives described
13 in clauses (i), (ii), and (iii) of subpara-
14 graph (A); or

15 “(ii) the removal and disposal of the
16 sediment is conducted in such a manner as
17 to achieve those objectives to the greatest
18 extent practicable and in accordance with
19 those regulations.

20 “(C) REGULATIONS.—The Secretary shall
21 promulgate regulations establishing design and
22 construction standards to achieve the objectives
23 of subparagraph (A) and providing guidance for
24 modifications and practices under subparagraph
25 (B). The Secretary shall incorporate the stand-

1 ards and guidance in the regulations governing
2 the ballast water management plan.

3 ~~“(3) SEDIMENT RECEPTION FACILITIES.—~~

4 ~~“(A) STANDARDS.—The Administrator of~~
5 the Environmental Protection Agency in con-
6 sultation with the Secretary, shall promulgate
7 regulations governing facilities for the reception
8 of vessel sediment from spaces designed to
9 carry ballast water that provide for the disposal
10 of such sediment in a way that does not impair
11 or damage the environment, human health, or
12 property or resources of the disposal area. The
13 Administrator may not prescribe standards
14 under this subparagraph that are less stringent
15 than any otherwise applicable Federal, State, or
16 local law requirements.

17 ~~“(B) DESIGNATION.—The Secretary shall~~
18 designate facilities for the reception of vessel
19 sediment that meet the requirements of the reg-
20 ulations promulgated under subparagraph (A)
21 at ports and terminals where ballast tanks are
22 cleaned or repaired.

23 ~~“(i) EXAMINATIONS AND CERTIFICATIONS.—~~

24 ~~“(1) INITIAL EXAMINATION.—~~

1 “(A) IN GENERAL.—The Secretary shall
2 examine vessels to which this section applies to
3 determine whether—

4 “(i) there is a ballast water manage-
5 ment plan for the vessel; and

6 “(ii) the equipment used for ballast
7 water and sediment management in ac-
8 cordance with the requirements of this sec-
9 tion and the regulations promulgated here-
10 under is installed and functioning properly.

11 “(B) NEW VESSELS.—For vessels con-
12 structed on or after January 1, 2009, the Sec-
13 retary shall conduct the examination required
14 by subparagraph (A) before the vessel is placed
15 in service.

16 “(C) EXISTING VESSELS.—For vessels con-
17 structed before January 1, 2009, the Secretary
18 shall—

19 “(i) conduct the examination required
20 by subparagraph (A) before the date on
21 which subsection (f)(1) applies to the ves-
22 sel according to the schedule in subsection
23 (f)(3); and

24 “(ii) inspect the vessel’s ballast water
25 record book required by subsection (d).

1 “(2) SUBSEQUENT EXAMINATIONS.—The Sec-
2 retary shall examine vessels no less frequently than
3 once each year to ensure vessel compliance with the
4 requirements of this section.

5 “(3) INSPECTION AUTHORITY.—In order to
6 carry out the provisions of this section, the Sec-
7 retary may take ballast water samples at any time
8 on any vessel to which this section applies to ensure
9 its compliance with this Act.

10 “(4) REQUIRED CERTIFICATE.—

11 “(A) IN GENERAL.—If, on the basis of an
12 initial examination under paragraph (1) the
13 Secretary finds that a vessel complies with the
14 requirements of this section and the regulations
15 promulgated hereunder, the Secretary shall
16 issue a certificate under this paragraph as evi-
17 dence of such compliance. The certificate shall
18 be valid for a period of not more than 5 years,
19 as specified by the Secretary. The certificate or
20 a true copy shall be maintained on board the
21 vessel.

22 “(B) FOREIGN CERTIFICATES.—The Sec-
23 retary may treat a certificate issued by a for-
24 eign government as a certificate issued under
25 subparagraph (A) if the Secretary determines

1 that the standards used by the issuing govern-
 2 ment are equivalent to or more stringent than
 3 the standards used by the Secretary under sub-
 4 paragraph (A).

5 “(5) NOTIFICATION OF VIOLATIONS.—If the
 6 Secretary finds, on the basis of an examination
 7 under paragraph (1) or (2), sampling under para-
 8 graph (3), or any other information, that a vessel is
 9 being operated in violation of the requirements of
 10 this section and the regulations promulgated here-
 11 under, the Secretary shall—

12 “(A) notify—

13 “(i) the master of the vessel; and

14 “(ii) the captain of the port at the
 15 vessel’s next port of call; and

16 “(B) take such other action as may be ap-
 17 propriate.

18 “(j) DETENTION OF VESSELS.—

19 “(1) IN GENERAL.—The Secretary, by notice to
 20 the owner, charterer, managing operator, agent,
 21 master, or other individual in charge of a vessel,
 22 may detain that vessel if the Secretary has reason-
 23 able cause to believe that—

24 “(A) the vessel is a vessel to which this
 25 section applies;

1 “(B) the vessel does not comply with the
2 requirements of this section or of the regula-
3 tions issued hereunder or is being operated in
4 violation of such requirements; and

5 “(C) the vessel is about to leave a place in
6 the United States.

7 “(2) CLEARANCE.—

8 “(A) IN GENERAL.—A vessel detained
9 under paragraph (1) may obtain clearance
10 under section 4197 of the Revised Statutes (46
11 U.S.C. App. 91) only if the violation for which
12 it was detained has been corrected.

13 “(B) WITHDRAWAL.—If the Secretary
14 finds that a vessel detained under paragraph
15 (1) has received a clearance under section 4197
16 of the Revised Statutes (46 U.S.C. App. 91) be-
17 fore it was detained under paragraph (1), the
18 Secretary shall request the Secretary of the
19 Treasury to withdraw the clearance. Upon re-
20 quest of the Secretary, the Secretary of the
21 Treasury shall withhold or revoke the clearance.

22 “(k) SANCTIONS.—

23 “(1) CIVIL PENALTIES.—Any person who vio-
24 lates a regulation promulgated under this section
25 shall be liable for a civil penalty in an amount not

1 to exceed \$25,000. Each day of a continuing viola-
2 tion constitutes a separate violation. A vessel oper-
3 ated in violation of the regulations is liable in rem
4 for any civil penalty assessed under this subsection
5 for that violation.

6 “(2) CRIMINAL PENALTIES.—Any person who
7 knowingly violates the regulations promulgated
8 under this section is guilty of a class C felony.

9 “(3) REVOCATION OF CLEARANCE.—Except as
10 provided in subsection (j)(2), upon request of the
11 Secretary, the Secretary of the Treasury shall with-
12 hold or revoke the clearance of a vessel required by
13 section 4197 of the Revised Statutes (46 U.S.C.
14 App. 91), if the owner or operator of that vessel is
15 in violation of the regulations issued under this sec-
16 tion.

17 “(4) EXCEPTION TO SANCTIONS.—This sub-
18 section does not apply to a failure to exchange bal-
19 last water if—

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

24 “(B) the recordkeeping and reporting re-
25 quirements of the Act are complied with.

1 “(l) CONSULTATION WITH CANADA, MEXICO, AND
2 OTHER FOREIGN GOVERNMENTS.—In developing the
3 guidelines issued and regulations promulgated under this
4 section, the Secretary is encouraged to consult with the
5 Government of Canada, the Government of Mexico, and
6 any other government of a foreign country that the Sec-
7 retary, in consultation with the Task Force, determines
8 to be necessary to develop and implement an effective
9 international program for preventing the unintentional in-
10 troduction and spread of nonindigenous species.

11 “(m) INTERNATIONAL COOPERATION.—The Sec-
12 retary, in cooperation with the International Maritime Or-
13 ganization of the United Nations and the Commission on
14 Environmental Cooperation established pursuant to the
15 North American Free Trade Agreement, is encouraged to
16 enter into negotiations with the governments of foreign
17 countries to develop and implement an effective inter-
18 national program for preventing the unintentional intro-
19 duction and spread of nonindigenous species. The Sec-
20 retary is particularly encouraged to seek bilateral or multi-
21 lateral agreements with Canada, Mexico, and other na-
22 tions in the Wider Caribbean (as defined in the Conven-
23 tion for the Protection and Development of the Marine
24 Environment of the Wider Caribbean (Cartagena Conven-
25 tion) under this section.

1 “(n) ~~NON-DISCRIMINATION.~~—The Secretary shall en-
2 sure that vessels registered outside of the United States
3 do not receive more favorable treatment than vessels reg-
4 istered in the United States when the Secretary performs
5 studies, reviews compliance, determines effectiveness, es-
6 tablishes requirements, or performs any other responsibil-
7 ities under this Act.

8 “(o) ~~SUPPORT FOR FEDERAL BALLAST WATER DEM-~~
9 ~~ONSTRATION PROJECT.~~—In addition to amounts other-
10 wise available to the Maritime Administration, the Na-
11 tional Oceanographic and Atmospheric Administration,
12 and the United States Fish and Wildlife Service for the
13 Federal Ballast Water Demonstration Project, the Sec-
14 retary shall provide support for the conduct and expansion
15 of the project, including grants for research and develop-
16 ment of innovative technologies for the management,
17 treatment, and disposal of ballast water and sediment, for
18 ballast water exchange, and for other vessel vectors of
19 invasive aquatic species such as hull fouling. There are
20 authorized to be appropriated to the Secretary
21 \$25,000,000 for each fiscal year to carry out this sub-
22 section.

23 “(p) ~~CONSULTATION WITH TASK FORCE.~~—The Sec-
24 retary shall consult with the Task Force in carrying out
25 this section.

1 “(q) PREEMPTION.—Notwithstanding any other pro-
2 vision of law, the provisions of subsections (e) and (f)
3 (other than subsection (f)(2)) supersede any provision of
4 State or local law determined by the Secretary to be incon-
5 sistent with the requirements of that subsection or to con-
6 flict with the requirements of that subsection.

7 “(r) REGULATIONS.—The Secretary may issue such
8 regulations as may be necessary to carry out this section
9 and the terms defined in section 1003 that are used in
10 this section.”.

11 (b) DEFINITIONS.—Section 1003 of the Nonindige-
12 nous Aquatic Nuisance Prevention and Control Act of
13 1990 (16 U.S.C. 4702) is amended—

14 (1) by redesignating—

15 (A) paragraphs (1), (2), and (3) as para-
16 graphs (2), (3), and (4), respectively;

17 (B) paragraphs (4), (5), (6), (7), and (8)
18 as paragraphs (8), (9), (10), (11), and (12), re-
19 spectively;

20 (C) paragraphs (9) and (10) as paragraphs
21 (14) and (15) respectively;

22 (D) paragraphs (11) and (12) as para-
23 graphs (17) and (18), respectively;

24 (E) paragraphs (13), (14), and (15) as
25 paragraphs (20), (21), and (22), respectively;

1 (~~F~~) paragraph (~~16~~) as paragraph (~~26~~); and

2 (~~G~~) paragraph (~~17~~) as paragraph (~~23~~) and

3 inserting it after paragraph (~~22~~), as redesignated;

4 nated;

5 (~~2~~) by inserting before paragraph (~~2~~), as redesignated,

6 the following:

7 “(1) ‘adverse impact’ means the direct or indirect

8 result or consequence of an event or process

9 that—

10 “(A) creates a hazard to the environment;

11 human health, property, or a natural resource;

12 “(B) impairs biological diversity; or

13 “(C) interferes with the legitimate use of

14 waters subject to the jurisdiction of the United

15 States;”;

16 (~~3~~) by striking paragraph (~~4~~), as redesignated;

17 and inserting the following:

18 “(4) ‘ballast water’—

19 “(A) means water taken on board a vessel

20 to control trim, list, draught, stability, or

21 stresses of the vessel, including matter suspended

22 in such water; but

23 “(B) does not include potable or technical

24 water that does not contain harmful aquatic organisms

25 or pathenogens that is taken on board

1 a vessel and used for a purpose described in
2 subparagraph (A) if such potable or technical
3 water is discharged in compliance with section
4 312 of the Clean Water Act (33 U.S.C.
5 1322);”;

6 (4) by inserting after paragraph (4) the fol-
7 lowing:

8 “(5) ‘ballast water capacity’ means the total
9 volumetric capacity of any tanks, spaces, or com-
10 partments on a vessel that is used for carrying, load-
11 ing, or discharging ballast water, including any
12 multi-use tank, space, or compartment designed to
13 allow carriage of ballast water;

14 “(6) ‘ballast water management’ means me-
15 chanical, physical, chemical, and biological processes
16 used, either singularly or in combination, to remove,
17 render harmless, or avoid the uptake or discharge of
18 harmful aquatic organisms and pathogens within
19 ballast water and sediment;

20 “(7) ‘constructed’ means a state of construction
21 of a vessel at which—

22 “(A) the keel is laid;

23 “(B) construction identifiable with the spe-
24 cific vessel begins;

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

5 “(D) the vessel undergoes a major conver-
6 sion;”;

7 (5) by inserting after paragraph (12), as redesi-
8 gnated, the following:

9 “(13) ‘harmful aquatic organisms and patho-
10 gens’ means aquatic organisms or pathogens that
11 have been determined by the Secretary, after con-
12 sultation with the Administrator of the National
13 Oceanographic and Atmospheric Administration and
14 the Administrator of the Environmental Protection
15 Agency, to cause an adverse impact if introduced
16 into the waters subject to the jurisdiction of the
17 United States;”;

18 (6) by inserting after paragraph (15), as redesi-
19 gnated, the following:

20 “(16) ‘major conversion’ means a conversion of
21 a vessel, that—

22 “(A) changes its ballast water carrying ca-
23 pacity by at least 15 percent;

24 “(B) changes the vessel class;

1 “(C) is projected to prolong the vessel’s life
2 by at least 10 years (as determined by the Sec-
3 retary); or

4 “(D) results in modifications to the vessel’s
5 ballast water system, except—

6 “(i) component replacement-in-kind;
7 or

8 “(ii) conversion of a vessel to meet the
9 requirements of section 1101(e);”;

10 (7) by inserting after paragraph (18), as reded-
11 ignated, the following:

12 “(19) ‘sediment’ means matter that has settled
13 out of ballast water within a vessel;”;

14 (8) by inserting after paragraph (23), as reded-
15 ignated, the following:

16 “(24) ‘United States port’ means a port, river,
17 harbor, or offshore terminal under the jurisdiction of
18 the United States, including ports located in Puerto
19 Rico, Guam, the Northern Marianas, and the United
20 States Virgin Islands;

21 “(25) ‘vessel of the Armed Forces’ means—

22 “(A) any vessel owned or operated by the
23 Department of Defense, other than a time or
24 voyage chartered vessel; and

1 “(B) any vessel owned or operated by the
2 Department of Homeland Security that is des-
3 ignated by the Secretary of the department in
4 which the Coast Guard is operating as a vessel
5 equivalent to a vessel described in subparagraph
6 (A);” and

7 (9) by inserting after paragraph (26), as redес-
8 ignated, the following:

9 “(27) ‘waters subject to the jurisdiction of the
10 United States’ means navigable waters and the terri-
11 torial sea of the United States, the exclusive eco-
12 nomic zone, and the Great Lakes.”.

13 (e) GREAT LAKES REGULATIONS.—Until vessels de-
14 scribed in section 1101(e)(2) of the Nonindigenous Aquat-
15 ic Nuisance Prevention and Control Act of 1990 (16
16 U.S.C. 4711(e)(2)), as amended by this Act, are required
17 to conduct ballast water treatment in accordance with the
18 requirements of section 1101(f) of that Act (16 U.S.C.
19 1101(f)), as amended by this Act, the regulations promul-
20 gated by the Secretary of Transportation under section
21 1101 of the Nonindigenous Aquatic Nuisance Prevention
22 and Control Act of 1990 (16 U.S.C. 4711), as such regu-
23 lations were in effect on the day before the date of enact-
24 ment of this Act, shall remain in full force and effect for,
25 and shall continue to apply to, such vessels.

1 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

2 Section 1301(a) of the Nonindigenous Aquatic Nui-
3 sance Prevention and Control Act of 1990 (16 U.S.C.
4 4741(a)) is amended—

5 (1) by striking “and” after the semicolon in
6 paragraph (4)(B);

7 (2) by striking “1102(f).” in paragraph (5)(B)
8 and inserting “1102(f); and”; and

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

10 “(6) \$10,000,000 for each of fiscal years 2006
11 through 2010 to the Secretary to carry out section
12 1101.”.

13 **SEC. 5. COAST GUARD REPORT ON OTHER VESSEL-RE-**
14 **LATED VECTORS OF INVASIVE SPECIES.**

15 (a) **IN GENERAL.**—Within 90 days after the date of
16 enactment of this Act, the Commandant of the Coast
17 Guard shall transmit a report to the Senate Committee
18 on Commerce, Science, and Transportation and the House
19 of Representatives Committee on Transportation and In-
20 frastructure on vessel-related vectors of harmful aquatic
21 organisms and pathogens other than ballast water and
22 sediment, including vessel hulls and equipment, and from
23 vessels equipped with ballast tanks that carry no ballast
24 water on board.

25 (b) **BEST PRACTICES.**—As soon as practicable, the
26 Coast Guard shall develop best practices standards and

1 procedures designed to reduce the introduction of invasive
2 species into and within the United States from vessels and
3 establish a timeframe for implementation of those stand-
4 ards and procedures by vessels, in addition to the manda-
5 tory requirements set forth in section 1101 for ballast
6 water. Such standards and procedures should include des-
7 ignation of geographical locations for uptake and dis-
8 charge of untreated ballast water, as well as standards and
9 procedures for other vessel vectors of invasive aquatic spe-
10 cies. The Commandant shall transmit a report to the Com-
11 mittees describing the standards and procedures developed
12 and the implementation timeframe, together with any rec-
13 ommendations, including legislative recommendations if
14 appropriate, the Commandant deems appropriate. The
15 Secretary of the department in which the Coast Guard is
16 operating may promulgate regulations to incorporate and
17 enforce standards and procedures developed under this
18 subsection.

19 **SECTION 1. SHORT TITLE.**

20 *This Act may be cited as the “Ballast Water Manage-*
21 *ment Act of 2005”.*

22 **SEC. 2. FINDINGS.**

23 *The Congress finds the following:*

1 (1) *The introduction of aquatic invasive species*
2 *into the Nation's waters is one of the most urgent*
3 *issues facing aquatic ecosystems in the United States.*

4 (2) *The direct and indirect costs of aquatic*
5 *invasive species to the economy of the United States*
6 *have been estimated at billions of dollars per year.*

7 (3) *Invasive species are thought to have been in-*
8 *volved in 70 percent of the last century's extinctions*
9 *of native aquatic species.*

10 (4) *Aquatic invasive species are a significant*
11 *problem throughout the United States, including Ha-*
12 *waii, Alaska, San Francisco Bay, the Great Lakes,*
13 *the Southeast, and the Chesapeake Bay.*

14 (5) *Ballast water from ships is one of the largest*
15 *pathways for the introduction and spread of aquatic*
16 *invasive species.*

17 (6) *It has been estimated that some 10,000 non-*
18 *indigenous aquatic species travel around the globe*
19 *each day in the ballast water of cargo ships.*

20 (7) *Over 2 billion gallons of ballast water are*
21 *discharged in United States waters each year.*

22 (8) *Ballast water has been found to transport*
23 *not only invasive plants and animals but pathogens*
24 *as well, such as cholera.*

1 (9) *Aquatic invasive species may also be intro-*
2 *duced by other vessel conduits, including the hulls of*
3 *ships.*

4 (10) *Aquatic invasive species may be transferred*
5 *from other countries, or from distinct regions in the*
6 *United States.*

7 (11) *Current Federal programs are insufficient*
8 *to effectively address this growing problem.*

9 (12) *Preventing aquatic invasive species from*
10 *being introduced is the most cost-effective approach*
11 *for addressing this issue because, once established,*
12 *they are costly and sometimes impossible to control.*

13 (13) *In 2004, the International Maritime Orga-*
14 *nization agreed to a Convention, which the United*
15 *States played an active role in negotiating, to pre-*
16 *vent, minimize, and ultimately eliminate the transfer*
17 *of aquatic invasive species through the control and*
18 *management of ballast water and sediments.*

19 (14) *The International Maritime Organization*
20 *agreement specifically recognizes that countries can*
21 *take more stringent measures than those of the Con-*
22 *vention with respect to the control and management*
23 *of ships' ballast water and sediment.*

1 **SEC. 3. BALLAST WATER MANAGEMENT.**

2 (a) *IN GENERAL.*—Section 1101 of the Nonindigenous
3 *Aquatic Nuisance Prevention and Control Act of 1990 (16*
4 *U.S.C. 4711) is amended to read as follows:*

5 **“SEC. 1101. BALLAST WATER MANAGEMENT.**

6 “(a) *VESSELS TO WHICH THIS SECTION APPLIES.*—

7 “(1) *IN GENERAL.*—Except as provided in para-
8 *graphs (2), (3), and (4), this section applies to a ves-*
9 *sel that is designed, constructed, or adapted to carry*
10 *ballast water; and*

11 “(A) *is a vessel of United States registry or*
12 *nationality, or operated under the authority of*
13 *the United States, wherever located; or*

14 “(B) *is a foreign vessel that—*

15 “(i) *is en route to a United States port*
16 *or place; or*

17 “(ii) *has departed from a United*
18 *States port or place and is within waters*
19 *subject to the jurisdiction of the United*
20 *States.*

21 “(2) *PERMANENT BALLAST WATER VESSELS.*—

22 *This section does not apply to a vessel that carries all*
23 *of its permanent ballast water in sealed tanks and is*
24 *not subject to discharge.*

25 “(3) *ARMED FORCES VESSELS.*—

1 “(A) *EXEMPTION.*—*Except as provided in*
2 *subparagraph (B), this section does not apply to*
3 *a vessel of the Armed Forces.*

4 “(B) *BALLAST WATER MANAGEMENT PRO-*
5 *GRAM.*—*The Secretary of Defense and the Sec-*
6 *retary of Homeland Security, after consultation*
7 *with the Administrator, the Under Secretary of*
8 *Commerce for Oceans and Atmosphere, and the*
9 *Secretary, shall implement a ballast water man-*
10 *agement program, including the promulgation of*
11 *standards for ballast water exchange and treat-*
12 *ment and for sediment management, for vessels*
13 *of the Armed Forces under their respective juris-*
14 *dictions designed, constructed, or adapted to*
15 *carry ballast water that is—*

16 “(i) *consistent with the requirements of*
17 *this section, including the deadlines; and*

18 “(ii) *at least as stringent as the re-*
19 *quirements promulgated for such vessels*
20 *under section 312 of the Clean Water Act*
21 *(33 U.S.C. 1322).*

22 “(4) *SPECIAL RULE FOR SMALL RECREATIONAL*
23 *VESSELS.*—*In applying this section to recreational*
24 *vessels less than 50 meters in length that have a max-*
25 *imum ballast water capacity of 8 cubic meters, the*

1 *Secretary may promulgate alternative measures for*
2 *managing ballast water in a manner that is con-*
3 *sistent with the requirements of this section.*

4 *“(b) UPTAKE AND DISCHARGE OF BALLAST WATER OR*
5 *SEDIMENT.—*

6 *“(1) PROHIBITION.—The operator of a vessel to*
7 *which this section applies may not conduct the uptake*
8 *or discharge of ballast water or sediment except as*
9 *provided in this section.*

10 *“(2) EXCEPTIONS.—Paragraph (1) does not*
11 *apply to the uptake or discharge of ballast water or*
12 *sediment in the following circumstances:*

13 *“(A) The uptake or discharge is solely for*
14 *the purpose of—*

15 *“(i) ensuring the safety of the vessel in*
16 *an emergency situation; or*

17 *“(ii) saving a life at sea.*

18 *“(B) The uptake or discharge is accidental*
19 *and the result of damage to the vessel or its*
20 *equipment and—*

21 *“(i) all reasonable precautions to pre-*
22 *vent or minimize ballast water and sedi-*
23 *ment discharge have been taken before and*
24 *after the damage occurs, the discovery of the*
25 *damage, and the discharge; and*

1 “(ii) the owner or officer in charge of
2 the vessel did not willfully or recklessly
3 cause the damage.

4 “(C) The uptake or discharge is solely for
5 the purpose of avoiding or minimizing the dis-
6 charge from the vessel of pollution that would
7 otherwise violate applicable Federal or State
8 law.

9 “(D) The uptake or discharge of ballast
10 water and sediment occurs at the same location
11 where the whole of that ballast water and that
12 sediment originated and there is no mixing with
13 ballast water and sediment from another area
14 that has not been managed in accordance with
15 the requirements of this section.

16 “(c) *VESSEL BALLAST WATER MANAGEMENT PLAN.*—

17 “(1) *IN GENERAL.*—The operator of a vessel to
18 which this section applies shall conduct all ballast
19 water management operations of that vessel in ac-
20 cordance with a ballast water management plan de-
21 signed to minimize the discharge of aquatic invasive
22 species that—

23 “(A) meets the requirements prescribed by
24 the Secretary by regulation; and

25 “(B) is approved by the Secretary.

1 “(2) *APPROVAL CRITERIA.*—

2 “(A) *IN GENERAL.*—*The Secretary may not*
3 *approve a ballast water management plan unless*
4 *the Secretary determines that the plan—*

5 “(i) *describes in detail the actions to be*
6 *taken to implement the ballast water man-*
7 *agement requirements established under this*
8 *section;*

9 “(ii) *describes in detail the procedures*
10 *to be used for disposal of sediment at sea*
11 *and on shore in accordance with the re-*
12 *quirements of this section;*

13 “(iii) *describes in detail safety proce-*
14 *dures for the vessel and crew associated with*
15 *ballast water management;*

16 “(iv) *designates the officer on board the*
17 *vessel in charge of ensuring that the plan is*
18 *properly implemented;*

19 “(v) *contains the reporting require-*
20 *ments for vessels established under this sec-*
21 *tion and a copy of each form necessary to*
22 *meet those requirements; and*

23 “(vi) *meets all other requirements pre-*
24 *scribed by the Secretary.*

1 “(B) *FOREIGN VESSELS.*—*The Secretary*
2 *may approve a ballast water management plan*
3 *for a foreign vessel (as defined in section*
4 *2101(12) of title 46, United States Code) on the*
5 *basis of a certificate of compliance with the cri-*
6 *teria described in subparagraph (A) issued by*
7 *the vessel’s country of registration in accordance*
8 *with regulations promulgated by the Secretary.*

9 “(3) *COPY OF PLAN ON BOARD VESSEL.*—*The*
10 *owner or operator of a vessel to which this section ap-*
11 *plies shall—*

12 “(A) *maintain a copy of the vessel’s ballast*
13 *water management plan on board at all times;*
14 *and*

15 “(B) *keep the plan readily available for ex-*
16 *amination by the Secretary at all reasonable*
17 *times.*

18 “(d) *VESSEL BALLAST WATER RECORD BOOK.*—

19 “(1) *IN GENERAL.*—*The owner or operator of a*
20 *vessel to which this section applies shall maintain a*
21 *ballast water record book in English on board the ves-*
22 *sel in which—*

23 “(A) *each operation involving ballast water*
24 *or sediment discharge is fully recorded without*

1 *delay, in accordance with regulations promul-*
2 *gated by the Secretary;*

3 “(B) *each such operation is described in de-*
4 *tail, including the location and circumstances of,*
5 *and the reason for, the operation; and*

6 “(C) *the exact nature and circumstances of*
7 *any situation under which any operation was*
8 *conducted under an exception set forth in sub-*
9 *section (b)(2) or (e)(3) is described.*

10 “(2) *AVAILABILITY.—The ballast water record*
11 *book—*

12 “(A) *shall be kept readily available for ex-*
13 *amination by the Secretary at all reasonable*
14 *times; and*

15 “(B) *notwithstanding paragraph (1), may*
16 *be kept on the towing vessel in the case of an un-*
17 *manned vessel under tow.*

18 “(3) *RETENTION PERIOD.—The ballast water*
19 *record book shall be retained—*

20 “(A) *on board the vessel for a period of 3*
21 *years after the date on which the last entry in*
22 *the book is made; and*

23 “(B) *under the control of the vessel’s owner*
24 *for an additional period of 3 years.*

1 “(4) *REGULATIONS.—In the regulations pre-*
2 *scribed under this section, the Secretary shall require,*
3 *at a minimum, that—*

4 “(A) *each entry in the ballast water record*
5 *book be signed and dated by the officer in charge*
6 *of the ballast water operation recorded;*

7 “(B) *each completed page in the ballast*
8 *water record book be signed and dated by the*
9 *master of the vessel; and*

10 “(C) *the owner or operator of the vessel*
11 *transmit such information to the Secretary re-*
12 *garding the ballast operations of the vessel as the*
13 *Secretary may require.*

14 “(5) *ALTERNATIVE MEANS OF RECORD-*
15 *KEEPING.—The Secretary shall provide by regulation*
16 *for alternative methods of recordkeeping, including*
17 *electronic recordkeeping, to comply with the require-*
18 *ments of this subsection.*

19 “(e) *BALLAST WATER EXCHANGE REQUIREMENTS.—*

20 “(1) *IN GENERAL.—Until a vessel is required to*
21 *conduct ballast water treatment in accordance with*
22 *subsection (f) of this section, the operator of a vessel*
23 *to which this section applies may not discharge bal-*
24 *last water except after —*

1 “(A) conducting ballast water exchange, in
2 accordance with regulations prescribed by the
3 Secretary, in a manner that results in an effi-
4 ciency of at least 95 percent volumetric exchange
5 of the ballast water for each ballast water tank;

6 “(B) using ballast water treatment that
7 meets the performance standards of subsection
8 (f); or

9 “(C) using environmentally-sound alter-
10 native ballast water treatment, if the Secretary
11 determines that such treatment is at least as ef-
12 fective as the ballast water exchange required by
13 subparagraph (A) in preventing and controlling
14 infestation of aquatic invasive species.

15 “(1A) GUIDANCE; 5-YEAR USAGE.—

16 “(A) GUIDANCE.—Within 1 year after the
17 date of enactment of the Ballast Water Manage-
18 ment Act of 2005, the Secretary shall develop
19 guidance on technology that may be used to
20 under paragraph (1)(C).

21 “(B) 5-YEAR USAGE.—If the Secretary ac-
22 celerates the schedule under subsection (f)(5)(C)
23 for implementation of the treatment technology
24 required under subsection (f), the Secretary shall
25 allow a vessel using environmentally-sound alter-

1 *native ballast water treatment under paragraph*
2 *(1)(C) to continue to use that treatment for 5*
3 *years after the date on which the environ-*
4 *mentally-sound alternative ballast water treat-*
5 *ment was first placed in service on the vessel.*

6 “(2) *EXCHANGE AREAS.*—

7 “(A) *VESSELS OUTSIDE THE UNITED*
8 *STATES EEZ.*—*The operator of a vessel en route*
9 *to a United States port or place from a port or*
10 *place outside the United States exclusive eco-*
11 *nomie zone shall conduct ballast water ex-*
12 *change—*

13 “(i) *before arriving at a United States*
14 *port or place;*

15 “(ii) *at least 200 nautical miles from*
16 *the nearest point of land; and*

17 “(iii) *in water at least 200 meters in*
18 *depth.*

19 “(B) *COASTAL VOYAGES.*—*The operator of a*
20 *vessel originating from a port or place within*
21 *the United States exclusive economic zone, or*
22 *from a port within 200 nautical miles of the*
23 *United States in Canada, Mexico, or other ports*
24 *designated by the Secretary for purposes of this*
25 *section, shall conduct ballast water exchange—*

1 “(i) at least 50 nautical miles from the
2 nearest point of land; and

3 “(ii) in water at least 200 meters in
4 depth.

5 “(3) SAFETY OR STABILITY EXCEPTION.—

6 “(A) IN GENERAL.—Paragraphs (1) and (2)
7 do not apply to the discharge of ballast water if
8 the master of a vessel determines that compliance
9 with those paragraphs would threaten the safety
10 or stability of the vessel, its crew, or its pas-
11 sengers because of adverse weather, equipment
12 failure, or any other relevant condition.

13 “(B) NOTIFICATION REQUIRED.—Whenever
14 the master of a vessel is unable to comply with
15 the requirements of paragraphs (1) and (2) be-
16 cause of a determination made under subpara-
17 graph (A), the master of the vessel shall—

18 “(i) notify the Secretary as soon as
19 practicable thereafter but no later than 24
20 hours after making that determination and
21 shall ensure that the determination, the rea-
22 sons for the determination, and the notice
23 are recorded in the vessel’s ballast water
24 record book; and

1 “(ii) undertake ballast water ex-
2 change—

3 “(I) in an alternative area that
4 may be designated by the Secretary,
5 after consultation with the Adminis-
6 trator, the Undersecretary, and rep-
7 resentatives of States the waters of
8 which would be affected by the dis-
9 charge of ballast water; or

10 “(II) undertake discharge of bal-
11 last water in accordance with para-
12 graph (5) if safety or stability concerns
13 prevent undertaking ballast water ex-
14 change in the alternative area.

15 “(C) REVIEW OF CIRCUMSTANCES.—If the
16 master of a vessel conducts a ballast water dis-
17 charge under the provisions of this paragraph,
18 the Secretary shall review the circumstances to
19 determine whether the discharge met the require-
20 ments of this paragraph. The review under this
21 clause shall be in addition to any other enforce-
22 ment authority of the Secretary.

23 “(4) DISCHARGE UNDER WAIVER.—

24 “(A) SUBSTANTIAL BUSINESS HARDSHIP
25 WAIVER.—If, because of the short length of a voy-

1 *age, the operator of a vessel is unable to dis-*
2 *charge ballast water in accordance with the re-*
3 *quirements of paragraph (2)(B) without substan-*
4 *tial business hardship, as determined under reg-*
5 *ulations prescribed by the Secretary, the operator*
6 *shall request a waiver from the Secretary and*
7 *discharge the ballast water in accordance with*
8 *paragraph (5). A request for a waiver under this*
9 *subparagraph shall be submitted to the Secretary*
10 *at such time and in such form and manner as*
11 *the Secretary may require.*

12 “(B) *SUBSTANTIAL BUSINESS HARDSHIP.—*
13 *For purposes of subparagraph (A), the factors*
14 *taken into account in determining substantial*
15 *business hardship shall include whether—*

16 “(i) *compliance with the requirements*
17 *of paragraph (2)(B) would require a suffi-*
18 *ciently great change in routing or sched-*
19 *uling of service as to compromise the eco-*
20 *nomical or commercial viability of the trade*
21 *or business in which the vessel is operated;*
22 *or*

23 “(ii) *it is reasonable to expect that the*
24 *trade or business or service provided will be*

1 *continued only if a waiver is granted under*
2 *subparagraph (A).*

3 “(5) *PERMISSABLE DISCHARGE.*—

4 “(A) *IN GENERAL.*—*The discharge of ballast*
5 *water shall be considered to be carried out in ac-*
6 *cordance with this paragraph if it is—*

7 “(i) *in an area designated for that*
8 *purpose by the Secretary, after consultation*
9 *with the Undersecretary and the Adminis-*
10 *trator and representatives of any State that*
11 *may be affected by discharge of ballast*
12 *water in that area; or*

13 “(ii) *into a reception facility described*
14 *in subsection (f)(2).*

15 “(B) *LIMITATION ON VOLUME.*—*The volume*
16 *of any ballast water discharged under the provi-*
17 *sions of this paragraph may not exceed the vol-*
18 *ume necessary to ensure the safe operation of the*
19 *vessel.*

20 “(6) *PARTIAL COMPLIANCE.*—*The operator of a*
21 *vessel that is unable to comply fully with the require-*
22 *ments of paragraphs (1) and (2)—*

23 “(A) *shall nonetheless conduct ballast water*
24 *exchange to the maximum extent feasible in com-*
25 *pliance with those paragraphs; and*

1 “(B) may conduct a partial ballast water
2 exchange under this paragraph only to the extent
3 that the ballast water in an individual ballast
4 tank can be completely exchanged in accordance
5 with the provisions of paragraph (1)(B).

6 “(7) SPECIAL RULES FOR VESSELS IN THE
7 GREAT LAKES.—Until vessels described in subsection
8 (e)(6) are required to conduct ballast water treatment
9 in accordance with the requirements of subsection (f),
10 the regulations promulgated by the Secretary of
11 Transportation under this section, as such regulations
12 and section were in effect on the day before the date
13 of enactment of the Ballast Water Management Act of
14 2005, shall remain in full force and effect for, and
15 shall continue to apply to, such vessels.

16 “(8) CERTAIN GEOGRAPHICALLY LIMITED
17 ROUTES.—Notwithstanding paragraph (2)(B) of this
18 subsection, the operator of a vessel is not required to
19 comply with the requirements of paragraph (2)(B)—

20 “(A) if the vessel operates exclusively—

21 “(i) within Lake Superior, Lake
22 Michigan, Lake Huron, and Lake Erie and
23 the connecting channels; or

24 “(ii) between or among the main group
25 of the Hawaiian Islands; or

1 “(B) if the vessel operates exclusively within
2 any area with respect to which the Secretary has
3 determined, after consultation with the Undersec-
4 retary, the Administrator, and representatives of
5 States the waters of which would be affected by
6 the discharge of ballast water, that the risk of in-
7 troducing aquatic invasive species through bal-
8 last water discharge in the areas in which the
9 vessel operates is insignificant.

10 “(9) *MARINE SANCTUARIES AND OTHER PROHIB-*
11 *ITED AREAS.*—A vessel may not conduct ballast water
12 exchange or discharge unexchanged ballast water
13 under this subsection within a marine sanctuary des-
14 ignated under title III of the National Marine Sanc-
15 tuaries Act (16 U.S.C. 1431 et seq.) or in any other
16 waters designated by the Secretary after consultation
17 with the Undersecretary and the Administrator.

18 “(10) *REGULATIONS DEADLINE.*—The Secretary
19 shall issue a final rule for regulations required by this
20 subsection within 1 year after the date of enactment
21 of the Ballast Water Management Act of 2005.

22 “(f) *BALLAST WATER TREATMENT REQUIREMENTS.*—

23 “(1) *PERFORMANCE STANDARDS.*—A vessel to
24 which this section applies shall conduct ballast water
25 treatment in accordance with the requirements of this

1 *subsection before discharging ballast water so that the*
2 *ballast water discharged will contain—*

3 *“(A) less than 1 living organism per 10*
4 *cubic meters that is 50 or more micrometers in*
5 *minimum dimension;*

6 *“(B) less than 1 living organism per 10*
7 *milliliters that is less than 50 micrometers in*
8 *minimum dimension and more than 10 microm-*
9 *eters in minimum dimension;*

10 *“(C) concentrations of indicator microbes*
11 *that are less than—*

12 *“(i) 1 colony-forming unit of*
13 *toxicogenic *Vibrio cholera* (serotypes O1 and*
14 *O139) per 100 milliliters, or less than 1 col-*
15 *ony-forming unit of that microbe per gram*
16 *of wet weight of zoological samples;*

17 *“(ii) 126 colony-forming units of *esch-**
18 **erichia coli* per 100 milliliters; and*

19 *“(iii) 33 colony-forming units of *intes-**
20 **tinal enterococci* per 100 milliliters; and*

21 *“(D) concentrations of such additional indi-*
22 *cator microbes as may be specified in regulations*
23 *promulgated by the Secretary, after consultation*
24 *with the Environmental Protection Agency, that*

1 *are less than the amount specified in those regu-*
2 *lations.*

3 “(2) *RECEPTION FACILITY EXCEPTION.*—

4 “(A) *IN GENERAL.*—*Paragraph (1) does not*
5 *apply to a vessel that discharges ballast water*
6 *into—*

7 “(i) *a land-based facility for the recep-*
8 *tion of ballast water that meets standards*
9 *prescribed by the Administrator; or*

10 “(ii) *a water-based facility for the re-*
11 *ception of ballast water that meets stand-*
12 *ards prescribed by the Secretary.*

13 “(B) *PROMULGATION OF STANDARDS.*—
14 *Within 1 year after the date of enactment of the*
15 *Ballast Water Management Act of 2005, the Ad-*
16 *ministrator and the Secretary, respectively, shall*
17 *promulgate standards for—*

18 “(i) *the reception of ballast water in*
19 *land-based and water-based reception facili-*
20 *ties; and*

21 “(ii) *the disposal or treatment of such*
22 *ballast water in a way that does not impair*
23 *or damage the environment, human health,*
24 *property, or resources.*

1 “(3) *IMPLEMENTATION SCHEDULE.*—Paragraph
2 (1) applies to vessels in accordance with the following
3 schedule:

4 “(A) *FIRST PHASE.*—Beginning January 1,
5 2009, for vessels constructed on or after that date
6 with a ballast water capacity of less than 5,000
7 cubic meters.

8 “(B) *SECOND PHASE.*—Beginning January
9 1, 2012, for vessels constructed on or after that
10 date with a ballast water capacity of 5,000 cubic
11 meters or more.

12 “(C) *THIRD PHASE.*—Beginning January
13 1, 2014, for vessels constructed before January 1,
14 2009, with a ballast water capacity of 1,500
15 cubic meters or more but not more than 5,000
16 cubic meters.

17 “(D) *FOURTH PHASE.*—Beginning January
18 1, 2016, for vessels constructed—

19 “(i) before January 1, 2009, with a
20 ballast water capacity of less than 1,500
21 cubic meters or 5,000 cubic meters or more;
22 or

23 “(ii) on or after January 1, 2009, and
24 before January 1, 2012, with a ballast

1 *water capacity of 5,000 cubic meters or*
2 *more.*

3 “(4) *TREATMENT SYSTEM APPROVAL RE-*
4 *QUIRED.—The operator of a vessel may not use a bal-*
5 *last water treatment system to comply with the re-*
6 *quirements of this subsection unless the system is ap-*
7 *proved by the Secretary. The Secretary shall promul-*
8 *gate regulations establishing a process for such ap-*
9 *proval, after consultation with the Administrator,*
10 *within 1 year after the date of enactment of the Bal-*
11 *last Water Management Act of 2005.*

12 “(5) *FEASIBILITY REVIEW.—*

13 “(A) *IN GENERAL.—Not less than 2 years*
14 *before the date on which paragraph (1) applies*
15 *to vessels under each subparagraph of paragraph*
16 *(3), or as that date may be extended under this*
17 *paragraph, the Secretary shall complete a review*
18 *to determine whether appropriate technologies*
19 *are available to achieve the standards set forth in*
20 *paragraph (1) for the vessels to which they apply*
21 *under the schedule set forth in paragraph (3). In*
22 *reviewing the technologies the Secretary, after*
23 *consultation with the Administrator, shall con-*
24 *sider—*

1 “(i) the effectiveness of a technology in
2 achieving the standards;

3 “(ii) feasibility in terms of compat-
4 ibility with ship design and operations;

5 “(iii) safety considerations;

6 “(iv) whether a technology has an ad-
7 verse impact on the environment; and

8 “(v) cost effectiveness.

9 “(B) *DELAY IN SCHEDULED APPLICA-*
10 *TION.—If the Secretary determines, on the basis*
11 *of the review conducted under subparagraph (A),*
12 *that compliance with the standards set forth in*
13 *paragraph (1) in accordance with the schedule*
14 *set forth in any subparagraph of paragraph (3)*
15 *is not feasible for any class of vessels, the Sec-*
16 *retary shall—*

17 “(i) extend the date on which that sub-
18 paragraph first applies to vessels for a pe-
19 riod of not more than 24 months; and

20 “(ii) recommend action to ensure that
21 compliance with the extended date schedule
22 for that subparagraph is achieved.

23 “(C) *HIGHER STANDARDS; EARLIER IMPLE-*
24 *MENTATION.—*

1 “(i) *STANDARDS.*—*If the Secretary de-*
2 *termines that ballast water treatment tech-*
3 *nology exists that exceeds the performance*
4 *standards required under this subsection,*
5 *the Secretary shall, for any class of vessels,*
6 *revise the performance standards to incor-*
7 *porate the higher performance standards.*

8 “(ii) *IMPLEMENTATION.*—*If the Sec-*
9 *retary determines that technology that*
10 *achieves the applicable performance stand-*
11 *ards required under this subsection can be*
12 *implemented earlier than required by this*
13 *subsection, the Secretary shall, for any class*
14 *of vessels, accelerate the implementation*
15 *schedule under paragraph (3). If the Sec-*
16 *retary accelerates the implementation sched-*
17 *ule pursuant to this clause, the Secretary*
18 *shall provide at least 24 months notice be-*
19 *fore such accelerated implementation goes*
20 *into effect.*

21 “(iii) *DETERMINATIONS NOT MUTU-*
22 *ALLY EXCLUSIVE.*—*The Secretary shall take*
23 *action under both clause (i) and clause (ii)*
24 *if the Secretary makes determinations*
25 *under both clauses.*

1 “(6) *DELAY OF APPLICATION FOR VESSEL PAR-*
2 *TICIPATING IN PROMISING TECHNOLOGY EVALUA-*
3 *TIONS.—*

4 “(A) *IN GENERAL.—If a vessel participates*
5 *in a program approved by the Secretary to test*
6 *and evaluate promising ballast water treatment*
7 *technologies that are likely to result in treatment*
8 *technologies achieving a standard that is the*
9 *same as or more stringent than the standard*
10 *that applies under paragraph (1) before the first*
11 *date on which paragraph (1) applies to that ves-*
12 *sel, the Secretary shall allow the vessel to use*
13 *that technology for a 10 year period and such*
14 *vessel shall be deemed to be in compliance with*
15 *the requirements of paragraph (1) during that*
16 *10-year period.*

17 “(B) *VESSEL DIVERSITY.—The Secretary—*

18 *“(i) shall seek to ensure that a wide*
19 *variety of vessel types and voyages are in-*
20 *cluded in the program; but*

21 *“(ii) may not grant a delay under this*
22 *paragraph to more than 5 percent of the*
23 *vessels to which subparagraph (A), (B), (C),*
24 *or (D) of paragraph (3) applies.*

1 “(C) *TERMINATION OF GRACE PERIOD.*—
2 *The Secretary may terminate the 10-year grace*
3 *period of a vessel under subparagraph (A) if*
4 *participation of the vessel in the program is ter-*
5 *minated without the consent of the Secretary.*

6 “(D) *ANNUAL RE-EVALUATION; TERMI-*
7 *NATION.*—*The Secretary shall establish an an-*
8 *annual evaluation process to determine whether the*
9 *performance of an approved technology is suffi-*
10 *ciently effective and whether it is causing harm*
11 *to the environment. If the Secretary determines*
12 *that an approved technology is insufficiently ef-*
13 *fective or it causing harm to the environment,*
14 *the Secretary shall revoke the approval granted*
15 *under subparagraph (D).*

16 “(7) *REVIEW OF STANDARDS.*—

17 “(A) *IN GENERAL.*—*In December, 2012, and*
18 *in every third year thereafter, the Secretary shall*
19 *review ballast water treatment standards to de-*
20 *termine, after consultation with the Undersecre-*
21 *tary and the Administrator, if the standards*
22 *under this subsection should be revised to reduce*
23 *the amount of organisms or microbes allowed to*
24 *be discharged, taking into account improvements*
25 *in the scientific understanding of biological proc-*

1 *esses leading to successful invasions of aquatic*
2 *invasive species and improvements in ballast*
3 *water treatment technology. The Secretary shall*
4 *revise by regulation the requirements of this sub-*
5 *section as necessary.*

6 *“(B) APPLICATION OF ADJUSTED STAND-*
7 *ARDS.—In the regulations, the Secretary shall*
8 *provide for the prospective application of the ad-*
9 *justed standards prescribed under this paragraph*
10 *to vessels constructed after the date on which the*
11 *adjusted standards apply and for an orderly*
12 *phase-in of the adjusted standards to existing*
13 *vessels.*

14 *“(8) HIGH-RISK VESSELS.—*

15 *“(A) VESSEL LIST.—Within 1 year after the*
16 *date of enactment of the Ballast Water Manage-*
17 *ment Act of 2005, the Secretary shall initiate a*
18 *list, in consultation with States, of vessels that,*
19 *due to factors such as the origin of their voyages,*
20 *the frequency of their voyages, the volume of bal-*
21 *last water they carry, the biological makeup of*
22 *the ballast water, and the fact that they fre-*
23 *quently discharge unexchanged or improperly ex-*
24 *changed ballast water pursuant to an exception*
25 *under subsection (e), pose a relatively high risk*

1 *of introducing aquatic invasive species into the*
2 *waters of those States.*

3 “(B) *INCENTIVE PROGRAMS.*—*The Secretary*
4 *shall—*

5 “(i) *give priority to vessels on the list*
6 *for participation in pilot programs de-*
7 *scribed in paragraph (6); and*

8 “(ii) *shall encourage Federal and State*
9 *technology development programs or other*
10 *incentives (whether positive or negative) to*
11 *give priority to such vessels in order to en-*
12 *courage the adoption of ballast water treat-*
13 *ment technology by those vessels consistent*
14 *with the requirements of this section on an*
15 *expedited basis.*

16 “(g) *WARNINGS CONCERNING BALLAST WATER UP-*
17 *TAKE.*—

18 “(1) *IN GENERAL.*—*The Secretary shall notify*
19 *vessel owners and operators of any area in waters*
20 *subject to the jurisdiction of the United States in*
21 *which vessels should not uptake ballast water due to*
22 *known conditions.*

23 “(2) *CONTENTS.*—*The notice shall include—*

24 “(A) *the coordinates of the area; and*

1 “(B) if possible, the location of alternative
2 areas for the uptake of ballast water.

3 “(h) *SEDIMENT MANAGEMENT.*—

4 “(1) *IN GENERAL.*—The operator of a vessel to
5 which this section applies may not remove or dispose
6 of sediment from spaces designed to carry ballast
7 water except—

8 “(A) in accordance with this subsection and
9 the ballast water management plan required
10 under subsection (c); and

11 “(B) more than 200 nautical miles from the
12 nearest point of land or into a reception facility
13 that meets the requirements of paragraph (3).

14 “(2) *DESIGN REQUIREMENTS.*—

15 “(A) *NEW VESSELS.*—After December 31,
16 2008, it shall be unlawful to construct a vessel
17 in the United States to which this section applies
18 unless that vessel is designed and constructed, in
19 accordance with regulations prescribed under
20 subparagraph (C), in a manner that—

21 “(i) minimizes the uptake and entrap-
22 ment of sediment;

23 “(ii) facilitates removal of sediment;
24 and

1 “(iii) provides for safe access for sedi-
2 ment removal and sampling.

3 “(B) *EXISTING VESSELS.*—Every vessel to
4 which this section applies that was constructed
5 before January 1, 2009, shall be modified before
6 January 1, 2009, to the extent practicable, to
7 achieve the objectives described in clauses (i),
8 (ii), and (iii) of subparagraph (A).

9 “(C) *REGULATIONS.*—The Secretary shall
10 promulgate regulations establishing design and
11 construction standards to achieve the objectives of
12 subparagraph (A) and providing guidance for
13 modifications and practices under subparagraph
14 (B). The Secretary shall incorporate the stand-
15 ards and guidance in the regulations governing
16 the ballast water management plan.

17 “(3) *SEDIMENT RECEPTION FACILITIES.*—

18 “(A) *STANDARDS.*—The Administrator,
19 shall promulgate regulations governing facilities
20 for the reception of vessel sediment from spaces
21 designed to carry ballast water that provide for
22 the disposal of such sediment in a way that does
23 not impair or damage the environment, human
24 health, or property or resources of the disposal
25 area. The Administrator may not prescribe

1 standards under this subparagraph that are less
2 stringent than any otherwise applicable Federal,
3 State, or local law requirements.

4 “(B) *DESIGNATION.*—The Administrator
5 shall designate facilities for the reception of ves-
6 sel sediment that meet the requirements of the
7 regulations promulgated under subparagraph
8 (A) at ports and terminals where ballast tanks
9 are cleaned or repaired.

10 “(i) *EXAMINATIONS AND CERTIFICATIONS.*—

11 “(1) *INITIAL EXAMINATION.*—

12 “(A) *IN GENERAL.*—The Secretary shall ex-
13 amine vessels to which this section applies to de-
14 termine whether—

15 “(i) there is a ballast water manage-
16 ment plan for the vessel that meets the re-
17 quirements of this section; and

18 “(ii) the equipment used for ballast
19 water and sediment management in accord-
20 ance with the requirements of this section
21 and the regulations promulgated hereunder
22 is installed and functioning properly.

23 “(B) *NEW VESSELS.*—For vessels con-
24 structed on or after January 1, 2009, the Sec-
25 retary shall conduct the examination required by

1 subparagraph (A) before the vessel is placed in
2 service.

3 “(C) *EXISTING VESSELS.*—For vessels con-
4 structed before January 1, 2009, the Secretary
5 shall—

6 “(i) conduct the examination required
7 by subparagraph (A) before the date on
8 which subsection (f)(1) applies to the vessel
9 according to the schedule in subsection
10 (f)(3); and

11 “(ii) inspect the vessel’s ballast water
12 record book required by subsection (d).

13 “(D) *FOREIGN VESSELS.*—In the case of a
14 foreign vessel (as defined in section 2101(12) of
15 title 46, United States Code), the Secretary shall
16 perform the examination required by this para-
17 graph the first time the vessel enters a United
18 States port.

19 “(2) *SUBSEQUENT EXAMINATIONS.*—The Sec-
20 retary shall examine vessels no less frequently than
21 once each year to ensure vessel compliance with the
22 requirements of this section.

23 “(3) *INSPECTION AUTHORITY.*—The Secretary
24 may carry out such inspections of any vessel to which
25 this section applies at any time, including the taking

1 of ballast water samples, to ensure the vessel's compli-
2 ance with this Act.

3 “(4) *REQUIRED CERTIFICATE.*—If, on the basis
4 of an initial examination under paragraph (1) the
5 Secretary finds that a vessel complies with the re-
6 quirements of this section and the regulations promul-
7 gated hereunder, the Secretary shall issue a certificate
8 under this paragraph as evidence of such compliance.
9 The certificate shall be valid for a period of not more
10 than 5 years, as specified by the Secretary. The cer-
11 tificate or a true copy shall be maintained on board
12 the vessel.

13 “(5) *NOTIFICATION OF VIOLATIONS.*—If the Sec-
14 retary finds, on the basis of an examination under
15 paragraph (1) or (2), sampling under paragraph (3),
16 or any other information, that a vessel is being oper-
17 ated in violation of the requirements of this section
18 and the regulations promulgated hereunder, the Sec-
19 retary shall—

20 “(A) notify—

21 “(i) the master of the vessel; and

22 “(ii) the captain of the port at the ves-
23 sel's next port of call; and

24 “(B) take such other action as may be ap-
25 propriate.

1 “(6) *COMPLIANCE MONITORING.*—*The Secretary*
2 *shall by regulation establish sampling procedures to*
3 *monitor compliance with the requirements of this sec-*
4 *tion.*

5 “(7) *EDUCATION AND TECHNICAL ASSISTANCE*
6 *PROGRAMS.*—*The Secretary may carry out education*
7 *and technical assistance programs and other measures*
8 *to promote compliance with the requirements issued*
9 *under this section.*

10 “(j) *DETENTION OF VESSELS.*—

11 “(1) *IN GENERAL.*—*The Secretary, by notice to*
12 *the owner, charterer, managing operator, agent, mas-*
13 *ter, or other individual in charge of a vessel, may de-*
14 *tain that vessel if the Secretary has reasonable cause*
15 *to believe that—*

16 “(A) *the vessel is a vessel to which this sec-*
17 *tion applies; and*

18 “(B) *the vessel does not comply with the re-*
19 *quirements of this section or of the regulations*
20 *issued hereunder or is being operated in viola-*
21 *tion of such requirements.*

22 “(2) *CLEARANCE.*—

23 “(A) *IN GENERAL.*—*A vessel detained under*
24 *paragraph (1) may obtain clearance under sec-*
25 *tion 4197 of the Revised Statutes (46 U.S.C.*

1 *App. 91) only if the violation for which it was*
2 *detained has been corrected.*

3 “(B) *WITHDRAWAL.*—*If the Secretary finds*
4 *that a vessel detained under paragraph (1) has*
5 *received a clearance under section 4197 of the*
6 *Revised Statutes (46 U.S.C. App. 91) before it*
7 *was detained under paragraph (1), the Secretary*
8 *shall withdraw, withhold, or revoke the clear-*
9 *ance.*

10 “(k) *SANCTIONS.*—

11 “(1) *CIVIL PENALTIES.*—*Any person who violates*
12 *a regulation promulgated under this section shall be*
13 *liable for a civil penalty in an amount not to exceed*
14 *\$32,500. Each day of a continuing violation con-*
15 *stitutes a separate violation. A vessel operated in vio-*
16 *lation of the regulations is liable in rem for any civil*
17 *penalty assessed under this subsection for that viola-*
18 *tion.*

19 “(2) *CRIMINAL PENALTIES.*—*Any person who*
20 *knowingly violates the regulations promulgated under*
21 *this section is guilty of a class C felony.*

22 “(3) *REVOCATION OF CLEARANCE.*—*Except as*
23 *provided in subsection (j)(2), upon request of the Sec-*
24 *retary, the Secretary of the Treasury shall withhold*
25 *or revoke the clearance of a vessel required by section*

1 4197 of the Revised Statutes (46 U.S.C. App. 91), if
2 the owner or operator of that vessel is in violation of
3 the regulations issued under this section.

4 “(4) *EXCEPTION TO SANCTIONS.*—

5 “(A) *IN GENERAL.*—This subsection does
6 not apply to a failure to exchange ballast water
7 if—

8 “(i) the master of a vessel, acting in
9 good faith, decides that the exchange of bal-
10 last water will threaten the safety or sta-
11 bility of the vessel, its crew, or its pas-
12 sengers; and

13 “(ii) the recordkeeping and reporting
14 requirements of the Act are complied with.

15 “(B) *GREAT LAKES.*—This paragraph does
16 not apply to vessels operating in the Great
17 Lakes.

18 “(l) *ENFORCEMENT.*—

19 “(1) *ADMINISTRATIVE ACTIONS.*—If the Sec-
20 retary finds, after notice and an opportunity for a
21 hearing, that a person has violated any provision of
22 this section or any regulation promulgated hereunder,
23 the Secretary may assess a civil penalty for that vio-
24 lation.

1 “(2) *CIVIL ACTIONS.*—*At the request of the Sec-*
2 *retary, the Attorney General may bring a civil action*
3 *in an appropriate district court of the United States*
4 *to enforce this section, or any regulation promulgated*
5 *hereunder. Any court before which such an action is*
6 *brought may award appropriate relief, including tem-*
7 *porary or permanent injunctions and civil penalties.*

8 “(m) *CONSULTATION WITH CANADA, MEXICO, AND*
9 *OTHER FOREIGN GOVERNMENTS.*—*In developing the guide-*
10 *lines issued and regulations promulgated under this section,*
11 *the Secretary is encouraged to consult with the Government*
12 *of Canada, the Government of Mexico, and any other gov-*
13 *ernment of a foreign country that the Secretary, after con-*
14 *sultation with the Task Force, determines to be necessary*
15 *to develop and implement an effective international pro-*
16 *gram for preventing the unintentional introduction and*
17 *spread of aquatic invasive species.*

18 “(n) *INTERNATIONAL COOPERATION.*—*The Secretary,*
19 *in cooperation with the Undersecretary, the Secretary of*
20 *State, the Administrator, the heads of other relevant Federal*
21 *agencies, the International Maritime Organization of the*
22 *United Nations, and the Commission on Environmental*
23 *Cooperation established pursuant to the North American*
24 *Free Trade Agreement, is encouraged to enter into negotia-*
25 *tions with the governments of foreign countries to develop*

1 *and implement an effective international program for pre-*
2 *venting the unintentional introduction and spread of*
3 *aquatic invasive species. The Secretary is particularly en-*
4 *couraged to seek bilateral or multilateral agreements with*
5 *Canada, Mexico, and other nations in the Wider Caribbean*
6 *(as defined in the Convention for the Protection and Devel-*
7 *opment of the Marine Environment of the Wider Caribbean*
8 *(Cartagena Convention) under this section.*

9 “(o) *NON-DISCRIMINATION.*—*The Secretary shall en-*
10 *sure that vessels registered outside of the United States do*
11 *not receive more favorable treatment than vessels registered*
12 *in the United States when the Secretary performs studies,*
13 *reviews compliance, determines effectiveness, establishes re-*
14 *quirements, or performs any other responsibilities under*
15 *this Act.*

16 “(p) *SUPPORT FOR FEDERAL BALLAST WATER DEM-*
17 *ONSTRATION PROJECT.*—*In addition to amounts otherwise*
18 *available to the Maritime Administration, the National*
19 *Oceanographic and Atmospheric Administration, and the*
20 *United States Fish and Wildlife Service for the Federal*
21 *Ballast Water Demonstration Project, the Secretary shall*
22 *provide support for the conduct and expansion of the*
23 *project, including grants for research and development of*
24 *innovative technologies for the management, treatment, and*
25 *disposal of ballast water and sediment, for ballast water*

1 *exchange, and for other vessel vectors of aquatic invasive*
 2 *species such as hull-fouling. There are authorized to be ap-*
 3 *propriated to the Secretary \$5,000,000 for each of fiscal*
 4 *years 2006 through 2010 to carry out this subsection.*

5 “(q) *CONSULTATION WITH TASK FORCE.—The Sec-*
 6 *retary shall consult with the Task Force in carrying out*
 7 *this section.*

8 “(r) *PREEMPTION.—*

9 “(1) *IN GENERAL.—Except as provided in para-*
 10 *graph (2) but notwithstanding any other provision of*
 11 *law, the provisions of subsections (e) and (f) supersede*
 12 *any provision of State or local law that is incon-*
 13 *sistent with the requirements of those subsections or*
 14 *that conflicts with the requirements of those sub-*
 15 *sections. The imposition, by State or local law, of*
 16 *greater penalties or fees for acts or omissions that are*
 17 *violations of such law and also violations of this Act*
 18 *shall not be considered to be inconsistent with, or to*
 19 *conflict with, the requirements of those subsections.*
 20 *Nothing in the preceding sentence limits the scope of*
 21 *State or local law provisions that are not to be con-*
 22 *sidered to be inconsistent with, or to conflict with, the*
 23 *requirements of those subsections*

24 “(2) *RECEPTION FACILITIES.—The standards*
 25 *prescribed by the Administrator or the Secretary*

1 *under subsection (f)(2) do not supersede any more*
2 *stringent standard under any otherwise applicable*
3 *Federal, State, or local law.*

4 “(3) *APPLICATION WITH OTHER STATUTES.—*
5 *This section provides the Federal authority for ad-*
6 *ressing aquatic invasive species in ballast water or*
7 *sediment. If there is a conflict between any otherwise*
8 *applicable provision of Federal law and the require-*
9 *ments of this section, the provisions of this section*
10 *shall control to the extent that such requirements re-*
11 *late to vessels with respect to aquatic invasive species*
12 *in ballast water or sediment.*

13 “(s) *REGULATIONS.—*

14 “(1) *IN GENERAL.—The Secretary, after con-*
15 *sultation with the Administrator, shall issue such reg-*
16 *ulations as may be necessary initially to carry out*
17 *this section within 1 year after the date of enactment*
18 *of the Ballast Water Management Act of 2005.*

19 “(2) *JUDICIAL REVIEW.—*

20 “(A) *120-DAY RULE.—An interested person*
21 *may bring an action for review of a final regula-*
22 *tion promulgated under this section by the Sec-*
23 *retary of the department in which the Coast*
24 *Guard is operating, or by the Administrator, in*
25 *the United States Circuit Court of Appeals for*

1 *the Federal judicial district in which that person*
 2 *resides or transacts business which is directly af-*
 3 *ected by that regulation only if that action is*
 4 *filed within—*

5 “(i) 120 days after the date on which
 6 the regulation is promulgated; or

7 “(ii) more than 120 days after that
 8 date if the action is based on grounds that
 9 arose after that 120-day period.

10 “(B) *REVIEW IN ENFORCEMENT PRO-*
 11 *CEEDINGS.—A regulation for which review could*
 12 *have been obtained under subparagraph (A) of*
 13 *this paragraph is not subject to judicial review*
 14 *in any civil or criminal proceeding for enforce-*
 15 *ment.”.*

16 (b) *DEFINITIONS.—Section 1003 of the Nonindigenous*
 17 *Aquatic Nuisance Prevention and Control Act of 1990 (16*
 18 *U.S.C. 4702) is amended—*

19 (1) *by redesignating—*

20 (A) *paragraphs (1), (2), and (3) as para-*
 21 *graphs (2), (3), and (4), respectively;*

22 (B) *paragraphs (4), (5), (6), (7), and (8) as*
 23 *paragraphs (8), (9), (10), (11), and (12), respec-*
 24 *tively;*

1 (C) paragraphs (9) and (10) as paragraphs
2 (13) and (14) respectively;

3 (D) paragraphs (11) and (12) as para-
4 graphs (16) and (17), respectively;

5 (E) paragraphs (13), (14), and (15) as
6 paragraphs (19), (20), and (21), respectively;

7 (F) paragraph (16) as paragraph (25); and

8 (G) paragraph (17) as paragraph (22) and
9 inserting it after paragraph (21), as redesign-
10 ated;

11 (2) by striking “nuisance” in paragraph (2), as
12 redesignated, and inserting “invasive”;

13 (3) by inserting before paragraph (2), as redesign-
14 ated, the following:

15 “(1) ‘Administrator’ means the Administrator of
16 the Environmental Protection Agency;”;

17 (4) by striking paragraph (4), as redesignated,
18 and inserting the following:

19 “(4) ‘ballast water’—

20 “(A) means water taken on board a vessel
21 to control trim, list, draught, stability, or
22 stresses of the vessel, including matter suspended
23 in such water; and

1 “(B) any water placed into a ballast tank
2 during cleaning, maintenance, or other oper-
3 ations; but

4 “(C) does not include water that, at the
5 time of discharge, does not contain aquatic
6 invasive species that was taken on board a vessel
7 and used for a purpose described in subpara-
8 graph (A);”;

9 (5) by inserting after paragraph (4) the fol-
10 lowing:

11 “(5) ‘ballast water capacity’ means the total vol-
12 umetric capacity of any tanks, spaces, or compart-
13 ments on a vessel that is used for carrying, loading,
14 or discharging ballast water, including any multi-use
15 tank, space, or compartment designed to allow car-
16 riage of ballast water;

17 “(6) ‘ballast water management’ means mechan-
18 ical, physical, chemical, and biological processes used,
19 either singularly or in combination, to remove, render
20 harmless, or avoid the uptake or discharge of harmful
21 aquatic organisms and pathogens within ballast
22 water and sediment;

23 “(7) ‘constructed’ means a state of construction
24 of a vessel at which—

25 “(A) the keel is laid;

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

3 “(C) assembly of the vessel has begun com-
4 prising at least 50 tons or 1 percent of the esti-
5 mated mass of all structural material of the ves-
6 sel, whichever is less; or

7 “(D) the vessel undergoes a major conver-
8 sion;”;

9 (6) by inserting after paragraph (14), as redesign-
10 nated, the following:

11 “(15) ‘major conversion’ means a conversion of
12 a vessel, that—

13 “(A) changes its ballast water carrying ca-
14 pacity by at least 15 percent;

15 “(B) changes the vessel class;

16 “(C) is projected to prolong the vessel’s life
17 by at least 10 years (as determined by the Sec-
18 retary); or

19 “(D) results in modifications to the vessel’s
20 ballast water system, except—

21 “(i) component replacement-in-kind; or

22 “(ii) conversion of a vessel to meet the
23 requirements of section 1101(e);”;

24 (7) by inserting after paragraph (17), as redesign-
25 nated, the following:

1 “(18) ‘*sediment*’ means matter that has settled
2 *out of ballast water within a vessel;*”;

3 (8) *by inserting after paragraph (22), as redesign-*
4 *ated, the following:*

5 “(23) ‘*United States port*’ means a port, river,
6 *harbor, or offshore terminal under the jurisdiction of*
7 *the United States, including ports located in Puerto*
8 *Rico, Guam, the Northern Marianas, and the United*
9 *States Virgin Islands;*

10 “(24) ‘*vessel of the Armed Forces*’ means—

11 “(A) *any vessel owned or operated by the*
12 *Department of Defense, other than a time or voy-*
13 *age chartered vessel; and*

14 “(B) *any vessel owned or operated by the*
15 *Department of Homeland Security that is des-*
16 *ignated by the Secretary of the department in*
17 *which the Coast Guard is operating as a vessel*
18 *equivalent to a vessel described in subparagraph*
19 *(A);*”; and

20 (9) *by inserting after paragraph (25), as redesign-*
21 *ated, the following:*

22 “(26) ‘*waters subject to the jurisdiction of the*
23 *United States*’ means *navigable waters and the terri-*
24 *torial sea of the United States, the exclusive economic*
25 *zone, and the Great Lakes.*”.

1 (c) *CONFORMING AMENDMENTS.*—

2 (1) *REPEAL OF SECTION 1103.*—Section 1103 of
3 the *Nonindigenous Aquatic Nuisance Prevention and*
4 *Control Act of 1990 (16 U.S.C. 4713)* is repealed.

5 (2) *REFERENCES TO “AQUATIC NUISANCE”.*—The
6 *Nonindigenous Aquatic Nuisance Prevention and*
7 *Control Act of 1990 (16 U.S.C. 4701 et seq.)* is
8 amended—

9 (A) by striking “**AQUATIC NUI-**
10 **SANCE**” in the heading for title I of Public
11 Law 101–646 (104 Stat. 4761) and inserting
12 “**AQUATIC INVASIVE SPECIES**”;

13 (B) by striking “**Aquatic Nuisance**” in
14 the headings for subtitles B and C of title I of
15 Public Law 101–646 (104 Stat. 4761 et seq.)
16 and inserting “**Aquatic Invasive**”;

17 (C) by striking “Aquatic Nuisance” in sec-
18 tion 1001 (16 U.S.C. 4701 note) and inserting
19 “Aquatic Invasive Species”;

20 (D) by striking “Aquatic Nuisance” in sec-
21 tion 1003(19) (as redesignated) and inserting
22 “Aquatic Invasive”;

23 (E) by striking “Aquatic Nuisance” in sec-
24 tion 1201(a) (16 U.S.C. 4721(a)) and inserting
25 “Aquatic Invasive”;

1 (F) by striking the heading for section 1202
2 (16 U.S.C. 4722) and inserting the following:

3 **“SEC. 1202. AQUATIC INVASIVE SPECIES PROGRAM.”**;

4 (G) by striking the heading for section 1204
5 (16 U.S.C. 4724) and inserting the following:

6 **“SEC. 1204. STATE AQUATIC INVASIVE SPECIES MANAGE-**
7 **MENT PLANS.”**; and

8 (H) by striking “aquatic nuisance” each
9 place it appears in the text of the Nonindigenous
10 Aquatic Nuisance Prevention and Control Act of
11 1990 (16 U.S.C. 4701 et seq.) and inserting
12 “aquatic invasive”.

13 (3) *REFERENCES IN OTHER LAWS, ETC.*—Any
14 reference to the Aquatic Nuisance Species Task Force
15 in any other Federal law, Executive order, rule, regu-
16 lation, or delegation of authority, or any document or
17 pertaining to the Aquatic Nuisance Species Task
18 Force or a member or employee of the Aquatic Nui-
19 sance Species Task Force, is deemed to refer to the
20 Aquatic Invasive Species Task Force or a member or
21 employee of the Aquatic Invasive Species Task Force,
22 as appropriate.

23 (e) *EFFECTIVE DATE.*—Except as otherwise provided
24 in section 1101 of the Nonindigenous Aquatic Nuisance Pre-
25 vention and Control Act of 1990 (16 U.S.C. 4711), as

1 *amended by this section, the provisions of that section as*
2 *so amended take effect on the date of enactment of this Act.*

3 **SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

4 *Section 1301(a) of the Nonindigenous Aquatic Nui-*
5 *sance Prevention and Control Act of 1990 (16 U.S.C.*
6 *4741(a)) is amended—*

7 *(1) by striking “and” after the semicolon in*
8 *paragraph (4)(B);*

9 *(2) by striking “1102(f).” in paragraph (5)(B)*
10 *and inserting “1102(f); and”; and*

11 *(3) by adding at the end the following:*

12 *“(6) \$20,000,000 for each of fiscal years 2006*
13 *through 2010 to the Secretary to carry out section*
14 *1101.”.*

15 **SEC. 5. COAST GUARD REPORTS ON OTHER SOURCES OF**
16 **VESSEL-BORNE INVASIVE SPECIES.**

17 *(a) IN GENERAL.—*

18 *(1) HULL-FOULING AND OTHER VESSEL*
19 *SOURCES.—Within 180 days after the date of enact-*
20 *ment of this Act, the Commandant of the Coast Guard*
21 *shall transmit a report to the Senate Committee on*
22 *Commerce, Science, and Transportation and the*
23 *House of Representatives Committee on Transpor-*
24 *tation and Infrastructure on vessel-related vectors of*
25 *harmful aquatic organisms and pathogens other than*

1 *ballast water and sediment, including vessel hulls and*
2 *equipment, and from vessels equipped with ballast*
3 *tanks that carry no ballast water on board.*

4 (2) *BEST PRACTICES.*—*As soon as practicable,*
5 *the Coast Guard shall develop best practices standards*
6 *and procedures designed to reduce the introduction of*
7 *invasive species into and within the United States*
8 *from vessels and establish a timeframe for implemen-*
9 *tation of those standards and procedures by vessels, in*
10 *addition to the mandatory requirements set forth in*
11 *section 1101 for ballast water. Such standards and*
12 *procedures should include designation of geographical*
13 *locations for uptake and discharge of untreated bal-*
14 *last water, as well as standards and procedures for*
15 *other vessel vectors of aquatic invasive species. The*
16 *Commandant shall transmit a report to the Commit-*
17 *tees describing the standards and procedures devel-*
18 *oped and the implementation timeframe, together*
19 *with any recommendations, including legislative rec-*
20 *ommendations if appropriate, the Commandant*
21 *deems appropriate. The Secretary of the department*
22 *in which the Coast Guard is operating may promul-*
23 *gate regulations to incorporate and enforce standards*
24 *and procedures developed under this subsection.*

1 **(b) TRANSITING VESSELS.**—*Within 180 days after the*
2 *date of enactment of this Act, the Commandant of the Coast*
3 *Guard shall transmit a report to the Senate Committee on*
4 *Commerce, Science, and Transportation and the House of*
5 *Representatives Committee on Transportation and Infra-*
6 *structure containing—*

7 (1) *an assessment of the magnitude and poten-*
8 *tial adverse impacts of ballast water operations from*
9 *foreign vessels designed, adapted, or constructed to*
10 *carry ballast water that are transiting waters subject*
11 *to the jurisdiction of the United States; and*

12 (2) *recommendations, including legislative rec-*
13 *ommendations if appropriate, of options for address-*
14 *ing ballast water operations of those vessels.*

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109TH CONGRESS
1ST Session

S. 363

[Report No. 109-181]

A BILL

To amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements, and for other purposes.

NOVEMBER 16, 2005

Reported with an amendment