

COAST GUARD AND MARITIME TRANSPORTATION ACT OF  
2003

\_\_\_\_\_  
JULY 24, 2003.—Committed to the Committee of the Whole House on the State of  
the Union and ordered to be printed  
\_\_\_\_\_

Mr. YOUNG of Alaska, from the Committee on Transportation and  
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 2443]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom  
was referred the bill (H.R. 2443) to authorize appropriations for the  
Coast Guard for fiscal year 2004, to amend various laws adminis-  
tered by the Coast Guard, and for other purposes, having consid-  
ered the same, report favorably thereon with an amendment and  
recommend that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be referred to as the “Coast Guard and Maritime Transportation  
Act of 2003”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

Sec. 1. Short title.  
Sec. 2. Table of contents.

TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.  
Sec. 102. Authorized levels of military strength and training.

TITLE II—COAST GUARD MANAGEMENT

Sec. 201. Long-term leases.  
Sec. 202. Nonappropriated fund instrumentalities.  
Sec. 203. Term of enlistments.  
Sec. 204. Enlisted member critical skill training bonus.  
Sec. 205. Enhancement of Coast Guard authority to stop vessels liable to seizure or examination.  
Sec. 206. Administrative, collection, and enforcement costs for certain fees and charges.  
Sec. 207. Expansion of Coast Guard housing authorities.  
Sec. 208. Requirement for constructive credit.  
Sec. 209. Maximum age for retention in an active status.  
Sec. 210. Payments.  
Sec. 211. Coast Guard fellowship program.

- Sec. 212. Air search and rescue facility in Muskegon County, Michigan.  
 Sec. 213. National Coast Guard Museum.  
 Sec. 214. Limitation on number of commissioned officers.  
 Sec. 215. Redistricting notification requirement.

#### TITLE III—NAVIGATION

- Sec. 301. Marking of underwater wrecks.  
 Sec. 302. Use of electronic devices; cooperative agreements.  
 Sec. 303. Inland navigation rules promulgation authority.

#### TITLE IV—SHIPPING

- Sec. 401. Reports from charterers.  
 Sec. 402. Suspension of documents in lieu of mandatory revocation for proved drug convictions.  
 Sec. 403. Inspection of records of merchant mariners' documents.  
 Sec. 404. Exemption of unmanned barges from citizenship requirements regarding command of vessel.  
 Sec. 405. Administrative, collection, and enforcement costs for certain fees and charges.  
 Sec. 406. Compliance with International Safety Management Code.  
 Sec. 407. Civil penalties for failure to comply with recreational vessel and associated equipment safety standards.  
 Sec. 408. Revision of temporary suspension criteria in document suspension and revocation cases.  
 Sec. 409. Revision of bases for document suspension and revocation cases.  
 Sec. 410. Hours of service on towing vessels.  
 Sec. 411. Automatic identification system electronic charts.  
 Sec. 412. Prevention of departure.

#### TITLE V—FEDERAL MARITIME COMMISSION

- Sec. 501. Authorization of appropriations for Federal Maritime Commission.

#### TITLE VI—MISCELLANEOUS

- Sec. 601. Increase in civil penalties for violations of certain bridge statutes.  
 Sec. 602. Conveyance of decommissioned Coast Guard Cutter SUNDEW.  
 Sec. 603. Tonnage measurement.  
 Sec. 604. Operation of vessel STAD AMSTERDAM.  
 Sec. 605. Great Lakes National Maritime Enhancement Institute.  
 Sec. 606. Agile Port and Intelligent Border Security National Demonstration Project.  
 Sec. 607. Koss Cove.  
 Sec. 608. Miscellaneous certificates of documentation.  
 Sec. 609. Dredging study.  
 Sec. 610. Report regarding security inspection of vessels and vessel-borne cargo containers entering the United States.

#### TITLE VII—AMENDMENTS RELATING TO OIL POLLUTION ACT OF 1990

- Sec. 701. Vessel response plans for nontank vessels over 400 gross tons.  
 Sec. 702. Requirements for tank level and pressure monitoring devices.  
 Sec. 703. Liability and cost recovery.

## TITLE I—AUTHORIZATION

### SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

#### (a) OPERATIONS AND CAPITAL ACQUISITIONS.—

(1) IN GENERAL.—Funds are authorized to be appropriated for fiscal year 2004 for necessary expenses of the Coast Guard as follows:

(A) OPERATING EXPENSES.—For the operating expenses of the Coast Guard, \$4,996,000,000, of which—

(i) \$4,979,000,000 is for operation and maintenance of the Coast Guard; and

(ii) \$17,000,000 is for environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operations and maintenance).

(B) CAPITAL ACQUISITIONS.—For the capital acquisitions of the Coast Guard, \$1,097,000,000, of which—

(i) \$355,000,000 is for acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto;

(ii) \$702,000,000 is for acquisition and construction of shore and offshore facilities, vessels, and aircraft, including equipment related thereto, and other activities that constitute the Integrated Deepwater Systems program;

(iii) \$22,000,000 is for research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness; and

(iv) \$18,000,000 is for the alteration or removal of bridges over navigable waters of the United States constituting obstructions to naviga-

tion, and for personnel and administrative costs associated with the Bridge Alteration Program.

(2) SOURCE OF FUNDS.—

(A) OPERATING EXPENSES.—Of the amount authorized in paragraph (1)(A), \$25,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(B) CAPITAL ACQUISITIONS.—Of the amounts authorized by paragraph (1)(B),

(i) \$20,000,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990; and

(ii) \$3,500,000 is authorized to be derived each fiscal year from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(b) RETIRED PAY.—There is authorized to be appropriated for Coast Guard retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments with respect to the Coast Guard under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired Coast Guard personnel and their dependents under chapter 55 of title 10, United States Code, \$1,020,000,000.

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

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 45,500 as of September 30, 2004.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training for fiscal year 2004, 2,500 student years.

(2) For flight training for fiscal year 2004, 125 student years.

(3) For professional training in military and civilian institutions for fiscal year 2004, 350 student years.

(4) For officer acquisition for fiscal year 2004, 1,200 student years.

## TITLE II—COAST GUARD MANAGEMENT

**SEC. 201. LONG-TERM LEASES.**

Section 93 of title 14, United States Code, is amended—

(1) by redesignating paragraphs (a) through (x) in order as paragraphs (1) through (23);

(2) in paragraph (18) (as so redesignated) by striking the comma at the end and inserting a semicolon;

(3) by inserting “(a)” before “For the purpose”; and

(4) by adding at the end the following:

“(b)(1) Notwithstanding subsection (a)(14), a lease described in paragraph (2) of this subsection may be for a term of up to 20 years.

“(2) A lease referred to in paragraph (1) is a lease—

“(A) to the United States Coast Guard Academy Alumni Association for the construction of an Alumni Center on the grounds of the United States Coast Guard Academy; or

“(B) to an entity with which the Commandant has a cooperative agreement under section 4(e) of the Ports and Waterways Safety Act, and for which a term longer than 5 years is necessary to carry out the agreement.”.

**SEC. 202. NONAPPROPRIATED FUND INSTRUMENTALITIES.**

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

**“§ 152. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services**

“The Coast Guard Exchange System, or a morale, welfare, and recreation system of the Coast Guard, may enter into a contract or other agreement with any element or instrumentality of the Coast Guard or with another Federal department, agency, or instrumentality to provide or obtain goods and services beneficial to the efficient management and operation of the Coast Guard Exchange System or that morale, welfare, and recreation system.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 14, United States Code, is amended by adding at the end the following:

“152. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services.”.

**SEC. 203. TERM OF ENLISTMENTS.**

Section 351(a) of title 14, United States Code, is amended by striking “terms of full years not exceeding six years.” and inserting “a period of at least two years but not more than six years.”.

**SEC. 204. ENLISTED MEMBER CRITICAL SKILL TRAINING BONUS.**

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended by inserting after section 373 the following:

**“§ 374. Critical skill training bonus**

“(a) The Secretary may provide a bonus, not to exceed \$20,000, to an enlisted member who completes training in a skill designated as critical, if at least four years of obligated active service remain on the member’s enlistment at the time the training is completed. A bonus under this section may be paid in a single lump sum or in periodic installments.

“(b) If an enlisted member voluntarily or because of misconduct does not complete the member’s term of obligated active service, the Secretary may require the member to repay the United States, on a pro rata basis, all sums paid under this section. The Secretary may charge interest on the amount repaid at a rate, to be determined quarterly, equal to 150 percent of the average of the yields on the 91-day Treasury bills auctioned during the calendar quarter preceding the date on which the amount to be repaid is determined.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended by inserting the following after the item relating to section 373:

“374. Critical skill training bonus.”.

**SEC. 205. ENHANCEMENT OF COAST GUARD AUTHORITY TO STOP VESSELS LIABLE TO SEIZURE OR EXAMINATION.**

(a) REPEAL OF REQUIREMENT TO FIRE WARNING SHOT.—Subsection (a) of section 637 of title 14, United States Code, is amended—

(1) by inserting “(1)” after “(a)”;

(2) by striking “after a” and all that follows through “signal,” and inserting “subject to paragraph (2),”; and

(3) by adding at the end the following:

“(2) Before firing at or into a vessel as authorized in paragraph (1), the person in command or in charge of the authorized vessel or authorized aircraft shall fire a gun as a warning signal, except that the prior firing of a gun as a warning signal is not required if that person determines that the firing of a warning signal would unreasonably endanger persons or property in the vicinity of the vessel to be stopped.”.

(b) EXTENSION TO MILITARY AIRCRAFT OF COAST GUARD INTERDICTION AUTHORITY.—Subsection (c) of such section is amended—

(1) in paragraph (1) by inserting “or” after the semicolon; and

(2) in paragraph (2) by striking “; or” and all that follows through paragraph (3) and inserting a period.

(c) REPEAL OF TERMINATION OF APPLICABILITY TO NAVAL AIRCRAFT.—Subsection (d) of such section is repealed.

**SEC. 206. ADMINISTRATIVE, COLLECTION, AND ENFORCEMENT COSTS FOR CERTAIN FEES AND CHARGES.**

Section 664 of title 14, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (f);

(2) by inserting after subsection (b) the following:

“(c) In addition to the collection of fees and charges established under this section, the Secretary may recover from the person liable for the fee or charge the costs of collecting delinquent payments of the fee or charge, and enforcement costs associated with delinquent payments of the fees and charges.

“(d)(1) The Secretary may employ any Federal, State, or local agency or instrumentality, or any private enterprise or business, to collect a fee or charge established under this section.

“(2) A private enterprise or business employed by the Secretary to collect fees or charges—

“(A) shall be subject to reasonable terms and conditions agreed to by the Secretary and the enterprise or business;

“(B) shall provide appropriate accounting to the Secretary; and

“(C) may not institute litigation as part of that collection.

“(e) The Secretary shall account for the agency’s costs of collecting a fee or charge as a reimbursable expense, and the costs shall be credited to the account from which expended.”; and

(3) by adding at the end the following:

“(g) In this section the term ‘costs of collecting a fee or charge’ includes the reasonable administrative, accounting, personnel, contract, equipment, supply, training, and travel expenses of calculating, assessing, collecting, enforcing, reviewing, adjusting, and reporting on a fee or charge.”

**SEC. 207. EXPANSION OF COAST GUARD HOUSING AUTHORITIES.**

(a) **ELIGIBLE ENTITY DEFINED.**—Section 680 of title 14, United States Code, is amended—

(1) by redesignating paragraphs (3) and (4) in order as paragraphs (4) and (5); and

(2) by inserting after paragraph (2) the following:

“(3) The term ‘eligible entity’ means any private person, corporation, firm, partnership, or company and any State or local government or housing authority of a State or local government.”

(b) **DIRECT LOANS FOR PROVIDING HOUSING.**—Section 682 of title 14, United States Code, is amended—

(1) in the section heading by striking “LOAN GUARANTEES” and inserting “DIRECT LOANS AND LOAN GUARANTEES”;

(2) by redesignating subsections (a) and (b) as (b) and (c) respectively;

(3) by inserting before subsection (b) (as so redesignated) the following:

“(a) **DIRECT LOANS.**—(1) Subject to subsection (c), the Secretary may make direct loans to an eligible entity in order to provide funds to the eligible entity for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

“(2) The Secretary shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.”;

(4) in subsection (b) (as so redesignated) by striking “subsection (b),” and inserting “subsection (c),”; and

(5) in subsection (c) (as so redesignated)—

(A) in the heading by striking “GUARANTEE”; and

(B) by striking “Loan guarantees” and inserting “Direct loans and loan guarantees”.

(c) **LIMITED PARTNERSHIPS WITH ELIGIBLE ENTITIES.**—Section 684 of title 14, United States Code, is amended—

(1) in the section heading by striking “nongovernmental” and inserting “eligible”;

(2) in subsection (a) by striking “nongovernmental” and inserting “eligible”;

(3) in subsection (b)(1) by striking “a nongovernmental” and inserting “an eligible”;

(4) in subsection (b)(2) by striking “a nongovernmental” and inserting “an eligible”; and

(5) in subsection (c) by striking “nongovernmental” and inserting “eligible”.

(d) **HOUSING DEMONSTRATION PROJECTS IN ALASKA.**—Section 687(g) of title 14, United States Code, is amended—

(1) in the heading by striking “PROJECT” and inserting “PROJECTS”;

(2) in paragraph (1) by striking “a demonstration project” and inserting “demonstration projects”; and

(3) in paragraph (1) by striking “Kodiak, Alaska;” and inserting “Kodiak, Alaska, or any other Coast Guard installation in Alaska;”;

(4) in paragraph (2) by striking “the demonstration project” and inserting “such a demonstration project”; and

(5) in paragraph (4) by striking “the demonstration project” and inserting “such demonstration projects”.

(e) **DIFFERENTIAL LEASE PAYMENTS.**—Chapter 18 of title 14, United States Code, is amended by inserting after section 687 the following:

**“§ 687a. Differential lease payments**

“Pursuant to an agreement entered into by the Secretary and a lessor of military family housing or military unaccompanied housing to members of the armed forces, the Secretary may pay the lessor an amount, in addition to the rental payments for the housing made by the members, as the Secretary determines appropriate to encourage the lessor to make the housing available to members of the armed forces as military family housing or as military unaccompanied housing.”.

(f) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 18 of title 14, United States Code, is amended—

(1) by striking the item related to section 682 and inserting the following:

“682. Direct loans and loan guarantees.”;

(2) in the item related to section 684 by striking “nongovernmental” and inserting “eligible”; and

(3) by inserting after the item related to section 687 the following:

“687a. Differential lease payments.”.

**SEC. 208. REQUIREMENT FOR CONSTRUCTIVE CREDIT.**

Section 727 of title 14, United States Code, is amended in the second sentence by striking “three years” and inserting “one year”.

**SEC. 209. MAXIMUM AGE FOR RETENTION IN AN ACTIVE STATUS.**

Section 742 of title 14, United States Code, is amended—

(1) in subsection (a), by striking “sixty-two” and inserting “60”; and

(2) in subsection (c), by striking “sixty-two” and inserting “60”.

**SEC. 210. PAYMENTS.**

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

**“§ 517. Payments**

“(a) The Secretary may require that travel or transportation allowances due a civilian employee or military member of the Coast Guard be disbursed directly to the issuer of a Federal contractor-issued travel charge card, but only in an amount not to exceed the authorized travel expenses charged by that Coast Guard member to that travel charge card issued to that employee or member.

“(b) The Secretary may also establish requirements similar to those established by the Secretary of Defense pursuant to section 2784a of title 10 for deduction or withholding of pay or retired pay from a Coast Guard employee, member, or retired member who is delinquent in payment under the terms of the contract under which the card was issued and does not dispute the amount of the delinquency.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended by adding at the end the following:

“517. Payments.”.

**SEC. 211. COAST GUARD FELLOWSHIP PROGRAM.**

(a) ESTABLISHMENT.—Title 14, United States Code, is amended by adding at the end of chapter 11 the following:

**“§ 337. Coast Guard Congressional Fellowship Program**

“(a) There is established in the Coast Guard a Coast Guard Congressional Fellowship Program to broaden Coast Guard officers’ knowledge of the Congress.

“(b) The Commandant may appoint 4 mid-grade officers as fellows under the program, subject to the following limitations:

“(1) The maximum length of a fellowship is one year.

“(2) A fellow may be assigned to an office of the House of Representatives or the Senate, including a committee, during the period of the fellowship, or may rotate between such offices.

“(3) To protect against abuses of separation of powers principles and conflicts of interest, a fellow may not engage in duties that will result in any direct or indirect benefit to the Coast Guard, other than broadening the fellow’s knowledge.

“(c) An individual violating this section is subject to appropriate discipline by the Commandant.”.

(b) LIMITATION ON APPLICATION.—Section 337(b)(1) of title 14, United States Code, as amended by this section, does not apply to an individual serving on June 10, 2003, as a Coast Guard congressional fellow.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended by inserting after the item relating to section 336 the following:

“337. Coast Guard Congressional Fellowship Program.”.

**SEC. 212. AIR SEARCH AND RESCUE FACILITY IN MUSKEGON COUNTY, MICHIGAN.**

(a) LEASE AUTHORITY.—The Commandant may enter into a long-term lease for a period of up to 20 years with Muskegon County, Michigan, for use of a facility constructed by the County at Muskegon County Airport as an air search and rescue station, if such a facility that meets criteria established under subsection (b) is available.

(b) CRITERIA.—Any facility leased under subsection (a) must meet criteria established by the Commandant.

**SEC. 213. NATIONAL COAST GUARD MUSEUM.**

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

**“§ 98. National Coast Guard Museum**

“(a) ESTABLISHMENT.—The Commandant of the Coast Guard may, subject to subsections (b) and (c), establish a National Coast Guard Museum on Federal lands that are administered by the Coast Guard and specified by the Commandant.

“(b) LOCATION.—The National Coast Guard Museum may be located at, or in close proximity to, the Coast Guard Academy in New London, Connecticut.

“(c) LIMITATION ON EXPENDITURES.—The Secretary of the Department in which the Coast Guard is operating shall not expend any Federal funds for the planning, engineering, design, construction, operation, or maintenance of any museum established under subsection (a).

“(d) OPERATION AND MAINTENANCE PLAN.—Before the date on which the Commandant establishes a museum under subsection (a), the Commandant shall provide to the Committee on Transportation and Infrastructure of the House of Representatives a plan for operating and maintaining such a museum, including—

“(1) estimated operation and maintenance costs;

“(2) proposed sources of operation and maintenance funds; and

“(3) a certification by the Inspector General of the Department in which Coast Guard is operating that items included in the plan pursuant to paragraph (1) and (2) are reasonable and realistic.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 5 of title 14, United States Code, is amended by adding at the end the following:

“98. National Coast Guard Museum.”.

**SEC. 214. LIMITATION ON NUMBER OF COMMISSIONED OFFICERS.**

Notwithstanding section 42(a) of title 14, United States Code, the total number of commissioned officers, excluding commissioned warrant officers, on active duty in the Coast Guard shall not exceed 6,700 in fiscal year 2004.

**SEC. 215. REDISTRICTING NOTIFICATION REQUIREMENT.**

The Commandant shall notify the Committee on Transportation and Infrastructure of the House of Representatives at least 180 days before—

(1) implementing any plan to reduce the number of, change the location of, or change the geographic area covered by any existing Coast Guard Districts; or

(2) shifting of more than 10 per cent of the personnel or equipment from the station where the such personnel or equipment is based.

**TITLE III—NAVIGATION****SEC. 301. MARKING OF UNDERWATER WRECKS.**

Section 15 of the Act of March 3, 1899 (33 U.S.C. 409), is amended—

(1) by striking “day and” and inserting “day and, unless otherwise authorized by the Commandant of Coast Guard,”; and

(2) by striking “lighted lantern” and inserting “light”.

**SEC. 302. USE OF ELECTRONIC DEVICES; COOPERATIVE AGREEMENTS.**

Section 4(a) of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1223(a)) is amended by—

(1)(A) striking “and” after the semicolon at the end of paragraph (4);

(B) striking the period at the end of paragraph (5) and inserting “; and”; and

(C) adding at the end the following:

“(6) may prohibit the use on the bridge of a vessel of electronic or other devices that interfere with communications and navigation equipment.”; and

(2) adding at the end the following:

“(e) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with public or private agencies, authorities, associations, institutions, corporations, organizations, or other persons to carry out the functions under subsection (a)(1).

“(2) A nongovernmental entity may not under this subsection carry out an inherently governmental function.

“(3) As used in this paragraph, the term ‘inherently governmental function’ means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of judgment in making a decision for the Government.”.

**SEC. 303. INLAND NAVIGATION RULES PROMULGATION AUTHORITY.**

(a) **REPEAL OF INLAND RULES.**—Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001–38) is repealed.

(b) **AUTHORITY TO ISSUE REGULATIONS.**—Section 3 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001) is amended to read as follows:

**“SEC. 3. INLAND NAVIGATION RULES.**

“The Secretary of the Department in which the Coast Guard is operating may issue inland navigation regulations applicable to all vessels upon the inland waters of the United States and technical annexes that are as consistent as possible with the respective annexes to the International Regulations.”.

(c) **EFFECTIVE DATE.**—Subsection (a) is effective on the effective date of final regulations prescribed by the Secretary of the Department in which the Coast Guard is operating under section 3 of the Inland Navigation Rules Act of 1980 (33 U.S.C. 2001), as amended by this Act.

**TITLE IV—SHIPPING****SEC. 401. REPORTS FROM CHARTERERS.**

Section 12120 of title 46, United States Code, is amended by striking “owners and masters” and inserting “owners, masters, and charterers”.

**SEC. 402. SUSPENSION OF DOCUMENTS IN LIEU OF MANDATORY REVOCATION FOR PROVED DRUG CONVICTIONS.**

Section 7704(b) of title 46, United States Code, is amended by inserting “suspended or” after “shall be”.

**SEC. 403. INSPECTION OF RECORDS OF MERCHANT MARINERS’ DOCUMENTS.**

Section 7319 of title 46, United States Code, is amended by striking “The records are not open to general or public inspection.”.

**SEC. 404. EXEMPTION OF UNMANNED BARGES FROM CITIZENSHIP REQUIREMENTS REGARDING COMMAND OF VESSEL.**

(a) **EXEMPTION FROM LIMITATION ON COMMAND.**—Section 12110(d) of title 46, United States Code, is amended by inserting “or an unmanned barge not engaged on a coastwise voyage” after “recreational endorsement”.

(b) **EXEMPTION FROM SEIZURE AND FORFEITURE.**—Section 12122(b)(6) of title 46, United States Code, is amended by inserting “or an unmanned barge not engaged on a coastwise voyage” after “recreational endorsement”.

**SEC. 405. ADMINISTRATIVE, COLLECTION, AND ENFORCEMENT COSTS FOR CERTAIN FEES AND CHARGES.**

Section 2110(d) of title 46, United States Code, is amended—

(1) by inserting “(A)” after “(2)”; and

(2) by adding at the end the following:

“(B) For purposes of subparagraph (A), costs of collecting the fee or charge include the reasonable administrative, accounting, personnel, contract, equipment, supply, training, and travel expenses of calculating, assessing, collecting, enforcing, reviewing, adjusting, and reporting on the fees and charges.”.

**SEC. 406. COMPLIANCE WITH INTERNATIONAL SAFETY MANAGEMENT CODE.**

(a) **APPLICATION OF EXISTING LAW.**—Section 3202(a) of title 46, United States Code, is amended to read as follows:

“(a) **MANDATORY APPLICATION.**—This chapter applies to a vessel that—

“(1)(A) is transporting more than 12 passengers described in section 2101(21)(A) of this title; or

“(B) is of at least 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, that is a tanker, freight vessel, bulk freight vessel, high speed freight vessel, or self-propelled mobile offshore drilling unit; and

“(2)(A) is engaged on a foreign voyage; or

“(B) is a foreign vessel departing from a place under the jurisdiction of the United States on a voyage, any part of which is on the high seas.”.

(b) **COMPLIANCE OF REGULATIONS WITH INTERNATIONAL SAFETY MANAGEMENT CODE.**—Section 3203(b) of title 46, United States Code, is amended by striking “vessels engaged on a foreign voyage.” and inserting “vessels to which this chapter applies under section 3202(a) of this title.”.



**SEC. 407. CIVIL PENALTIES FOR FAILURE TO COMPLY WITH RECREATIONAL VESSEL AND ASSOCIATED EQUIPMENT SAFETY STANDARDS.**

Section 4311(b) of title 46, United States Code, is amended—

- (1) by striking the first sentence and inserting “A person violating section 4307(a) of this title is liable to the United States Government for a civil penalty of not more than \$5,000, except that the maximum civil penalty may be not more than \$250,000 for a related series of violations.”; and
- (2) in the second sentence, by striking “4307(a)(1)” and inserting “4307(a)”.

**SEC. 408. REVISION OF TEMPORARY SUSPENSION CRITERIA IN DOCUMENT SUSPENSION AND REVOCATION CASES.**

Section 7702(d) of title 46, United States Code, is amended—

- (1) in paragraph (1) by striking “if, when acting under the authority of that license, certificate, or document—” and inserting “if—”;
- (2) in paragraph (1)(B)(i), by inserting “, while acting under the authority of that license, certificate, or document,” after “has”;
- (3) by striking “or” after the semicolon at the end of paragraph (1)(B)(ii);
- (4) by striking the period at the end of paragraph (1)(B)(iii) and inserting “; or”; and
- (5) by adding at the end of paragraph (1)(B) the following:
  - “(iv) is a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment.”.

**SEC. 409. REVISION OF BASES FOR DOCUMENT SUSPENSION AND REVOCATION CASES.**

Section 7703 of title 46, United States Code, is amended—

- (1) in paragraph (1)(B)—
  - (A) by striking “incompetence.”; and
  - (B) by striking the comma after “misconduct”;
- (2) by striking “or” after the semicolon at the end of paragraph (2);
- (3) by striking the period at the end of paragraph (3) and inserting a semicolon; and
- (4) by adding at the end the following:
  - “(4) has committed an act of incompetence; or
  - “(5) is a threat to the safety or security of a vessel or a structure located within or adjacent to the marine environment.”.

**SEC. 410. HOURS OF SERVICE ON TOWING VESSELS.**

(a) REGULATIONS.—Section 8904 of title 46, United States Code, is amended by adding at the end of the following:

“(c) The Secretary may prescribe by regulation requirements for maximum hours of service (including recording and record-keeping of that service) of individuals engaged on a towing vessel that is at least 26 feet in length measured from end to end over the deck (excluding the sheer).”.

(b) DEMONSTRATION PROJECT.—Prior to prescribing regulations under this section the Secretary shall conduct and report to the Congress on the results of a demonstration project involving the implementation of Crew Endurance Management Systems on towing vessels. The report shall include a description of the public and private sector resources needed to enable implementation of Crew Endurance Management Systems on all United States-flag towing vessels.

**SEC. 411. AUTOMATIC IDENTIFICATION SYSTEM ELECTRONIC CHARTS.**

Section 70114(a)(1) of title 46, United States Code, is amended by inserting “, including an electronic chart and related display,” after “automatic identification system” the first place it appears.

**SEC. 412. PREVENTION OF DEPARTURE.**

(a) IN GENERAL.—Section 3505 of title 46, United States Code, is amended to read as follows:

**“§ 3505. Prevention of departure**

“Notwithstanding section 3303 of this title, a foreign vessel carrying a citizen of the United States as a passenger or that embarks passengers from a United States port may not depart from a United States port if the Secretary finds that the vessel does not comply with the standards stated in the International Convention for the Safety of Life at Sea to which the United States Government is currently a party.”.

(b) CONFORMING AMENDMENT.—Section 3303 of title 46, United States Code, is amended by inserting “and section 3505” after “chapter 37”.

## TITLE V—FEDERAL MARITIME COMMISSION

### SEC. 501. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL MARITIME COMMISSION.

There is authorized to be appropriated to the Federal Maritime Commission for \$18,471,000 for Fiscal Year 2004.

## TITLE VI—MISCELLANEOUS

### SEC. 601. INCREASE IN CIVIL PENALTIES FOR VIOLATIONS OF CERTAIN BRIDGE STATUTES.

(a) GENERAL BRIDGE ACT OF 1906.—Section 5(b) of Act of March 23, 1906 (chapter 1130; 33 U.S.C. 495), popularly known as the General Bridge Act, is amended by striking “\$1,000” and inserting “\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter”.

(b) DRAWBRIDGES.—Section 5(c) of the Act entitled “An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved August 18, 1894 (33 U.S.C. 499(c)), is amended by striking “\$1,000” and inserting “\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter”.

(c) ALTERATION, REMOVAL, OR REPAIR OF BRIDGES.—Section 18(c) of the Act entitled “An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved March 3, 1899 (33 U.S.C. 502(c)) is amended by striking “\$1,000” and inserting “\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter”.

(d) GENERAL BRIDGE ACT OF 1946.—Section 510(b) of the General Bridge Act of 1946 (33 U.S.C. 533(b)) is amended by striking “\$1,000” and inserting “\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter”.

### SEC. 602. CONVEYANCE OF DECOMMISSIONED COAST GUARD CUTTER SUNDEW.

(a) IN GENERAL.—Upon the scheduled decommissioning of the Coast Guard Cutter SUNDEW, the Commandant of the Coast Guard shall convey all right, title, and interest of the United States in and to that vessel to Duluth Entertainment and Convention Center Authority (a nonprofit corporation under the laws of the State of Minnesota; in this section referred to as the “recipient”), located in Duluth, Minnesota, without consideration, if—

(1) the recipient agrees—

- (A) to use the vessel for purposes of education and historical display;
- (B) not to use the vessel for commercial transportation purposes;
- (C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and
- (D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from the use by the Government under subparagraph (C);

(2) the recipient has funds available that will be committed to operate and maintain the vessel conveyed in good working condition, in the form of cash, liquid assets, or a written loan commitment, and in an amount of at least \$700,000; and

(3) the recipient agrees to any other conditions the Commandant considers appropriate.

(b) MAINTENANCE AND DELIVERY OF VESSEL.—Prior to conveyance of the vessel under this section, the Commandant shall, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery. If a conveyance is made under this section, the Commandant shall deliver the vessel at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of the vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94–469 (15 U.S.C. 2605(e)).

(c) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function as an historical display.

**SEC. 603. TONNAGE MEASUREMENT.**

(a) M/V BLUEFIN.—The gross tonnage of the M/V BLUEFIN (United States official number 620431) as measured under regulations prescribed under section 14502 of title 46, United States Code, is deemed to be 488 tons.

(b) M/V COASTAL MERCHANT.—The gross tonnage of the M/V COASTAL MERCHANT (United States official number 1038382) as measured under regulations prescribed under section 14502 of title 46, United States Code, is deemed to be 493 tons.

(c) TERMINATION OF APPLICATION.—Subsection (a) or (b) shall not apply on and after any date on which the Secretary of the Department in which the Coast Guard is operating determines, respectively, that the vessel M/V BLUEFIN or the vessel M/V COASTAL MERCHANT has undergone any major modification.

**SEC. 604. OPERATION OF VESSEL STAD AMSTERDAM.**

(a) IN GENERAL.—Notwithstanding section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), and the ruling by the Acting Director of the International Trade Compliance Division of the Customs Service on May 17, 2002 (Customs Bulletins and Decisions, Vol. 36, No. 23, June 5, 2002), the vessel STAD AMSTERDAM (International Maritime Organization number 9185554) shall be authorized to carry within United States waters and between ports or places in the United States individuals who are not directly and substantially connected with the operation, navigation, ownership, or business of the vessel, who are friends, guests, or employees of the owner of the vessel, and who are not actual or prospective customers for hire of the vessel.

(b) LIMITATION.—This section does not authorize the vessel STAD AMSTERDAM to be used to carry individuals for a fare or to be chartered on a for-hire basis in the coastwise trade.

**SEC. 605. GREAT LAKES NATIONAL MARITIME ENHANCEMENT INSTITUTE.**

(a) DESIGNATION.—The Secretary of Transportation may designate a National Maritime Enhancement Institute for the Great Lakes Region.

(b) AUTHORIZED ACTIVITIES.—In addition to the activities that may be undertaken by that Institute under section 8(b) of Public Law 101–115 (46 App. U.S.C. 1121–2), the Great Lakes National Maritime Enhancement Institute may—

- (1) conduct research and evaluate short sea shipping market opportunities on the Great Lakes, including the expanded use of freight ferries, improved mobility, and regional supply chain efficiency;
- (2) evaluate markets for foreign trade between ports on the Great Lakes and draft-limited ports in Europe and Africa;
- (3) evaluate the environmental benefits of waterborne transportation in the Great Lakes region;
- (4) analyze the effect of the Harbor Maintenance Tax on Great Lakes shipping;
- (5) study the state of shipbuilding and ship repair base on the Great Lakes;
- (6) evaluate opportunities for passenger vessel services on the Great Lakes;
- (7) analyze the origin to destination flow of freight cargo in the Great Lakes region that may be transported on vessels to relieve congestion in other modes of transportation;
- (8) evaluate the economic viability establishing transshipment facilities for oceangoing cargoes;
- (9) evaluate the adequacy of the infrastructure in ports to meet the needs of marine commerce; and
- (10) study and develop new vessel designs for domestic and international shipping on the Great Lakes.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$5,000,000 for each of fiscal years 2004 through 2008 for the activities described in subsection (b).

**SEC. 606. AGILE PORT AND INTELLIGENT BORDER SECURITY NATIONAL DEMONSTRATION PROJECT.**

(a) IN GENERAL.—The Secretary of Transportation may carry out an Agile Port and Intelligent Border Security National Demonstration Project under the Center for the Commercial Deployment of Transportation Technologies to develop and deploy dual use transportation technologies for commercial applications, including the following:

- (1) Agile port facilities, including inland multi-modal transportation facilities.

(2) Advanced cargo and passenger vessel hull design, propulsion systems, and construction.

(3) Regional supply chain efficiency, improved mobility, and air quality.

(4) Maritime, port, cargo, and supply chain security, and total asset visibility.

(b) AUTHORIZATION OF APPROPRIATIONS.—To carry out the demonstration project under subsection (a) there is authorized to be appropriated to the Secretary of Transportation \$5,000,000 for fiscal year 2004.

**SEC. 607. KOSS COVE.**

(a) IN GENERAL.—Notwithstanding any other provision of law or existing policy, the cove described in subsection (b) shall be known and designated as “Koss Cove”, in honor of the late Able Bodied Seaman Eric Steiner Koss of the National Oceanic and Atmospheric Administration vessel RAINIER who died in the performance of a nautical charting mission off the coast of Alaska.

(b) COVE DESCRIBED.—The cove referred to in subsection (a) is—

(1) adjacent to and southeast of Point Elrington, Alaska, and forms a portion of the southern coast of Elrington Island;

(2) 3/4 mile across the mouth;

(3) centered at 59 degrees 56.1 minutes North, 148 degrees 14 minutes West; and

(4) 45 miles from Seaward, Alaska.

(c) REFERENCES.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the cove described in subsection (b) is deemed to be a reference to Koss Cove.

**SEC. 608. MISCELLANEOUS CERTIFICATES OF DOCUMENTATION.**

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

(1) OCEAN LEADER (United States official number 679511).

(2) REVELATION (United States official number 1137565).

**SEC. 609. DREDGING STUDY.**

(a) STUDY.—The Director of the Congressional Budget Office shall study and report to the Committee on Transportation and Infrastructure of the House of Representatives on the impacts of chartering by foreign citizens of dredges documented under the laws of the United States, on—

(1) the structure, conduct, and performance, of the United States dredging market; and

(2) costs paid by Federal agencies for dredging projects.

(b) FOREIGN CITIZEN DEFINED.—In subsection (a), the term “foreign citizen” means any corporation, partnership, or association that does not qualify as a citizen of the United States under section 2 of the Shipping Act of 1916 (46 APP. U.S.C. 802).

**SEC. 610. REPORT REGARDING SECURITY INSPECTION OF VESSELS AND VESSEL-BORNE CARGO CONTAINERS ENTERING THE UNITED STATES.**

(a) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of the Department in which the Coast Guard is operating shall report to the Congress regarding the numbers and types of vessels and vessel-borne cargo containers that enter the United States in a year.

(b) CONTENTS.—The report under this section shall include the following:

(1) A section regarding security inspection of vessels that includes the following:

(A) A complete breakdown of the numbers and types of vessels that entered the United States in the most recent 1-year period for which information is available.

(B) The cost incurred by the Federal Government in inspecting such vessels in such 1-year period, including specification and comparison of such cost for each type of vessel.

(C) An estimate of the per-vessel cost that would be incurred by the Federal Government in inspecting in a foreign port each type of vessel that enters the United States each year, including costs for personnel, vessels, equipment, and funds.

(D) An estimate of the annual total cost that would be incurred by the Federal Government in inspecting in foreign ports all vessels that enter the United States each year, including costs for personnel, vessels, equipment, and funds.

(2) A section regarding security inspection of containers that includes the following:

(A) A complete breakdown of the numbers and types of vessel-borne cargo containers that entered the United States in the most recent 1-year period for which information is available, including specification of the number of 1 TEU containers and the number of 2 TEU containers.

(B) The cost incurred by the Federal Government in inspecting such containers in such 1-year period, including specification and comparison of such cost for a 1 TEU container and for a 2 TEU container.

(C) An estimate of the per-container cost that would be incurred by the Federal Government in inspecting in a foreign port each type of vessel-borne container that enters the United States each year, including costs for personnel, vessels, equipment, and funds.

(D) An estimate of the annual total cost that would be incurred by the Federal Government in inspecting in foreign ports all vessel-borne containers that enter the United States each year, including costs for personnel, vessels, equipment, and funds.

## TITLE VII—AMENDMENTS RELATING TO OIL POLLUTION ACT OF 1990

### SEC. 701. VESSEL RESPONSE PLANS FOR NONTANK VESSELS OVER 400 GROSS TONS.

(a) NONTANK VESSEL DEFINED.—Section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended by adding at the end the following:

“(9) NONTANK VESSEL DEFINED.—In this subsection, the term ‘nontank vessel’ means a self-propelled vessel of 400 gross tons (as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of such title as prescribed by the Secretary under section 14104 of such title) or greater, other than a tank vessel, that carries oil of any kind as fuel for main propulsion and that—

“(A) is a vessel of the United States; or

“(B) operates on the navigable waters of the United States.”.

(b) AMENDMENTS TO REQUIRE RESPONSE PLANS.—Section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended—

(1) in paragraph (5) in the heading by inserting “, NONTANK VESSEL,” after “VESSEL”;

(2) in paragraph 5(A) by inserting “, nontank vessel,” after “vessel”;

(3) in paragraph (5)(B), in the matter preceding clause (i), by inserting “, nontank vessels,” after “vessels”;

(4) in paragraph (5)(B), by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following:

“(ii) A nontank vessel.”;

(5) in paragraph (5)(D), by—

(A) by inserting “, nontank vessel,” after “vessel”;

(B) by striking “and” after the semicolon at the end of clause (iii);

(C) by striking the period at the end of clause (iv) and inserting “; and”;

and

(D) by adding after clause (iv) the following:

“(v) for nontank vessels, consider any applicable State-mandated response plan and ensure consistency to the extent practicable.”;

(6) in paragraph (5)(E), in the matter preceding clause (i), by inserting “nontank vessel,” after “vessel.”;

(7) in paragraph (5)(E)(i) by inserting “nontank vessel,” after “vessel.”;

(8) in paragraph (5)(F) by striking “tank vessel or” and inserting “vessel or”;

(9) in paragraph (5)(G) by inserting “nontank vessel,” after “vessel.”;

(10) in paragraph (5)(H) by inserting “and nontank vessel” after “each tank vessel”;

(11) in paragraph (6) in the matter preceding subparagraph (A) by striking “Not later than 2 years after the date of enactment of this section, the President shall require—” and inserting “The President may require—”;

(12) in paragraph (6)(B) by inserting “, and nontank vessels carrying oil of any kind as fuel for main propulsion,” after “cargo”; and

(13) in paragraph (7) by inserting “, nontank vessel,” after “vessel”.

(c) IMPLEMENTATION DATE.—The President shall not require the owner or operator of a nontank vessel (as defined section 311(j)(9) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(9)), as amended by this section) to prepare and submit

a vessel response plan for such vessel before the end of the one-year period beginning on the date of the enactment of this Act.

**SEC. 702. REQUIREMENTS FOR TANK LEVEL AND PRESSURE MONITORING DEVICES.**

Section 4110 of the Oil Pollution Act of 1990 (46 U.S.C. 3703 note) is amended—

(1) in subsection (a), by striking “Not later than 1 year after the date of the enactment of this Act, the Secretary shall” and inserting “The Secretary may”;

(2) in subsection (b)—

(A) by striking “Not later than 1 year after the date of the enactment of this Act, the Secretary shall” and inserting “No sooner than 1 year after the Secretary prescribes regulations under subsection (a), the Secretary may”; and

(B) by striking “the standards” and inserting “any standards”.

**SEC. 703. LIABILITY AND COST RECOVERY.**

(a) **DEFINITION OF OWNER OR OPERATOR.**—Section 1001(26) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(26)) is amended to read as follows:

“(26) ‘owner or operator’—

“(A) means—

“(i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel;

“(ii) in the case of an onshore or offshore facility, any person owning or operating such facility;

“(iii) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

“(iv) in the case of any facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of State or local government, any person who owned, operated, or otherwise controlled activities at such facility immediately beforehand;

“(v) notwithstanding subparagraph (B)(i), any State or local government that has caused or contributed to a discharge or substantial threat of a discharge of oil from a vessel or facility ownership or control of which was acquired involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign; and

“(vi) notwithstanding subparagraph (B)(ii), a person that is a lender and that holds indicia of ownership primarily to protect a security interest in a vessel or facility if, while the borrower is still in possession of the vessel or facility encumbered by the security interest, the person—

“(I) exercises decisionmaking control over the environmental compliance related to the vessel or facility, such that the person has undertaken responsibility for oil handling or disposal practices related to the vessel or facility; or

“(II) exercises control at a level comparable to that of a manager of the vessel or facility, such that the person has assumed or manifested responsibility—

“(aa) for the overall management of the vessel or facility encompassing day-to-day decisionmaking with respect to environmental compliance; or

“(bb) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the vessel or facility other than the function of environmental compliance; and

“(B) does not include—

“(i) a unit of State or local government that acquired ownership or control of a vessel or facility involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign;

“(ii) a person that is a lender that does not participate in management of a vessel or facility, but holds indicia of ownership primarily to protect the security interest of the person in the vessel or facility;

“(iii) a person that is a lender that did not participate in management of a vessel or facility prior to foreclosure, notwithstanding that the person—

“(I) forecloses on the vessel or facility; and

“(II) after foreclosure, sells, re-leases (in the case of a lease finance transaction), or liquidates the vessel or facility, maintains

business activities, winds up operations, undertakes a removal action under 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 311(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan, with respect to the vessel or facility, or takes any other measure to preserve, protect, or prepare the vessel or facility prior to sale or disposition, if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the person of the vessel or facility at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements.”

(b) OTHER DEFINITIONS.—Section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701) is amended by striking “and” after the semicolon at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting a semicolon, and by adding at the end the following:

“(38) ‘participate in management’—

“(A)(i) means actually participating in the management or operational affairs of a vessel or facility; and

“(ii) does not include merely having the capacity to influence, or the unexercised right to control, vessel or facility operations; and

“(B) does not include—

“(i) performing an act or failing to act prior to the time at which a security interest is created in a vessel or facility;

“(ii) holding a security interest or abandoning or releasing a security interest;

“(iii) including in the terms of an extension of credit, or in a contract or security agreement relating to the extension, a covenant, warranty, or other term or condition that relates to environmental compliance;

“(iv) monitoring or enforcing the terms and conditions of the extension of credit or security interest;

“(v) monitoring or undertaking one or more inspections of the vessel or facility;

“(vi) requiring a removal action or other lawful means of addressing a discharge or substantial threat of a discharge of oil in connection with the vessel or facility prior to, during, or on the expiration of the term of the extension of credit;

“(vii) providing financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the vessel or facility;

“(viii) restructuring, renegotiating, or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest, exercising forbearance;

“(ix) exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement; or

“(x) conducting a removal action under 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan, if such actions do not rise to the level of participating in management under subparagraph (A) of this paragraph and paragraph (26)(A)(vi);

“(39) ‘extension of credit’ has the meaning provided in section 101(20)(G)(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(i));

“(40) ‘financial or administrative function’ has the meaning provided in section 101(20)(G)(ii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(ii));

“(41) ‘foreclosure’ and ‘foreclose’ each has the meaning provided in section 101(20)(G)(iii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iii));

“(42) ‘lender’ has the meaning provided in section 101(20)(G)(iv) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iv));

“(43) ‘operational function’ has the meaning provided in section 101(20)(G)(v) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(v)); and

“(44) ‘security interest’ has the meaning provided in section 101(20)(G)(vi) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(vi)).”

(c) DEFINITION OF CONTRACTUAL RELATIONSHIP.—Section 1003 of the Oil Pollution Act of 1990 (33 U.S.C. 2703) is amended by adding at the end the following:

“(d) DEFINITION OF CONTRACTUAL RELATIONSHIP.—

“(1) IN GENERAL.—For purposes of subsection (a)(3) the term ‘contractual relationship’ includes, but is not limited to, land contracts, deeds, easements, leases, or other instruments transferring title or possession, unless—

“(A) the real property on which the facility concerned is located was acquired by the responsible party after the discharge of the oil on, in, or at the facility;

“(B) one or more of the circumstances described in subparagraph (A), (B), or (C) of paragraph (2) is established by the responsible party by a preponderance of the evidence; and

“(C) the responsible party complies with paragraph (3).

“(2) REQUIRED CIRCUMSTANCE.—The circumstances referred to in paragraph (1)(B) are the following:

“(A) At the time the responsible party acquired the real property on which the facility is located the responsible party did not know and had no reason to know that oil that is the subject of the discharge or substantial threat of discharge was placed on, in, or at the facility.

“(B) The responsible party is a government entity that acquired the facility—

“(i) by escheat;

“(ii) through any other involuntary transfer or acquisition; or

“(iii) through the exercise of eminent domain authority by purchase or condemnation.

“(C) The responsible party acquired the facility by inheritance or bequest.

“(3) ADDITIONAL REQUIREMENTS.—For purposes of paragraph (1)(C), the responsible party must establish by a preponderance of the evidence that the responsible party—

“(A) has satisfied the requirements of section 1003(a)(3)(A) and (B);

“(B) has provided full cooperation, assistance, and facility access to the persons that are authorized to conduct removal actions, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial removal action;

“(C) is in compliance with any land use restrictions established or relied on in connection with the removal action; and

“(D) has not impeded the effectiveness or integrity of any institutional control employed in connection with the removal action.

“(4) REASON TO KNOW.—

“(A) APPROPRIATE INQUIRIES.—To establish that the responsible party had no reason to know of the matter described in paragraph (2)(A), the responsible party must demonstrate that—

“(i) on or before the date on which the responsible party acquired the real property on which the facility is located, the responsible party carried out all appropriate inquiries, as provided in subparagraphs (B) and (D), into the previous ownership and uses of the real property on which the facility is located in accordance with generally accepted good commercial and customary standards and practices; and

“(ii) the responsible party took reasonable steps to—

“(I) stop any continuing discharge;

“(II) prevent, minimize or mitigate any substantial threat of discharge; and

“(III) prevent or limit any human, environmental, or natural resource exposure to any discharged oil.

“(B) REGULATIONS ESTABLISHING STANDARDS AND PRACTICES.—Not later than 2 years after the date of the enactment of this paragraph, the Secretary shall by regulation establish standards and practices for the purpose of satisfying the requirement to carry out all appropriate inquiries under subparagraph (A).

“(C) CRITERIA.—In promulgating regulations that establish the standards and practices referred to in subparagraph (B), the Secretary shall include in such standards provisions regarding each of the following:

“(i) The results of an inquiry by an environmental professional.

“(ii) Interviews with past and present owners, operators, and occupants of the facility and the real property on which the facility is located for the purpose of gathering information regarding the potential for oil at the facility and on the real property on which the facility is located.



“(iii) Reviews of historical sources, including, to the extent available, chain of title documents, aerial photographs, building department records, and land use records, to determine previous uses and occupancies of the real property on which the facility is located since the property was first developed.

“(iv) Searches for recorded environmental cleanup liens against the facility and the real property on which the facility is located that are filed under Federal, State, or local law.

“(v) Reviews of Federal, State, and local government records, waste disposal records, underground storage tank records, and waste handling, generation, treatment, disposal, and spill records, concerning oil at the facility and on the real property on which the facility is located.

“(vi) Visual inspections of the facility, the real property on which the facility is located, and adjoining properties.

“(vii) Specialized knowledge or experience on the part of the responsible party.

“(viii) The relationship of the purchase price to the value of the facility and the real property on which the facility is located, if oil was not at the facility or on the real property.

“(ix) Commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located.

“(x) The degree of obviousness of the presence or likely presence of oil at the facility and on the real property on which the facility is located, and the ability to detect the oil by appropriate investigation.

“(D) INTERIM STANDARDS AND PRACTICES.—

“(i) REAL PROPERTY PURCHASED BEFORE MAY 31, 1997.—With respect to real property purchased before May 31, 1997, in making a determination with respect to a responsible party described in subparagraph (A), a court or appropriate official shall take into account—

“(I) any specialized knowledge or experience on the part of the responsible party;

“(II) the relationship of the purchase price to the value of the facility and the real property on which the facility is located, if oil was not at the facility or on the real property;

“(III) commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located;

“(IV) the obviousness of the presence or likely presence of oil at the facility and on the real property on which the facility is located; and

“(V) the ability of the responsible party to detect the oil by appropriate inspection.

“(ii) REAL PROPERTY PURCHASED ON OR AFTER MAY 31, 1997.—With respect to real property purchased on or after May 31, 1997, until the Secretary promulgates the regulations described in clause (ii), the procedures of the American Society for Testing and Materials, including the document known as ‘Standard E1527-97’, entitled ‘Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process’, shall satisfy the requirements in subparagraph (A).

“(E) SITE INSPECTION AND TITLE SEARCH.—In the case of real property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, inspection and title search of the facility and the real property on which the facility is located that reveal no basis for further investigation shall be considered to satisfy the requirements of this paragraph.

“(5) PREVIOUS OWNER OR OPERATOR.—Nothing in this paragraph or in section 1003(a)(3) shall diminish the liability of any previous owner or operator of such facility who would otherwise be liable under this Act. Notwithstanding this paragraph, if a responsible party obtained actual knowledge of the discharge or substantial threat of discharge of oil at such facility when the responsible party owned the facility and then subsequently transferred ownership of the facility or the real property on which the facility is located to another person without disclosing such knowledge, the responsible party shall be treated as liable under 1002(a) and no defense under section 1003(a) shall be available to such responsible party.

“(6) LIMITATION ON DEFENSE.—Nothing in this paragraph shall affect the liability under this Act of a responsible party who, by any act or omission, caused

or contributed to the discharge or substantial threat of discharge of oil which is the subject of the action relating to the facility.”.

#### PURPOSE OF THE LEGISLATION

H.R. 2443 authorizes appropriations for the Coast Guard and the Federal Maritime Commission in Fiscal Year 2004. The bill also makes changes to laws governing the Coast Guard, shipping, and navigation.

#### BACKGROUND AND NEED FOR THE LEGISLATION

The United States Coast Guard was established on January 28, 1915, through the consolidation of the Revenue Cutter Service (established in 1790) and the Lifesaving Service (established in 1848). The Coast Guard later assumed the duties of three other agencies: the Lighthouse Service (established in 1789), the Steamboat Inspection Service (established in 1838), and the Bureau of Navigation (established in 1884).

The Coast Guard remained a part of the Department of the Treasury until 1967, when it was transferred to the newly created Department of Transportation. Under the Homeland Security Act of 2002, Public Law 107–296, the Coast Guard moved to the new Department of Homeland Security on March 1, 2003.

Under section 2 of title 14, United States Code, the Coast Guard has primary responsibility to enforce or assist in the enforcement of all applicable Federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States; to ensure safety of life and property at sea; to protect the marine environment; to carry out domestic and international icebreaking activities; and to ensure the safety and security of vessels, ports, waterways, and related facilities.

As the fifth armed force of the United States, the Coast Guard also maintains defense readiness to operate as a specialized service in the Navy upon the declaration of war or when the President directs. The Coast Guard is composed of approximately 37,000 active duty military personnel, 9,000 reservists, 6,400 civilian employees, and 32,000 volunteers of the Coast Guard Auxiliary. The Coast Guard has defended the Nation in every war since 1790. In fact, the Coast Guard deployed assets to the Persian Gulf and Mediterranean region to take part in the U.S. military's Operation Iraqi Freedom.

The Committee is particularly concerned about implementation of the Integrated Deepwater System (Deepwater) acquisition program. The U.S. Coast Guard has embarked on a “system-of-systems” approach to recapitalization to deal with the problem of block obsolescence of key assets. In 1996, the Coast Guard recognized that their systems and operating assets were reaching the end of their useful life, while at the same time the demands being placed on the Coast Guard, even then, were increasing. The Coast Guard realized they would not have the money to replace core assets on a one-by-one basis. Therefore, they focused on development of a capabilities-based approach to procurement in which the system would provide the capability rather than single platforms.

Expanded responsibilities within the Department of Homeland Security and the need to sustain core mission effectiveness, have resulted in significantly higher operation tempos and a severe

strain on the aging assets. The need for a complete recapitalization is compelling. The Coast Guard operates the second oldest naval fleet in the world. In fact, some currently operating assets were commissioned in WWII. Nearly half of the 110' Patrol Boat fleet is in immediate need of repair for structural deterioration, resulting in the direct loss of several hundred patrol days annually. On average, the High Endurance Cutter fleet suffers a fire in their main engineering space on every patrol, and the fleet's main search and rescue helicopter is equipped with radar designed and installed nearly 20 years ago. Deepwater will provide for new cutters, surveillance assets and Command & Control, Communications Computers, Intelligence, Surveillance, and Reconnaissance (C4ISR), which will allow the service to "push out the borders" and meet other homeland security mission requirements, while ensuring adequate resources to effectively sustain their traditional missions.

However, Deepwater has not received the basic annual funding projected in 1998. As such, the Committee has authorized \$702,000,000 in Fiscal Year 2004 funding. This authorization restores Deepwater to its original 20 year implementation plan. This level of funding is necessary to ensure the timely delivery of scheduled assets.

Additionally, the Committee remains very interested in benefits associated with acceleration of Deepwater. The Committee fully supports the March 7, 2003 Coast Guard Report to Congress and expects the Department of Homeland Security and the Administration to submit a Fiscal Year 2005 budget for Deepwater at the accelerated level of \$1,892,000,000 and that out year requests likewise be commensurate with the Deepwater acceleration plan submitted to the Congress. The effective accomplishment of the Coast Guard's national and homeland security missions, as well as its ability to sustain the level of performance of its traditional missions is predicated upon having the required funding to recapitalize its aging assets sooner than the projected 20 year plan.

The Committee is aware that the Coast Guard's homeland security functions include the requirement to check the names of crewmembers and stowaways against information on individuals who are on the national security watch list. In addition, the Coast Guard and other homeland security and law enforcement agencies are attempting to coordinate and consolidate databases containing watch list information. Achieving both of these tasks is complicated by the fact that exact string matches often fail to identify a potentially dangerous individual. The Committee believes that it is imperative to permit the utilization of multiple alternative technologies in the resolution of this problem. Therefore, the Committee urges the Coast Guard, in cooperation with other appropriate agencies, to use technology to perform name and address correlation functions where exact matches are not possible. It is preferable to use a variety of methods to perform inexact string matching, rather than relying on a single technical approach. The correlation technology must be database independent and should be able to handle more than names only.

#### SUMMARY OF H.R. 2443

Sec. 1. Short Title. This Act may be cited as the "Coast Guard and Maritime Transportation Act of 2003".

TITLE I—COAST GUARD AUTHORIZATION

Sec. 101. Authorization of Appropriations. This section authorizes funds for fiscal year 2004 at the following levels:

<i>Appropriation</i>	<i>Dollars</i>
Operating Expenses .....	\$4,996,000,000
Capital Acquisitions .....	1,097,000,000
Retired Pay .....	1,020,000,000

“Operating Expenses” combines the previously separate accounts of Operating Expenses (OE), Reserve Training (RT), and Environmental Compliance and Restoration (EC&R). The amount authorized is \$159 million over the Administration’s Fiscal Year 2004 budget request. Of this amount, \$70 million is for the review of domestic vessel and port facility security plans, \$39 million is for the creation of an additional Coast Guard Helicopter Interdiction Tactical Squadron (HITRON), and \$50 million is for foreign port assessments and the review of foreign vessel security plans.

Currently, the only Coast Guard HITRON squadron is based in Jacksonville, Florida. This section authorizes \$39 million for leasing and deploying a squadron of 6 HITRON helicopters in Southern California. Since the program’s inception in 1999, HITRON helicopters have interdicted successfully over 56,037 pounds of cocaine that were being smuggled into the United States. This cocaine had a value of \$1,793,184,000. The Interagency Assessment of Cocaine Movement estimated that 544 Metric Tons of Cocaine departed South America for the United States in 2002. Of this total, 46% (250 Metric Tons) was estimated to flow through the Eastern Pacific. The Committee believes that deployment of a squadron of HITRON helicopters to Southern California will help stem the flow of cocaine and other illegal shipments into the West Coast of the United States.

“Capital Acquisitions” combines the previously separate accounts of Acquisition, Construction, and Improvements (AC&I); Research, Development, Test, and Evaluation (RDT&E); and Alteration of Bridges (AB). The amount authorized is \$300 million over the Administration’s request. Of this amount, \$202 million is authorized for Deepwater, \$80 million for avionics for the first of four already delivered C130–J maritime patrol aircraft, and \$18 million for the Truman-Hobbs bridge alteration program. The Committee’s concerns about Deepwater implementation were explained earlier in this report.

This section also authorizes \$1,020,000,000 in Coast Guard retired pay.

Sec. 102. Authorized Levels of Military Strength and Training. This section authorizes a Coast Guard end-of-year strength of 45,500 active duty military personnel for Fiscal Year 2004. This level includes the increases proposed by the Administration. At the end of Fiscal Year 2003, 37,000 active duty personnel were serving in the Coast Guard. This section also authorizes average military training student loads for Fiscal Year 2004 as follows:

<i>Training</i>	<i>Student years</i>
Recruit/Special .....	2,500
Flight .....	125
Professional .....	350
Officer .....	1,200

## TITLE II—COAST GUARD MANAGEMENT

Sec. 201. Long-Term Leases. This section allows the Commandant to enter into leases of up to 20 years for Coast Guard property with 1) the Coast Guard Academy Alumni Association to construct an Alumni visitor facility at the Coast Guard Academy; and 2) non-Federal entities to carry out cooperative agreements under Section 4 (e) of the Ports and Waterways Safety Act. Current law limits such leases to no more than five years.

The Coast Guard Academy Alumni Association plans to build a 20,000 square foot Alumni Center at the Coast Guard Academy. This building will be built with private funds. The estimated cost is \$4,000,000. The Alumni Association wants to assure it has control over the Alumni Center for a period of time sufficient to justify this investment.

Section 302 amends the Ports and Waterways Safety Act (33 U.S.C. 1223) to authorize the Commandant to enter into cooperative agreements with non-Federal entities to carry out Ports and Waterways Safety Act vessel operating requirements, including vessel traffic services. The Coast Guard granted a license to the Marine Exchange of Los Angeles/Long Beach in 1987, to occupy Coast Guard owned property. The Marine Exchange has since made improvements to the property and has installed vessel tracking radar and extensive communications, data processing, and other equipment. In 1993, Congress authorized the Coast Guard to provide personnel support to the Marine Exchange to jointly operate a Vessel Traffic Information Service. This operational partnership has been successful, and the Coast Guard intends to use such partnerships in other ports. To be successful, Coast Guard's partners must make substantial improvements to the real property involved and significant capital investment in the equipment and infrastructure necessary for a sophisticated operation. To justify these investments the partners require lease terms longer than five years.

Sec. 202. Nonappropriated Fund Instrumentalities. This section provides authority for Coast Guard exchanges and morale, welfare, and recreation systems (MWR) to enter into contracts or other agreements with another department, agency, or instrumentality of the Coast Guard or another Federal agency to provide goods and services beneficial to the efficient management and operation of the exchange and MWR systems. This section provides Coast Guard Exchanges parity with Department of Defense non-appropriated fund instrumentalities (10 U.S.C. 2482a).

Sec. 203. Term of Enlistments. This section authorizes the Commandant of the Coast Guard to accept original enlistments for other than full years, and reenlistments for any term of years and months from two years to six years. This will make Coast Guard enlistments consistent with Department of Defense enlistments. The Coast Guard will gain greater billet alignment between commands and assignments during transfer seasons, and greater flexibility in maintaining force readiness.

Sec. 204. Enlisted Member Critical Skill Training Bonus. This section authorizes the Coast Guard to offer an incentive bonus to encourage enlisted members to enter certain critical skill specialties. The Coast Guard currently has authority to offer enlistment

bonuses (37 U.S.C. 309) and retention bonuses (37 U.S.C. 323), but does not have authority to offer a bonus to a member who voluntarily enters a specialty school to gain training in a critical skill. This proposal authorizes such a bonus to enlisted members who complete training in a skill designated as critical, provided at least four years of obligated active service remain on the member's enlistment at the time the training is completed.

The Coast Guard has shortages of enlisted members on active duty in certain critical skills, such as Electricians Mate, Electronics Technician, Food Service Specialist, Machinery Technician, Storekeeper, and Telecommunications Specialist. Most of these skills result in assignments to ships, where being a junior enlisted Coast Guardsman is often very difficult due to working conditions and time spent at sea. Therefore, the Coast Guard has difficulty in encouraging junior enlisted personnel to seek out these specialties. The authority to provide an incentive bonus to enlisted members will assist in curtailing the shortages in certain critical skills.

Sec. 205. Enhancement of Coast Guard Authority to Stop Vessels Liable to Seizure or Examination. Under 14 U.S.C. 89, the Coast Guard is authorized to board, examine, and search vessels to detect violations of U.S. law. It may use "all necessary force to compel compliance", including the use of disabling fire to stop a vessel that refuses to comply with a lawful order to stop. 14 U.S.C. 637 indemnifies government personnel operating from Coast Guard vessels or aircraft and Naval vessels with Coast Guard members assigned from damages resulting from the use of disabling fire. However, the indemnity applies only if a warning shot is given prior to the use of disabling fire. In some instances, it may be dangerous or impracticable to fire warning shots. Warning shots are generally fired near, but not at, a non-compliant vessel, so they may pose a risk to others if used in congested waters or near shore. Disabling fire is specifically targeted at a particular vessel so it does not present a risk to others. This section eliminates the requirement to fire a warning shot as a condition precedent to indemnification under 14 U.S.C. 637, when use of a warning shot is not practical.

Sec. 206. Administrative, Collection, and Enforcement Costs for Certain Fees and Charges. Under current law, there are three statutes pursuant to which the Coast Guard collects user fees for its services. The Independent Offices Appropriations Act, 31 U.S.C. 9701, passed in 1951, is general user fee authority that applies to the entire Federal Government, including the Coast Guard. Also, under 46 U.S.C. 2110, the Secretary is required to establish user fees for services provided under subtitle II of title 46, United States Code (primarily marine safety activities, e.g., inspection of certain vessels; licensing, certification, and documentation of personnel, etc.). Finally, section 664 of title 14, United States Code, provides authority for the Coast Guard to establish user fees for goods and services it provides.

This section amends section 664 of title 14 to better coordinate the statutory provisions governing fees and charges currently levied by the Coast Guard for services furnished under subtitle II of title 46 and under title 14, United States Code. This proposal does not establish a new user fee or seek to authorize the collection of any amounts in excess of the full (direct and indirect) costs of providing a given service for which the fee is being charged.

Currently, the Secretary is authorized to recover appropriate collection and enforcement costs associated with delinquent payments of the fees and charges associated with services provided under subtitle II of title 46, but not under section 664 of title 14. This section will make parallel the provisions applicable to title 46 and title 14 user fees collection. This section authorizes the Secretary to recover appropriate collection and enforcement costs associated with delinquent payments of fees and charges authorized under title 14, and allows other Federal, State, local, or private entities to collect such a fee or charge. These authorities already exist for title 46 fees and charges.

Finally, this section amends title 14, to define what constitutes the costs of collecting a fee or charge, so that it explicitly includes reasonable administrative, personnel, contract, equipment, supply, training, and travel expenses related to administration, management, and oversight of user fees authorized by law. Importantly, this will include the compilation and analysis of cost and user data. In recent years, both Congress and the Executive Branch have sought to obtain such data from Federal agencies on a recurring basis. Section 405 incorporates the same definition in title 46.

Sec. 207. Expansion of Coast Guard Housing Authorities. In 1996, Congress enacted a broad set of authorities for the Department of Defense to use in its Military Housing Privatization Initiative. The existing Coast Guard housing authorities are more limited. This section provides the Coast Guard with the same direct loan authority for the acquisition and construction of housing currently available to the Department of Defense. The section also allows the Commandant to make differential lease payments if necessary to encourage private construction of Coast Guard housing.

Section 687(g) of title 14 authorizes a demonstration project in Kodiak, Alaska to acquire or construct military family or unaccompanied housing through contracts with Alaska-based small business concerns qualified under the Small Business Administration's section 8(a) program. This section allows for more than one demonstration project, and allows the projects to be conducted at any Coast Guard installation in Alaska.

Sec. 208. Requirement for Constructive Credit. Current section 727 of title 14 requires that a Reserve Law Specialist be given a minimum of three years constructive credit upon assignment or designation. This section reduces the amount of mandatory constructive credit to only one year. It will allow the Coast Guard to consider the officer's education and experience, potential career opportunities, and service needs to determine appropriate credit.

Sec. 209. Maximum Age for Retention in an Active Status. This section changes the mandatory age at which a Reserve officer is transferred to the Retired Reserve from sixty-two years of age to sixty years of age and would change the mandatory age at which a Reserve officer (other than those eligible for retirement or a Reserve rear admiral or rear admiral (lower half)) shall be discharged from sixty-two years of age to sixty years of age. It aligns Coast Guard Reserve officers' maximum retention age with that of other armed services Reserve officers, and also codifies the longstanding Coast Guard policy to remove Reserve officers from active status at age sixty.

Sec. 210. Payments. This section authorizes the Coast Guard to use pay offsets to recover delinquent amounts owed by military members and civilian employees who hold Federal contractor-issued travel charge cards.

Sec. 211. Coast Guard Fellowship Program. This section provides statutory authority for the Coast Guard Congressional Fellowship Program. This program is modeled after the current Congressional Fellowship Program administered by the Department of Defense by allowing 4 mid-grade officers to be assigned as fellows for a one-year term in House and Senate offices (including Committees). To protect against abuses in separation of powers principles and conflicts of interest, section 211 adopts the restrictions contained in the House Ethics Manual and prohibits all Coast Guard Fellows from engaging in duties that will result in any direct or indirect benefit to the Coast Guard, other than broadening the fellow's knowledge. Any fellow violating this restriction will be subject to appropriate discipline by the Commandant of the Coast Guard. This section will allow 4 Coast Guard officers to learn about Congress. The Coast Guard currently has assigned eight Fellows to their Fellowship program on Capitol Hill.

Sec. 212. Air Search and Rescue Facility in Muskegon County, Michigan. Since 1997, the Coast Guard has operated a seasonal search and rescue air facility (AirFac) at the Muskegon County Airport in Muskegon, Michigan. The AirFac and required berthing space is operated out of a hangar on the airport grounds under the arrangements of lease with the U.S. Coast Guard. The hangar and berthing space, utilized by the Coast Guard to this day, was intended to be only the temporary location of the AirFac until a permanent facility was constructed to house the AirFac at Muskegon, Airport.

This section allows the Coast Guard to enter into a lease of up to 20 years for a new facility constructed by Muskegon County that meets criteria established by the Commandant. The Committee expects the Coast Guard to act expeditiously toward entering into a long term lease with the County for a facility that meets Coast Guard criteria. The Committee expects a report from the Coast Guard no later than December 15, 2003 on progress toward negotiating such a lease.

Sec. 213. National Coast Guard Museum. The section allows the Commandant to establish a National Coast Guard Museum. That museum may be located in New London, Connecticut. No Federal funds may be spent on the planning, engineering, design, construction, operation or maintenance of the Museum, and an operation and maintenance plan must be submitted to the Committee before it is established. The plan must include the estimated cost of operation and maintenance, and proposed sources of operation and maintenance funds. The estimated costs and proposed funding sources must be certified as reasonable and realistic by the Inspector General of the Department in which the Coast Guard is operating.

Sec. 214. Limitation on Number of Commissioned Officers. The number of commissioned officers in the Coast Guard is set by statute in section 42 of title 14, United States Code. Currently, the overall number of officers cannot exceed 6,200. Increased homeland security requirements, however, are expected to drive up the officer



needs of the Coast Guard by 17 percent. With a current officer corps of approximately 5,600 officers, an additional 900 officers for homeland security missions will require a change to the officer ceiling in section 42 of title 14, United States Code. This section provides a one year increase in the authorized officer cap to 6,700. This ceiling will accommodate the homeland security increase. The Coast Guard budget proposes to convert 78 billets from military to civilian positions in each of fiscal years 2003 and 2004. The Committee urges the Coast Guard to accelerate the conversion to civilian positions those jobs that are not required for military purposes. This conversion will provide for increased continuity in positions and decrease the need for additional officer billets in the future.

Sec. 215. Redistricting Notification Requirement. This section requires the Commandant to notify the Committee at least 180 days before implementing a plan to change the boundaries of Coast Guard districts, or before shifting more than 10 percent of the personnel or equipment from the station where they are based.

#### TITLE III—NAVIGATION

Sec. 301. Marking of Underwater Wrecks. This section grants the Coast Guard discretion to permit a sunken wreck to be marked without using a lighted buoy. Under current law, the owner or operator of a vessel wrecked and sunk in a navigable channel must immediately mark it with a “buoy or beacon during the day and a lighted lantern at night”, and maintain the marker until the wreck is removed. In navigable channels on the Western Rivers, use of a lighted aid to mark a wreck is generally not practicable due to the fast current and floating debris common in those rivers. Lighted aids, which are larger and heavier than unlighted markers, tend to submerge in the fast current, and are pushed off station by the force of the current on debris snagged by the aid. It is largely for this reason that of the over 10,000 buoys positioned by the Coast Guard to mark navigable channels on the Western Rivers, only 12 are seasonal lighted buoys, and those are limited to pooled waters behind dams where current is not a factor. Mariners operating vessels on these rivers are accustomed to navigating with unlighted buoys. Due to the failure of owners/operators to mark their wrecked vessels, much of this type of marking is currently performed by the Coast Guard. The Coast Guard generally uses unlighted buoys for this purpose.

Sec. 302. Use of Electronic Devices; Cooperative Agreements. This section amends the Ports and Waterways Safety Act (33 U.S.C. 1223) to authorize the Secretary to prohibit the use on the bridge of vessels of certain electric and electronic devices that interfere with communications or navigation equipment. The potential exists for electric and electronic devices to create harmful interference to global positioning system (GPS) navigation receivers, maritime radars, communications equipment, and other systems aboard vessels. This change gives the Coast Guard the authority to prohibit those devices on the bridges of vessels if it is determined that they pose a threat to the safety of vessels.

New international regulations governing the safety of life at sea currently in force require that portable electrical and electronic equipment shall not be operated on the bridge if it may affect the proper function of navigational systems and equipment. This

change will allow for implementation of this regulation. With the increased reliance on GPS, interference to GPS receivers could become a significant problem, especially when GPS systems are integrated with automatic heading control and dynamic positioning systems that control the navigation and movement of the vessel. Interference has been known to cause GPS systems to generate false positions. A slight position “error” may cause enough of a heading change to run a ship aground.

This section also amends the Ports and Waterways Safety Act (33 U.S.C. 1223) to authorize the Commandant to enter into cooperative agreements with non-Federal entities to carry out Ports and Waterways Safety Act vessel operating requirements, including vessel traffic services. An amendment contained in Sec. 201 allows the Commandant to enter into leases of up to 20 years for the use of Coast Guard property if necessary to carry out these cooperative agreements.

Sec. 303. Inland Navigation Rules Promulgation Authority. This section proposes to remove the Inland Navigation Rules from 33 U.S.C. 2001 if the Secretary promulgates Inland Navigation Rules through a regulatory proceeding. The statutory rules remain in effect until such regulations become effective. This change allows for future changes to the Inland Navigation Rules through the regulatory process without the need for statutory changes. International Rules for Preventing Collisions at Sea are currently contained in regulation rather than statute.

#### TITLE IV—SHIPPING

Sec. 401. Reports from Charterers. This section gives the Secretary the authority to require reports from vessel charterers to ensure compliance with laws governing vessels engaged in coastwise trade and in the fisheries. Under current law, the Secretary may require reports from vessel owners and masters.

Sec. 402. Suspension of Documents in lieu of Mandatory Revocation for Proved Drug Convictions. Under current law, the merchant mariner’s credential (MMC) must be revoked if the credential holder is convicted of violating a State or Federal drug law, or found to use, or be addicted to, a dangerous drug. However, if evidence of proof of cure is provided, the credential of a drug user or addict need not be revoked. No option other than revocation is provided for a drug offense conviction.

In 1994, the Coast Guard began using Settlement Agreements to resolve suspension and revocation cases without a hearing. These have been particularly successful in cases involving drug use where the Administrative Law Judge (ALJ) need not revoke credentials if the holder provides satisfactory proof of cure. The Coast Guard seeks the discretion to suspend a mariner’s credentials in dangerous drug law conviction cases. Use of that discretion will allow the use of Settlement Agreements to resolve cases involving minor drug convictions. The Coast Guard believes that granting ALJs discretion to approve settlement agreements will improve the administration of the MMC program by removing the requirement for a hearing and revocation in every case involving a drug conviction. This will allow minor cases to be settled quickly leaving resources available to focus on more serious cases.

Sec. 403. Inspection of Records of Merchant Mariners' Documents. This section strikes the prohibition on "general or public inspection" of merchant mariners' documents (MMDs). Striking this prohibition will bring merchant mariners' documents under the record protection and release policies of the Privacy Act, 5 U.S.C. 552a, and Freedom of Information Act (FOIA), 5 U.S.C. 552. Since no similar prohibition exists for merchant mariners' licenses, or certificates, this change provides equal treatment for all merchant mariners' credentials. With this change, release of information regarding all credentials will be governed by the Privacy Act and FOIA.

The prohibition against "general or public inspection" of MMDs was enacted decades before the Privacy Act and FOIA. The prohibition denies access to MMDs even to individuals with legitimate reasons for accessing that information. Even a request to verify a mariner's qualifications is refused by the National Maritime Center (NMC). NMC cannot confirm to an employer that a mariner is documented. The prohibition prevents family members and historians seeking information about deceased mariners, even upon presentation of a valid death certificate, from receiving information.

Sec. 404. Exemption of Unmanned Barges from Citizenship Requirements Regarding Command of Vessel. Current law requires all documented vessels, other than vessels with a recreational endorsement, to be under the command of a citizen of the United States. This section exempts unmanned barges from this requirement unless those vessels are engaged in a coastwise voyage. When an unmanned U.S. barge is in service with a tug, or other vessel, not under the operational control of a U.S. citizen, this requirement places an administrative burden on the barge operator that results in no practical benefit.

To comply with the U.S. citizen-in-command requirement, a U.S. citizen deckhand is sometimes designated as the "barge master" on the towing vessel, so that the unmanned barge will be "under the command of" a U.S. citizen. This solution is an artificial one that lends no real value, since the "barge master" is not in command as a practical matter, having no control over the tug. Rather, it is the master of the tug who has control of both the tug and the barge, and makes the decisions concerning navigation, crew hiring and firing, discipline, and compliance with laws and regulations. Designating a U.S. citizen "barge master" on board the tug does not confer decisionmaking authority on that citizen, but it could burden that person with the consequences of the tug operator's actions.

Under current law, an unmanned barge not under command of a U.S. citizen is subject to seizure and forfeiture. Strict enforcement of this requirement would effectively prohibit owners of U.S. documented barges from bareboat chartering their vessels to foreign interests. To comply with existing law, a U.S. citizen would have to be aboard any foreign tug that tows a bareboat chartered U.S. barge and be designated as in command of that barge. Lighter Aboard Ship (LASH) barges discharged in foreign ports cannot comply with this requirement unless the vessel carrying the LASH barges also carries at least one U.S. citizen who would leave the LASH carrier to accompany the barges when discharged.

Sec. 405. Administrative, Collection, and Enforcement Costs for Certain Fees and Charges. Under current law, there are three stat-

utes pursuant to which the Coast Guard collects user fees for its services. The Independent Offices Appropriations Act, 31 U.S.C. 9701, passed in 1951, is general user fee authority that applies to the entire Federal Government, including the Coast Guard. Also, under 46 U.S.C. 2110, the Secretary is required to establish user fees for services provided under subtitle II of title 46, United States Code (primarily marine safety activities, e.g., inspection of certain vessels; licensing, certification and documentation of personnel, etc.). Finally, section 664 of title 14, United States Code, provides authority for the Coast Guard to establish user fees for goods and services it provides.

This section defines what constitutes the costs of collecting a fee or charge. These costs include reasonable administrative, personnel, contract, equipment, supply, training, and travel expenses related to administration, management, and oversight of user fees authorized by law, including the compilation and analysis of cost and user data, which, in recent years, both Congress and the Executive Branch have sought to obtain from Federal agencies on a recurring basis. This proposal does not establish a new user fee or seek to authorize the collection of any amounts in excess of the full (direct and indirect) costs of providing a given service for which the fee is being charged.

Sec. 406. Compliance with International Safety Management Code. The section requires foreign flag vessels departing and returning to the same U.S. port, or returning to another port under the jurisdiction of the United States, to comply with the International Safety Management Code when any part of the voyage occurs on the high seas. This provision ensures that vessels departing and returning to the same port, with no port calls in between, are included in the definition of a "vessel engaged on a foreign voyage."

Sec. 407. Civil Penalties for Failure to Comply with Recreational Vessel and Associated Equipment Safety Standards. A person manufacturing or selling a recreational boat that contains a defect that creates a substantial risk of personal injury to the public, or that fails to comply with an applicable Federal recreational boat safety regulation, is liable to the United States Government for a civil penalty of not more than \$2,000, except that the maximum civil penalty may not be more than \$100,000 for a related series of violations.

The Coast Guard believes these monetary penalties are too small to have a substantial deterrent effect and are insufficient to ensure (1) compliance with Federal recreational boat safety regulations, (2) the exercise of reasonable diligence by manufacturers in notifying owners and repairing defective boats (and associated equipment), or (3) innovative efforts by companies seeking to improve quality control and to do a better job of building safe boats.

This section increases the maximum civil administrative penalty from \$2,000 to a maximum of \$5,000, and increases the maximum for a related series of violations from \$100,000 to \$250,000. Current law applies these penalties for wrongful manufacture or sale. This section also applies the penalties to wrongful labeling and failure to notify of a recall.

Sec. 408. Revision of Temporary Suspension Criteria in Document Suspension and Revocation Cases. This section corrects a drafting error, and allows the Coast Guard to temporarily suspend

or revoke a merchant mariner's credentials (MMCs) if the mariner has been convicted of certain National Driver Register Act (NDRA) offenses. As written, the MMC could only be temporarily suspended or revoked for a NDRA conviction if the mariner was acting under the authority of the credential when the NDRA violation occurred. Since there are no reasonable scenarios under which a mariner will commit a motor vehicle-related offense while on board ship, this section restores the intent of the provision to allow suspension or revocation after a conviction for operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance, or a traffic violation arising in connection with a fatal traffic accident, reckless driving, or racing on the highways.

Current law allows for longer-term suspension or revocation of the MMC as a result of a NDRA suspension after a suspension and revocation hearing. The provision amended by this section only deals with temporary suspensions or revocations of no more than 45 days prior to a hearing.

This section also provides authority to temporarily suspend an MMC if the holder threatens the security of a vessel or the port.

Sec. 409. Revision of Bases for Document Suspension and Revocation Cases. This section allows the Coast Guard to suspend or revoke a merchant mariner's credentials (MMC) if the mariner commits an act of incompetence whether or not the mariner is acting under the authority of the MMC at the time the act occurs. Under current law, the Coast Guard can only undertake suspension and revocation proceedings if the mariner commits an act of incompetence while acting under the authority of the MMC. Therefore, even if the Coast Guard has evidence that a credential holder is physically or professionally incompetent, under current law the agency must wait until the mariner actually commits an act of incompetence while acting under the authority of their MMC before suspending or revoking an MMC. This section will allow the Coast Guard to initiate a suspension and revocation proceeding without having to wait for a marine casualty to occur if the agency has sufficient evidence of incompetence.

The section also adds security threat as a basis for which the Secretary may suspend or revoke an MMC.

Sec. 410. Hours of Service on Towing Vessels. This section grants the Secretary of the department in which the Coast Guard is operating the authority to prescribe maximum hours of service for individuals engaged on a towing vessel that is required to have a licensed operator under section 8904 of title 46, United States Code. However, before prescribing those regulations, the Secretary is required to conduct and report to Congress on the results of a demonstration project involving the implementation of Crew Endurance Management Systems on these vessels.

In September 2001, a towing vessel struck a bridge at South Padre Island, TX. The bridge collapsed, and 5 people died when their cars or trucks went into the water. On May 26, 2002, a towing vessel struck the I-40 highway bridge over the Arkansas River at Webber Falls, OK. The bridge collapsed, and 14 people died when their cars or trucks went into the Arkansas River.

As a result of these accidents, the Coast Guard and the American Waterways Operators established a Joint Working Group to examine the statistics of bridge allisions and measures that could be

taken to help prevent these types of casualties. The study used a database of 2,692 bridge allision cases between 1992–2001. One of the recommendations of the working group’s May, 2003 report is to “require the implementation of Crew Endurance Management Systems (CEMS) throughout the towing industry as a means of improving decision making fitness. In addition, on June 1, 1999, the National Transportation Safety Board issued Recommendation M–99–1 to the Coast Guard that stated the Coast Guard should “Establish within 2 years scientifically based hours-of-service regulations that set limits on hours of service, provide predictable work and rest schedules, and consider circadian rhythms and human sleep and rest requirements.” This section would give the Coast Guard the legal authority to implement these recommendations.

The Committee expects that the Secretary will carefully evaluate the results of the demonstration project prior to determining the need to establish maximum hours of service regulations as permitted under subsection (a). Prior to promulgating any such regulations, the Committee also expects that the Secretary will evaluate the costs and benefits of establishing maximum hours of service requirements on towing vessels. This evaluation should include a review of Coast Guard casualty data to determine whether there is statistical evidence to support the need for new hours of service regulations.

Sec. 411. Automatic Identification System Electronic Charts. This section requires shipboard automatic identification systems to include electronic charts and related display. On September 22, 1993, at about 2:45 a.m. the towing vessel *Mauvilla* and its barges became lost in the fog and struck and displaced the Big Bayou Canot railroad bridge near Mobile, Alabama. Later that night the Amtrak train, Sunset Limited, derailed as it went over the bridge and fell into the water killing 42 passengers and 5 crewmembers. The Committee believes that electronic charts tied to a Global Positioning Satellite receiver will help prevent accidents such as this in the future.

This section does not limit the discretion of the Secretary under 46 U.S.C. 70114(a)(2) to waive the application of 46 U.S.C. 70114(a)(1) if the Secretary finds that an electronic chart and related display is not necessary for the safe operation of a vessel or class of vessels on the waters on which those vessels operate.

Sec. 412. Prevention of Departure. Current law authorizes the Secretary to prevent a foreign passenger vessel from departing a U.S. port, with passengers who are embarked at that port, if the Secretary finds that the vessel does not comply with the standards stated in the International Convention for the Safety of Life at Sea (SOLAS). However, the statute does not provide a similar authority to the Secretary regarding control of a foreign passenger vessel that may have embarked passengers from a nearby foreign port and is conducting a voyage to a U.S. port. The result of this distinction is that a foreign vessel embarking U.S. passengers from a neighboring country such as Canada or a Caribbean country and calling on U.S. ports, would not be subject to the same detailed examination as a foreign passenger vessel embarking passengers from a U.S. port conducting a similar voyage. Without the ability to conduct such an examination, it is difficult for the Coast Guard

to assure that such vessels are in compliance with SOLAS regulations.

This section allows the Coast Guard to conduct examinations to ensure that a passenger vessel calling on a U.S. port complies with SOLAS so long as a U.S. citizen passenger is aboard.

#### TITLE V—FEDERAL MARITIME COMMISSION

Sec. 501. Authorization of Appropriations for Federal Maritime Commission. This section authorizes \$18,471,000, the Administration request, for the Federal Maritime Commission in Fiscal Year 2004.

#### TITLE VI—MISCELLANEOUS

Sec. 601. Increase in Civil Penalties for Violations of Certain Bridge Statutes. Bridges constructed across the navigable waters of the United States are considered obstructions to navigation and must provide for the reasonable needs of navigation. Civil penalties for 20 potential bridge statute violations range in amounts from \$220 to \$1,100 per day and involve matters such as failure to install and keep bridge lights and other signals in working order; unreasonable delay in operating a draw opening after signal; and failure to give timely notice of construction or modification events affecting navigation. Vessel owners and operators are also subject to penalties, for example, for signaling a drawbridge to open for a nonstructural vessel appurtenance unessential to navigation or easily lowered.

The Coast Guard maintains that current civil penalties for violations of bridge laws and regulations are insufficient to effectively discourage violations. Current law sets the civil penalty at a maximum \$1,000 per-day per-violation with each day a violation continued constituting a separate offense. With the minor adjustments allowed under the Federal Civil Monetary Penalty Inflation Adjustment Act of 1990, the maximum civil penalty is now \$1,100 per-day per-violation.

This section increases the civil penalties for bridge violations under the Rivers and Harbors Appropriations Act of August 18, 1894; the Rivers and Harbors Appropriations Act of March 3, 1899; the Bridge Act of 1906; and the General Bridge Act of 1946 to \$25,000 per-day per-violation. This section phases in that increase over 5 years. Criminal penalties are also available, and are not addressed by this section.

Sec. 602. Conveyance of Decommissioned Coast Guard Cutter *Sundew*. This section directs the Commandant to convey the decommissioned Coast Guard cutter SUNDEW to the Duluth Entertainment and Convention Center Authority, in Duluth, Minnesota. Before conveyance, the recipient must agree that the vessel: (1) will be used for education and historical display purposes; (2) must not be used for commercial transportation; and (3) will be made available to the United States Government if needed in time of war or national emergency. The recipient must also agree to hold the government harmless for claims arising from exposure to hazardous materials.

Sec. 603. Tonnage Measurement. This section deems the motor vessel *Bluefin* to be 488 gross tons and the motor vessel *Coastal Merchant* to be 493 gross tons, as measured under regulations pre-

scribed under section 14502 of title 46, United States Code, for purposes of applying the optional regulatory measurement under section 14305 of title 46, United States Code.

Section 604. Operation of Vessel *Stad Amsterdam*. This section authorizes the vessel *Stad Amsterdam* to carry non-paying guests within U.S. waters and between ports and places in the U.S. These are individuals who are not directly and substantially connected with the operation, navigation, ownership, or business of the vessel, who are friends, guests, or employees of the owner of the vessel, and who are not actual or prospective customers for hire of the vessel.

This section does not authorize the vessel to carry individuals for a fare or to be chartered on a for-hire basis in the coastwise trade. In fact, this section prohibits *Stad Amsterdam* from being “used to carry individuals for a fare or to be chartered on a for-hire basis in the coastwise trade.” This means that the owners may not solicit or accept payment for the carriage of friends, guests, and employees in U.S. domestic waters.

Existing law requires that vessels carrying passengers for hire in the coastwise trade be U.S. built, U.S. manned, U.S. owned, and U.S. documented. Prior to 2002, the U.S. Customs Service ruled that non-paying guests of the owner or operator were not considered passengers. Therefore, vessels carrying non-paying guests in U.S. coastal waters did not have to meet domestic build, crew, ownership, and documentation requirements. In June 2002, Customs ruled that individuals will now be “considered passengers unless they are directly and substantially connected with the operation, navigation, ownership, or business of the vessel.” This section applies the earlier Customs ruling to non-paying guests on the *Stad Amsterdam*.

The *Stad Amsterdam* was built in 2000 and designed after nineteenth century clipper ships. It is a three-masted sailing vessel with a length of 76 meters and a gross tonnage of 723 tons. The vessel is owned by Randstad Holding NV, a Dutch-based company that specializes in providing temporary services employment, and the City of Amsterdam. Randstad Holding NV specializes in providing professional temporary employment services, and has a U.S. subsidiary, Randstad North America, headquartered in Atlanta, Georgia. Randstad North America operates more than 500 branch offices and on-site client locations in North America, and, in 2002, put more than 219,500 individuals to work, for a total payroll in excess of \$818 million.

Sec. 605. Great Lakes National Maritime Enhancement Institute. This section authorizes \$5 million to be appropriated to the Secretary of Transportation in each of the Fiscal Years 2004 through 2008 to study cargo transportation on the Great Lakes. The purpose of the Institute is to conduct long-term research on maritime shipping on the Great Lakes including short sea shipping; examine truck and rail freight movements to see if land-based congestion could be relieved by shipping those cargoes by water; and study and develop new vessel designs for shipping on the Great Lakes, (such as multi-ITB designs that could fit through locks). The Institute may operate through a consortia of Great Lakes universities in a manner that allows each university to study Great Lakes transportation issues within its own area of expertise.



Sec. 606. Agile Port and Intelligent Border Security National Demonstration Project. This section authorizes the Secretary of Transportation to carry out an Agile Port and Intelligent Border Security National Demonstration Project under agreement with the Center for the Commercial Deployment of Transportation Technologies. The project may demonstrate methods to: (1) more efficiently use on-dock rail; (2) develop inland multi-modal transfer facilities; (3) encourage shippers to pick up and deliver containers and trailers at off dock inland facilities; (4) develop high speed cargo vessels and short sea coastal shipping and handling facilities and freight service to relieve inter city highway congestion; and (5) develop integrated intelligent transportation, automated equipment identification and tracking, and information and inspection technology (including the International Trade Data System) at sea-ports, land border crossings, and international trade corridors to expedite physical cargo and information flow and improve the efficiency, safety, and security of regional goods movement. This includes cargo movements through the port of San Diego and any inland port that could be used to support activities at that port.

Sec. 607. Koss Cove. This section designates a cove lying off the southern coast for Erlington Island in Alaska as "Koss Cove", in honor of the late Able Bodied Seaman Eric Steiner Koss. Seaman Koss served aboard the National Oceanic and Atmospheric Administration vessel *Rainer*, and died in the performance of a nautical charting mission in this cove.

Sec. 608. Miscellaneous Certificates of Documentation. This section provides coastwise trade endorsements for two U.S.-flag, U.S.-owned, and U.S.-built vessels, the *Ocean Leader* and the *Revelation*.

Sec. 609. Dredging Study. This section directs the Congressional Budget Office to conduct a study of the impacts of foreign charterers on the U.S. dredging industry.

Sec. 610. Report Regarding Security Inspection of Vessels and Vessel-Borne Cargo Containers Entering the United States. This section requires the Secretary of the department in which the Coast Guard is operating to provide Congress with a report that will provide a complete breakdown of the number and types of cargo containers and vessels that enter the United States each year, and the cost incurred to conduct security inspections on those containers and vessels.

#### TITLE VII—AMENDMENTS RELATING TO OIL POLLUTION ACT OF 1990

Sec. 701. Vessel Response Plans for Nontank Vessels over 400 Gross Tons. This section allows the President to issue regulations requiring non-tank vessels of 400 gross tons and greater that carry oil as fuel for main propulsion to prepare vessel response plans.

Current law does not require response plans for non-tank vessels (passenger, dry bulk, container, and other commercial vessels). Internationally, the International Maritime Organization imposes the same pollution response planning standards on both tankers and non-tank vessels. Several states have also enacted laws requiring response plans for non-tank vessels. Tank vessel owners contribute to the support of a nationwide network of spill response contractors, who may not be available to support non-tank vessel response needs because of an existing contractual obligation to the

tank vessel owners. This lack of committed resources leaves the Nation vulnerable to lessened or inadequate response to a major oil discharge from a non-tank vessel.

Currently, the oil production, transportation, and storage industries bear nearly the entire burden of maintaining the Nation's oil spill response industry. However, non-tank vessels may carry as much or more oil than many small tank vessels, yet they are not required to plan for a spill emergency and may have no response resources available in the event of a spill. This proposal spreads the cost of maintaining private spill response infrastructure in the U.S. to a much larger portion of the shipping industry while reducing the risk of spills from non-tank vessels.

Sec. 702. Requirements for Tank Level and Pressure Monitoring Devices. This section gives the Secretary the discretion to issue regulations regarding minimum standards for, and carriage of, devices warning of overfills and tank levels of oil in cargo tanks and devices for monitoring the pressure of oil cargo tanks.

Sec. 703. Liability and Cost Recovery. This section makes changes to definitions in the Oil Pollution Act of 1990 (OPA) to conform the defenses against liability under that Act with those under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. 9601). OPA generally imposes liability for removal costs and damages on owners and operators of facilities and vessels from which there is a discharge, or a substantial threat of discharge, of oil into the waters of the United States, adjoining shorelines, or the exclusive economic zone, subject to the specific defenses set forth in the statute. The section also adds a definition of non-tank vessel to accompany the proposed changes in section 211 of this bill.

The proposed changes that conform OPA to CERCLA: (1) exclude from the definition of "owner or operator" States that acquire facilities and vessels involuntarily and lenders that hold title to facilities and vessels only to protect their security interest; (2) clarify that all costs of Federal enforcement activities for the recovery costs of removal of discharged oil or prevention, minimization, or mitigation of a substantial threat of discharge of oil, are recoverable in an action to recover "removal costs"; (3) clarify that a responsible party is liable for these enforcement costs in an action to recover removal costs under OPA; (4) clarify circumstances in which States are not responsible parties for offshore facilities; and (5) allow certain owners who purchase property without reason to know of its potential for a discharge of oil, as well as heirs and certain government owners, to avail themselves of the third party defense to liability.

#### LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

H.R. 2443 was introduced on June 12, 2003 by the Honorable Don Young, Chairman, Committee on Transportation and Infrastructure. The bill was referred to the Committee on Transportation and Infrastructure, and within the Committee to the Subcommittee on Coast Guard and Maritime Transportation. On June 12, the Subcommittee met to mark up a Committee Print. Congressman Simmons offered an amendment to establish a National Coast Guard Museum. The amendment was withdrawn. The bill was then ordered favorably reported to the Full Committee. On

June 25, 2003, the Full Committee on Transportation and Infrastructure met to consider the bill. Congressman Oberstar offered an amendment to clarify the type of passengers that could be taken out on the *Stad Amsterdam* under the Passenger Vessel Act waiver included in Sec. 604. It was adopted by voice vote. Congressman Nadler offered an amendment requiring the Secretary of the department in which the Coast Guard is operating to report on the cost of conducting security inspections on foreign vessels and vessel-borne containers arriving in U.S. ports. The amendment was adopted on a voice vote. The bill as amended was then ordered favorably reported to the House of Representatives by voice vote.

#### ROLLCALL VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each rollcall vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. No rollcall votes were ordered during the consideration of H.R. 2443.

#### COMMITTEE OVERSIGHT FINDINGS

With respect to the requirements of clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee's oversight findings and recommendations are reflected in this report.

#### COST OF LEGISLATION

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives does not apply where a cost estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974 has been timely submitted prior to the filing of the report and is included in the report. Such a cost estimate is included in this report.

#### COMPLIANCE WITH HOUSE RULE XIII

1. With respect to the requirement of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, and 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included below.

2. With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goals and objective of this legislation are to authorize appropriations for the Coast Guard and Federal Maritime Commission for Fiscal Year 2004.

3. With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2443 from the Director of the Congressional Budget Office.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, July 22, 2003.*

Hon. DON YOUNG,  
*Chairman, Committee on Transportation and Infrastructure,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2443, the Coast Guard Authorization Act of 2003.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Deborah Reis.

Sincerely,

DOUGLAS HOLTZ-EAKIN,  
*Director.*

Enclosure.

*H.R. 2443—Coast Guard Authorization Act of 2003*

Summary: H.R. 2433 would authorize the appropriation of about \$6.1 billion for programs administered by the U.S. Coast Guard (USCG) and the Federal Maritime Commission (FMC) for fiscal year 2004. The bill also would authorize the appropriation of \$10 million for 2004 and \$5 million annually through 2008 for new maritime projects. CBO estimates that appropriation of the authorized amounts would result in outlays of \$4.2 billion in fiscal year 2004 and \$6 billion over the 2004–2008 period. (About \$100 million would be spent after 2008.) Enacting H.R. 2443 would increase direct spending by \$2 million annually because it would allow the USCG to spend more of the user fees it currently collects. Finally, enacting this legislation could result in lower future revenues from recoveries of oil spill costs, but CBO has no basis for estimating the amount or timing of such losses, if any.

H.R. 2443 contains both intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the cost of installing electronic charting equipment on public vessels would not exceed the annual threshold for intergovernmental mandates as established in that act (\$59 million in 2003, adjusted annually for inflation). Because of uncertainties about the number of private vessels that would be affected by other new requirements and how certain regulations would be implemented, CBO cannot determine whether the total costs of private-sector mandates would exceed the threshold established by UMRA for such mandates (\$117 million in 2003, adjusted annually for inflation).

Estimates cost to the Federal Government: The estimated budgetary effects of H.R. 2443 are summarized in the following table. The costs of this legislation fall within budget functions 300 (natural resources and environment) and 400 (transportation).

The amount authorized by the bill for Coast Guard retirement is not included in the table because such pay is an entitlement under current law and it is not subject to appropriation.

	By fiscal year, in millions of dollars—					
	2003	2004	2005	2006	2007	2008
SPENDING SUBJECT TO APPROPRIATION						
USCG and FMC spending under current law:						
Authorization level <sup>1</sup> .....	5,294	29	0	0	0	0
Estimated outlays .....	5,134	818	207	12	0	0
Proposed changes: <sup>2</sup>						
Authorization level .....	0	6,093	5	5	5	5
Estimated outlays .....	0	4,212	1,069	431	176	129
USCG and FMC spending under H.R. 2443:						
Authorization level <sup>1</sup> .....	5,294	6,122	5	5	5	5
Estimated outlays .....	5,134	5,030	1,276	443	176	129
CHANGES IN DIRECT SPENDING <sup>3</sup>						
Estimated budget authority .....	0	2	2	2	2	2
Estimated outlays .....	0	2	2	2	2	2

<sup>1</sup>The 2003 level is the amount appropriated for that year, reduced by across-the-board reductions and by a \$17 million rescission in Capital Acquisition funds. The \$29 million in 2004 is the amount already authorized to be appropriated from the Oil Spill Liability Trust Fund for Coast Guard operating expenses and research.

<sup>2</sup>Included in the authorization levels and estimated outlays for proposed changes are \$10 million in 2004 and \$5 million annually through 2008 for activities to be carried out by the Department of Transportation. There were no amounts appropriated for those proposed activities in 2003.

<sup>3</sup>H.R. 2443 also could affect revenues, but CBO estimates that any such effects are likely to be insignificant.

**Basis of estimate:** For this estimate, CBO assumes that the amounts authorized will be appropriated for each year. The authorization level for 2004 is the amount stated in the bill for USCG and FMC discretionary accounts, excluding \$29 million of USCG funding to be derived from the Oil Spill Liability Trust Fund (OSLTF). (This amount, which consists of \$25 million for that agency's operations and \$3.5 million for research, has been excluded from the "Proposed Changes" lines in the table because such funding is already authorized under existing law.) Estimated outlays are based on historical spending patterns for existing or similar programs.

#### *Spending subject to appropriation*

H.R. 2443 would authorize the appropriation of about \$5 billion for USCG operating expenses (including \$17 million for environmental compliance) and about \$1.1 billion for acquisitions and other capital projects (including \$22 million for research activities and \$18 million for bridge alterations). Of the amounts authorized, \$48.5 million would be derived from the OSLTF, but \$29 million is already authorized to be appropriated for trust fund in 2004. Title V would authorize the appropriation of \$18 million to the Federal Maritime Commission for 2004.

The bill would authorize the appropriation of \$1 billion for Coast Guard retirement benefits in 2004. That amount is excluded from this estimate because those benefits are considered an entitlement under current law and are not subject to appropriation.

Title VI would authorize the appropriation of \$5 million a year over the 2004–2008 period to the Secretary of Transportation for a national maritime enhancement institute for the Great Lakes region. Section 606 would authorize the Secretary to carry out a demonstration project on dual-use technologies for commercial shipping and port operations. The bill would authorize the appropriation of \$5 million for fiscal year 2004 for that purpose.

#### *Direct spending*

H.R. 2443 would expand the authority of the Coast Guard to spend amounts collected from existing user fees and similar

charges. CBO estimates that enactment of the bill would increase direct spending by about \$2 million annually.

The USCG is currently authorized to spend a portion of its user fees and other charges that are sufficient to offset the cost of collecting those fees. The bill would broaden the definition of collection costs to include more indirect administrative elements such as fee-related equipment purchases and training and travel expenses. CBO estimates that the broader definition of reimbursable costs would enable the Coast Guard to retain about twice as much of its fees, resulting in new direct spending of about \$2 million annually. For this estimate, CBO assumes that the agency does not increase fee rates above those currently in effect.

#### *Changes to Coast Guard housing authorities*

Section 207 would expand the Coast Guard's authority to finance military housing construction. At this time, CBO expects that enacting this section is unlikely to have a significant effect on the federal budget.

Under current law, the Coast Guard is authorized to use loan guarantees, barter arrangements, long-term leases, limited partnerships, and similar means to finance housing projects. Current law authorizes the appropriation of \$40 million to the Coast Guard for housing projects and mandates that the total value of all federal obligations entered into for such projects may not exceed \$40 million. That authority expires at the end of fiscal year 2007. To date, the agency has not initiated any housing projects under this authority.

It is unclear that the additional housing financing authorities that would be provided by section 207 would alleviate the Coast Guard's current housing program implementation difficulties. Therefore, CBO does not expect that the proposed changes would alter the timing or level of the costs of the USCG housing program. The two additional financing tools that would be provided—direct loans and rental differential payments—are probably no more or less useful to the Coast Guard than those it already has (but not used) and are no more likely to be exercised. The final proposed change, which would enable the agency to directly negotiate partnerships with state and local governments, is likely to be of use only in very limited situations involving leasing of state or local land. Because of the relatively small scale of Coast Guard housing projects, the use of the new authority to obtain state or local bond financing may not be possible or particularly beneficial. Financing of this type is likely to be useful only in localities where it may be possible to participate in larger Department of Defense (DoD) projects, but the Coast Guard's legal authority to cooperate with DoD in this or any other types of joint financing is uncertain and would not be clarified or otherwise affected by the enactment of H.R. 2443.

#### *Revenues*

H.R. 2443 contains two provisions that could affect revenues. Those provisions are described below.

Recovery of Oil-Spill Expenditures. Title VII would amend the definitions of the terms "operator" and "owner" in the Oil Pollution Act of 1990 (OPA) to exclude secondary lenders (those without

management participation) and state or local governments that involuntarily acquire control or ownership of a vessel or facility involved in an oil spill.

Under current law, such involuntary owners may be held responsible for spill response and clean-up costs and held liable for damages. By explicitly excluding those entities from the law's definitions, the bill would eliminate them as potentially responsible parties that the federal government could pursue to recover spill-related costs (including paying damage claims). Therefore, future recoveries (which are recorded in the federal budget as revenues) could be lower, but CBO has no basis for estimating any such impact because litigation brought against involuntary owners is so rare. The federal government does not generally pursue those parties because it is not usually cost-effective to do so. In the past 12 years of litigation under OPA, the Coast Guard has recovered from only one secondary lender (about seven years after the spill), but the recovery was the highest in the program's history: \$47 million. There has been no similar litigation against a state or local government (in the status of an involuntary owner). Given this history, CBO expects that there would be few situations where the changes that would be made by title VII might have an impact on revenues from spill recoveries.

Civil Penalties. The bill also would increase civil penalties for violations of various statutes enforced by the Coast Guard. CBO estimates that enacting the higher penalties would increase federal revenues by less than \$500,000 annually.

#### *Intergovernmental and private-sector impact*

##### *Mandates that affect both the public and private sector*

Under current law certain vessels must be equipped with an automatic identification system (AIS) that transmits the vessels location and certain other information. Section 411 would require the automatic identification systems to include electronic charts and related displays. Because vessel owners and operators include both public and private-sector entities, such a requirement would be both an intergovernmental and private-sector mandate as defined by UMRA. CBO cannot provide a precise estimate of the public and private-sector costs of implementing the requirement because the Coast Guard has not issued a standard for electronic charting. However, based on information from the Coast Guard about the range of cost for installing charting add-ons and the number of vessels affected, CBO estimates that the costs to public entities would not exceed the annual threshold established in UMRA (\$59 million in 2003, adjusted annually for inflation). The cost to private entities would not be substantial.

##### *Mandates that affect the private sector only*

Section 302 would authorize the Secretary of Transportation to prohibit the use on the bridge of a vessel of electronic or other devices that interfere with communications and navigation equipment. Currently, the Coast Guard, under certain circumstances, can establish vessel operating conditions as it determines necessary for the control of the vessel and safety of the port or the marine environment. The provision would expand and clarify this author-

ity. According to the Coast Guard, the authority would continue to be used under the same circumstances and only with certain devices. CBO estimates that the costs to the private sector in complying with the mandate would be minimal.

Section 401 would require charterers of documented vessels engaged in coastwise commercial trade and fishing to submit reports to the Secretary of Transportation regarding qualifications of their vessels. According to the Coast Guard, the charterers would be required to submit their operating documents to comply with the mandate. Because charterers already have their documentation available, the cost to submit the information would be minimal.

Section 410 would authorize the Secretary to prescribe maximum hours of service for individuals engaged on a towing vessel that is at least 26 feet in length measured from end-to-end over the deck. The limit on hours of service would impose a private-sector mandate on owners of the towing vessels. Currently, there is a 12-hour work rule for the industry. Any possible action by the Secretary could only occur after a demonstration project required under the bill (involving the implementation of Crew Endurance Management Systems on towing vessels) has been concluded and reported upon. At this time, the Coast Guard could not determine how or when it would establish such a limit on hours of service. Consequently, CBO cannot estimate either the costs to comply with the mandate or when such costs would be incurred.

Section 701 would impose a private-sector mandate on owners and operators of nontank vessels to prepare and submit to the President a plan for responding to a worst-case discharge, and to a substantial threat of such discharge, of oil or a hazardous substance. Any applicable state-mandated response plan would satisfy the requirement. Currently, Alaska, California, Oregon, and Washington require nontank vessels to have such plans in order to operate in their waters. Also, the International Maritime Organization (IMO) requires all vessels engaged in international shipping and transportation to have shipboard oil pollution emergency plans. According to the Coast Guard, the proposed requirement would parallel the IMO-required plans. According to industry sources, the cost of developing an oil spill response plan averages \$1,000. CBO cannot determine the number of nontank vessels which would be required to develop the oil response plans. Therefore, CBO cannot estimate the total costs to the owners and operators to comply with the mandate.

Estimate prepared by: Federal costs: Deborah Reis; impact on state, local, and tribal governments: Gregory Waring; impact on the private sector: Cecil McPherson.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

#### CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, committee reports on a bill or joint resolution of a public character shall include a statement citing the specific powers granted to the Congress in the Constitution to enact the measure. The Committee on Transportation and Infrastructure finds that Congress has the authority to enact this measure pursu-



ant to its powers granted under article I, section 8 of the Constitution.

#### FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act (Public Law 104-4).

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1994 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local or tribal law. The Committee states that H.R. 2443 does not preempt any state, local, or tribal law.

#### ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act are created by this legislation.

#### APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act (Public Law 104-1).

#### COMMITTEE CORRESPONDENCE

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON RESOURCES,  
*Washington, DC, July 18, 2003.*

Hon. DON YOUNG,  
*Chairman, Committee on Transportation and Infrastructure,  
Rayburn HOB, Washington, DC.*

DEAR MR. CHAIRMAN: I have reviewed the text of H.R. 2443, the Coast Guard and Maritime Transportation Act of 2003, as ordered reported from the Committee on Transportation and Infrastructure on June 25, 2003. The Committee on Resources has a jurisdictional interest in Section 607, Koss Cove. This provision is also included in the text of H.R. 958, to authorize certain hydrographic services programs, to name a cove in Alaska in honor of the late Able Bodied Seaman Eric Steiner Koss, and for other purposes. This bill was referred solely to the Committee on Resources.

Recognizing your wish that this critical bill be considered by the House of Representatives as soon as possible, and noting the continued strong spirit of cooperation between our Committees, I will forego seeking a sequential referral of H.R. 2443 for the Committee on Resources. However, waiving the Committee on Resources' right to a referral in this case does not waive the Committee's jurisdiction over any provision in H.R. 2443 or similar provisions in other bills. In addition, I ask that you support my request to have the Committee on Resources represented on the conference on this bill, if a conference is necessary. Finally, I ask that you include this let-

ter in the Committee on Transportation and Infrastructure’s bill report.

I appreciate your leadership and cooperation on this bill and look forward to working with you to see that H.R. 2443 is enacted into law soon.

Sincerely,

RICHARD W. POMBO,  
*Chairman.*

HOUSE OF REPRESENTATIVES,  
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,  
*Washington, DC, July 24, 2003.*

Hon. RICHARD W. POMBO,  
*Chairman, Committee on Resources,  
Longworth Building, Washington, DC.*

DEAR MR. CHAIRMAN: Thank you for your letter of July 18, 2003, regarding H.R. 2443, the Coast Guard and Maritime Transportation Act of 2003, and for your willingness to waive consideration of the provision in the bill that falls within your Committee’s jurisdiction under House Rules.

I agree that your waiving consideration of this provision of H.R. 2443 does not waive your Committee’s jurisdiction over the bill. I also acknowledge your right to seek conferees on any provisions that are under your Committee’s jurisdiction during any House-Senate conference on H.R. 2443 or similar legislation, and will support your request for conferees on such provisions.

As you request, your letter and this response will be included in the Committee report on the legislation.

Thank you for your cooperation in moving this important legislation to the House Floor.

Sincerely,

DON YOUNG,  
*Chairman.*

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

**TITLE 14, UNITED STATES CODE**

\* \* \* \* \*

**PART I—REGULAR COAST GUARD**

\* \* \* \* \*

**CHAPTER 5—FUNCTIONS AND POWERS**

Sec.

- 81. Aids to navigation authorized.  
\* \* \* \* \*
- 98. *National Coast Guard Museum.*  
\* \* \* \* \*

**§ 93. Commandant; general powers**

(a) For the purpose of executing the duties and functions of the Coast Guard the Commandant may:

- [(a)] (1) maintain water, land, and air patrols, and ice-breaking facilities;
- [(b)] (2) establish and prescribe the purpose of, change the location of, consolidate, discontinue, re-establish, maintain, operate, and repair Coast Guard shore establishments;
- [(c)] (3) assign vessels, aircraft, vehicles, aids to navigation, equipment, appliances, and supplies to Coast Guard districts and shore establishments, and transfer any of the foregoing from one district or shore establishment to another;
- [(d)] (4) conduct experiments, investigate, or cause to be investigated, plans, devices, and inventions relating to the performance of any Coast Guard function and cooperate and coordinate such activities with other Government agencies and with private agencies;
- [(e)] (5) conduct any investigations or studies that may be of assistance to the Coast Guard in the performance of any of its powers, duties, or functions;
- [(f)] (6) collect, publish, and distribute information concerning Coast Guard operations;
- [(g)] (7) conduct or make available to personnel of the Coast Guard such specialized training and courses of instruction, including correspondence courses, as may be necessary or desirable for the good of the service;
- [(h)] (8) design or cause to be designed, cause to be constructed, accept as gift, or otherwise acquire patrol boats and other small craft, equip, operate, maintain, supply, and repair such patrol boats, other small craft, aircraft, and vehicles, and subject to applicable regulations under subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) dispose of them;
- [(i)] (9) acquire, accept as gift, maintain, repair, and discontinue aids to navigation, appliances, equipment, and supplies;
- [(j)] (10) equip, operate, maintain, supply, and repair Coast Guard districts and shore establishments;
- [(l)] (11) establish, equip, operate, and maintain shops, depots, and yards for the manufacture and construction of aids to navigation, equipment, apparatus, vessels, vehicles, and aircraft not normally or economically obtainable from private contractors, and for the maintenance and repair of any property used by the Coast Guard;
- [(m)] (12) accept and utilize, in times of emergency in order to save life or protect property, such voluntary services as may be offered to the Coast Guard;
- [(n)] (13) rent or lease, under such terms and conditions as are deemed advisable, for a period not exceeding five years, such real property under the control of the Coast Guard as

may not be required for immediate use by the Coast Guard, the monies received from any such rental or lease, less amount of expenses incurred (exclusive of governmental personal services), to be deposited in the Treasury;

[(o)] (14) grant, under such terms and conditions as are deemed advisable, permits, licenses, easements, and rights-of-way over, across, in, and upon lands under the control of the Coast Guard when in the public interest and without substantially injuring the interests of the United States in the property thereby affected;

[(p)] (15) establish, install, abandon, re-establish, reroute, operate, maintain, repair, purchase, or lease such telephone and telegraph lines and cables, together with all facilities, apparatus, equipment, structures, appurtenances, accessories, and supplies used or useful in connection with the installation, operation, maintenance, or repair of such lines and cables, including telephones in residences leased or owned by the Government of the United States when appropriate to assure efficient response to extraordinary operational contingencies of a limited duration, and acquire such real property rights of way, easements, or attachment privileges as may be required for the installation, operation, and maintenance of such lines, cables, and equipment;

[(q)] (16) establish, install, abandon, reestablish, change the location of, operate, maintain, and repair radio transmitting and receiving stations;

[(r)] (17) provide medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities;

[(s)] (18) accept, under terms and conditions the Commandant establishes, the service of an individual ordered to perform community service under the order of a Federal, State, or municipal court[.];

[(t)] (19) notwithstanding any other law, enter into cooperative agreements with States, local governments, non-governmental organizations, and individuals, to accept and utilize voluntary services for the maintenance and improvement of natural and historic resources on, or to benefit natural and historic research on, Coast Guard facilities, subject to the requirement that—

(1) \* \* \*

\* \* \* \* \*

[(u)] (20) enter into cooperative agreements with other Government agencies and the National Academy of Sciences;

[(v)] (21) require that any member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment to any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) request that all information contained in the National Driver Register pertaining to the individual, as described in section 30304(a) of title 49, be made available to the Commandant under section 30305(a) of title 49, may receive that information, and upon receipt, shall make the information available to the individual;

[(w)] (22) provide for the honorary recognition of individuals and organizations that significantly contribute to Coast Guard programs, missions, or operations, including State and local governments and commercial and nonprofit organizations, and pay for, using any appropriations or funds available to the Coast Guard, plaques, medals, trophies, badges, and similar items to acknowledge such contribution (including reasonable expenses of ceremony and presentation); and

[(x)] (23) rent or lease, under such terms and conditions as are considered by the Secretary to be advisable, commercial vehicles to transport the next of kin of eligible retired Coast Guard military personnel to attend funeral services of the service member at a national cemetery.

(b)(1) *Notwithstanding subsection (a)(14), a lease described in paragraph (2) of this subsection may be for a term of up to 20 years.*

(2) *A lease referred to in paragraph (1) is a lease—*

(A) *to the United States Coast Guard Academy Alumni Association for the construction of an Alumni Center on the grounds of the United States Coast Guard Academy; or*

(B) *to an entity with which the Commandant has a cooperative agreement under section 4(e) of the Ports and Waterways Safety Act, and for which a term longer than 5 years is necessary to carry out the agreement.*

\* \* \* \* \*

**§98. National Coast Guard Museum**

(a) *ESTABLISHMENT.—The Commandant of the Coast Guard may, subject to subsections (b) and (c), establish a National Coast Guard Museum on Federal lands that are administered by the Coast Guard and specified by the Commandant.*

(b) *LOCATION.—The National Coast Guard Museum may be located at, or in close proximity to, the Coast Guard Academy in New London, Connecticut.*

(c) *LIMITATION ON EXPENDITURES.—The Secretary of the Department in which the Coast Guard is operating shall not expend any Federal funds for the planning, engineering, design, construction, operation, or maintenance of any museum established under subsection (a).*

(d) *OPERATION AND MAINTENANCE PLAN.—Before the date on which the Commandant establishes a museum under subsection (a), the Commandant shall provide to the Committee on Transportation and Infrastructure of the House of Representatives a plan for operating and maintaining such a museum, including—*

(1) *estimated operation and maintenance costs;*

(2) *proposed sources of operation and maintenance funds; and*

(3) *a certification by the Inspector General of the Department in which Coast Guard is operating that items included in the plan pursuant to paragraph (1) and (2) are reasonable and realistic.*

\* \* \* \* \*

**CHAPTER 7—COOPERATION WITH OTHER AGENCIES**

Sec.

- 141. Cooperation with other agencies, States, territories, and political subdivisions.  
\* \* \* \* \*
- 152. *Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services.*  
\* \* \* \* \*

**§ 152. *Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services***

*The Coast Guard Exchange System, or a morale, welfare, and recreation system of the Coast Guard, may enter into a contract or other agreement with any element or instrumentality of the Coast Guard or with another Federal department, agency, or instrumentality to provide or obtain goods and services beneficial to the efficient management and operation of the Coast Guard Exchange System or that morale, welfare, and recreation system.*

\* \* \* \* \*

**CHAPTER 11—PERSONNEL**

OFFICERS

A. APPOINTMENTS

- Sec. 211. Original appointment of permanent commissioned officers.  
\* \* \* \* \*

F. MISCELLANEOUS PROVISIONS

- 331. Recall to active duty during war or national emergency.  
\* \* \* \* \*
- 337. *Coast Guard Congressional Fellowship Program.*  
\* \* \* \* \*

ENLISTED MEMBERS

- 350. Recruiting campaigns.  
\* \* \* \* \*
- 374. *Critical skill training bonus.*  
\* \* \* \* \*

**F. Miscellaneous Provisions**

\* \* \* \* \*

**§ 337. *Coast Guard Congressional Fellowship Program***

*(a) There is established in the Coast Guard a Coast Guard Congressional Fellowship Program to broaden Coast Guard officers' knowledge of the Congress.*

*(b) The Commandant may appoint 4 mid-grade officers as fellows under the program, subject to the following limitations:*

- (1) The maximum length of a fellowship is one year.*
- (2) A fellow may be assigned to an office of the House of Representatives or the Senate, including a committee, during the period of the fellowship, or may rotate between such offices.*
- (3) To protect against abuses of separation of powers principles and conflicts of interest, a fellow may not engage in duties that will result in any direct or indirect benefit to the Coast Guard, other than broadening the fellow's knowledge.*

(c) *An individual violating this section is subject to appropriate discipline by the Commandant.*

\* \* \* \* \*

ENLISTED MEMBERS

\* \* \* \* \*

**§ 351. Enlistments; term, grade**

(a) Under regulations prescribed by the Secretary, the Commandant may enlist persons for minority or **[terms of full years not exceeding six years.]** *a period of at least two years but not more than six years.*

\* \* \* \* \*

**§ 374. Critical skill training bonus**

(a) *The Secretary may provide a bonus, not to exceed \$20,000, to an enlisted member who completes training in a skill designated as critical, if at least four years of obligated active service remain on the member's enlistment at the time the training is completed. A bonus under this section may be paid in a single lump sum or in periodic installments.*

(b) *If an enlisted member voluntarily or because of misconduct does not complete the member's term of obligated active service, the Secretary may require the member to repay the United States, on a pro rata basis, all sums paid under this section. The Secretary may charge interest on the amount repaid at a rate, to be determined quarterly, equal to 150 percent of the average of the yields on the 91-day Treasury bills auctioned during the calendar quarter preceding the date on which the amount to be repaid is determined.*

\* \* \* \* \*

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

Sec.

461. Remission of indebtedness of enlisted members upon discharge.

\* \* \* \* \*

517. *Payments.*

\* \* \* \* \*

**§ 517. Payments**

(a) *The Secretary may require that travel or transportation allowances due a civilian employee or military member of the Coast Guard be disbursed directly to the issuer of a Federal contractor-issued travel charge card, but only in an amount not to exceed the authorized travel expenses charged by that Coast Guard member to that travel charge card issued to that employee or member.*

(b) *The Secretary may also establish requirements similar to those established by the Secretary of Defense pursuant to section 2784a of title 10 for deduction or withholding of pay or retired pay from a Coast Guard employee, member, or retired member who is delinquent in payment under the terms of the contract under which the*

card was issued and does not dispute the amount of the delinquency.

\* \* \* \* \*

**CHAPTER 17—ADMINISTRATION**

\* \* \* \* \*

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

(a)(1) Whenever any vessel liable to seizure or examination does not stop on being ordered to do so or on being pursued by an authorized vessel or authorized aircraft which has displayed the ensign, pennant, or other identifying insignia prescribed for an authorized vessel or authorized aircraft, the person in command or in charge of the authorized vessel or authorized aircraft may, [after a gun has been fired by the authorized vessel or authorized aircraft as a warning signal,] *subject to paragraph (2)*, fire at or into the vessel which does not stop.

(2) *Before firing at or into a vessel as authorized in paragraph (1), the person in command or in charge of the authorized vessel or authorized aircraft shall fire a gun as a warning signal, except that the prior firing of a gun as a warning signal is not required if that person determines that the firing of a warning signal would unreasonably endanger persons or property in the vicinity of the vessel to be stopped.*

\* \* \* \* \*

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

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

[(3) subject to subsection (d), it is a naval aircraft that has one or more members of the Coast Guard on board and is operating from a surface naval vessel described in paragraph (2).

[(d)(1) The inclusion of naval aircraft as an authorized aircraft for purposes of this section shall be effective only after the end of the 30-day period beginning on the date the report required by paragraph (2) is submitted through September 30, 2001.

[(2) Not later than August 1, 2000, the Secretary of Defense shall submit to the Committee on Armed Services of the House of Representatives and the Committee on Armed Services of the Senate a report containing—

[(A) an analysis of the benefits and risks associated with using naval aircraft to perform the law enforcement activities authorized by subsection (a);

[(B) an estimate of the extent to which the Secretary expects to implement the authority provided by this section; and

[(C) an analysis of the effectiveness and applicability to the Department of Defense of the Coast Guard program known as the “New Frontiers” program.].

\* \* \* \* \*



**§ 664. User fees**

(a) \* \* \*

\* \* \* \* \*

(c) *In addition to the collection of fees and charges established under this section, the Secretary may recover from the person liable for the fee or charge the costs of collecting delinquent payments of the fee or charge, and enforcement costs associated with delinquent payments of the fees and charges.*

(d)(1) *The Secretary may employ any Federal, State, or local agency or instrumentality, or any private enterprise or business, to collect a fee or charge established under this section.*

(2) *A private enterprise or business employed by the Secretary to collect fees or charges—*

(A) *shall be subject to reasonable terms and conditions agreed to by the Secretary and the enterprise or business;*

(B) *shall provide appropriate accounting to the Secretary; and*

(C) *may not institute litigation as part of that collection.*

(e) *The Secretary shall account for the agency's costs of collecting a fee or charge as a reimbursable expense, and the costs shall be credited to the account from which expended.*

[(c)] (f) *Before January 1 of each year, the Secretary shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that includes—*

(1) *a verification of each activity for which a fee or charge is collected under any law stating—*

(A) *the amount collected in the prior fiscal year; and*

(B) *that the amount spent on that activity in that fiscal year is not less than the amount collected; and*

(2) *the amount expected to be collected under any law in the current fiscal year for each activity for which a fee or charge is expected to be collected.*

(g) *In this section the term "costs of collecting a fee or charge" includes the reasonable administrative, accounting, personnel, contract, equipment, supply, training, and travel expenses of calculating, assessing, collecting, enforcing, reviewing, adjusting, and reporting on a fee or charge.*

\* \* \* \* \*

**CHAPTER 18—COAST GUARD HOUSING AUTHORITIES**

Sec.

680. Definitions.

\* \* \* \* \*

【682. Loan guarantees.】

682. *Direct loans and loan guarantees.*

\* \* \* \* \*

684. Limited partnerships in 【nongovernmental】 *eligible* entities.

\* \* \* \* \*

687a. *Differential lease payments.*

\* \* \* \* \*

**§ 680. Definitions**

In this chapter:

(1) \* \* \*

\* \* \* \* \*

(3) *The term “eligible entity” means any private person, corporation, firm, partnership, or company and any State or local government or housing authority of a State or local government.*

[(3)] (4) *The term “military unaccompanied housing” means military housing intended to be occupied by members of the armed forces serving a tour of duty unaccompanied by dependents.*

[(4)] (5) *The term “United States” includes the Commonwealth of Puerto Rico, Guam, the United States Virgin Islands, and the District of Columbia.*

\* \* \* \* \*

**§ 682. [Loan guarantees] *Direct loans and loan guarantees***

(a) *DIRECT LOANS.—(1) Subject to subsection (c), the Secretary may make direct loans to an eligible entity in order to provide funds to the eligible entity for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.*

(2) *The Secretary shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.*

[(a)] (b) **LOAN GUARANTEES.—**

(1) Subject to [subsection (b),] *subsection (c)*, the Secretary may guarantee a loan made to any person in the private sector if the proceeds of the loan are to be used by the person to acquire, or construct housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

\* \* \* \* \*

[(b)] (c) **LIMITATION ON [GUARANTEE] AUTHORITY.—**[Loan guarantees] *Direct loans and loan guarantees* may be made under this section only to the extent that appropriations of budget authority to cover their cost (as defined in section 502(5) of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a(5))) are made in advance, or authority is otherwise provided in appropriations Acts. If such appropriation or other authority is provided, there may be established a financing account (as defined in section 502(7) of such Act (2 U.S.C. 661a(7))) which shall be available for the disbursement of payment of claims for payment on loan guarantees under this section and for all other cash flows to and from the Government as a result of guarantees made under this section.

\* \* \* \* \*

**§ 684. Limited partnerships with [nongovernmental] *eligible entities***

(a) **LIMITED PARTNERSHIPS AUTHORIZED.—**The Secretary may enter into limited partnerships with [nongovernmental] *eligible entities* carrying out projects for the acquisition or construction of

housing units suitable for use as military family housing or as military unaccompanied housing.

(b) LIMITATION ON VALUE OF INVESTMENT IN LIMITED PARTNERSHIP.—(1) The cash amount of an investment under this section in [a nongovernmental] *an eligible* entity may not exceed an amount equal to 33⅓ percent of the capital cost (as determined by the Secretary) of the project or projects that the entity proposes to carry out under this section with the investment.

(2) If the Secretary conveys land or facilities to [a nongovernmental] *an eligible* entity as all or part of an investment in the entity under this section, the total value of the investment by the Secretary under this section may not exceed an amount equal to 45 percent of the capital cost (as determined by the Secretary) of the project or projects that the entity proposes to carry out under this section with the investment.

\* \* \* \* \*

(c) COLLATERAL INCENTIVE AGREEMENTS.—The Secretary shall enter into collateral incentive agreements with [nongovernmental] *eligible* entities in which the Secretary makes an investment under this section to ensure that a suitable preference will be afforded members of the armed forces and their dependents in the lease or purchase, as the case may be, of a reasonable number of the housing units covered by the investment.

\* \* \* \* \*

**§ 687. Coast Guard Housing Fund**

(a) \* \* \*

\* \* \* \* \*

(g) DEMONSTRATION [PROJECT] *PROJECTS* Authorized.—To promote efficiencies through the use of alternative procedures for expediting new housing projects, the Secretary—

(1) may develop and implement [a demonstration project] *demonstration projects* for acquisition or construction of military family housing and military unaccompanied housing on or near the Coast Guard installation at [Kodiak, Alaska;] *Kodiak, Alaska, or any other Coast Guard installation in Alaska;*

(2) in implementing [the demonstration project] *such a demonstration project*, shall utilize, to the maximum extent possible, the contracting authority of the Small Business Administration's section 8(a) program;

\* \* \* \* \*

(4) shall report to Congress by September 1 of each year on the progress of activities under [the demonstration project] *such demonstration projects.*

**§ 687a. Differential lease payments**

*Pursuant to an agreement entered into by the Secretary and a lessor of military family housing or military unaccompanied housing to members of the armed forces, the Secretary may pay the lessor an amount, in addition to the rental payments for the housing made by the members, as the Secretary determines appropriate to encourage the lessor to make the housing available to members of the*

*armed forces as military family housing or as military unaccompanied housing.*

\* \* \* \* \*

**PART II—COAST GUARD RESERVE AND  
AUXILIARY**

\* \* \* \* \*

**CHAPTER 21—COAST GUARD RESERVE**

\* \* \* \* \*

**SUBCHAPTER B**

**COMMISSIONED OFFICERS**

\* \* \* \* \*

**§ 727. Constructive credit upon initial appointment**

Under regulations prescribed by the Secretary, a person, appointed as a Reserve officer, may be assigned a date of rank and precedence which reflects that person's experience, education, or other qualifications. For the purpose of this subchapter only, a person appointed for the purpose of assignment or designation as a law specialist in the reserve shall be credited with a minimum of **[three years]** *one year* service in an active status. A person holding a doctor of philosophy, or a comparable degree, in medicine or in a science allied to medicine as determined by the Secretary, may be credited with a minimum of three years service in an active status if appointed for an assignment comparable to that of an officer in the Navy Medical Department.

\* \* \* \* \*

**§ 742. Maximum ages for retention in an active status**

(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes **[sixty-two]** *60* years of age.

\* \* \* \* \*

(c) Except as provided for in subsections (a) and (b) of this section, a Reserve officer shall be discharged effective upon the day the officer becomes **[sixty-two]** *60* years of age.

\* \* \* \* \*

**ACT OF MARCH 3, 1899**

**(COMMONLY KNOWN AS THE "RIVERS AND HARBORS APPROPRIATION ACT OF 1899")**

**Chap. 425.**—An Act Making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

\* \* \* \* \*

SEC. 15. That it shall not be lawful to tie up or anchor vessels or other craft in navigable channels in such a manner as to prevent

or obstruct the passage of other vessels or craft; or to sink, or permit or cause to be sunk, vessels or other craft in navigable channels; or to float loose timber and logs, or to float what is known as sack rafts of timber and logs in streams or channels actually navigated by steamboats in such manners as to obstruct, impede, or endanger navigation. And whenever a vessel, raft, or other craft is wrecked and sunk in a navigable channel, it shall be the duty of the owner, lessee, or operator of such sunken craft to immediately mark it with a buoy or beacon during the [day and] *day and, unless otherwise authorized by the Commandant of Coast Guard, a [lighted lantern] light* at night, and to maintain such marks until the sunken craft is removed or abandoned, and the neglect or failure of the said owner, lessee, or operator so to do shall be unlawful; and it shall be the duty of the owner, lessee, or operator of such sunken craft to commence the immediate removal of the same, and prosecute such removal diligently, and failure to do so shall be considered as an abandonment of such craft and subject the same to removal by the United States as hereinafter provided for.

\* \* \* \* \*  
 SEC. 18. (a) \* \* \*

\* \* \* \* \*  
 (c) Whoever violates any provision of this section or any order issued under this section, shall be liable to a civil penalty of not more than ~~[\$1,000]~~ *\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter.* Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

\* \* \* \* \*

---

**SECTION 4 OF THE PORTS AND WATERWAYS SAFETY ACT OF 1972**

**SEC. 4. VESSEL OPERATING REQUIREMENTS.**

(a) IN GENERAL.—Subject to the requirements of section 5, the Secretary—

(1) \* \* \*

\* \* \* \* \*

(4) may control vessel traffic in areas subject to the jurisdiction of the United States which the Secretary determines to be hazardous, or under conditions of reduced visibility, adverse

weather, vessel congestion, or other hazardous circumstances by—

(A) \* \* \*

\* \* \* \* \*

(D) restricting operation, in any hazardous area or under hazardous conditions, to vessels which have particular operating characteristics or capabilities which he considers necessary for safe operation under the circumstances; [and]

(5) may require the receipt of prearrival messages from any vessel, destined for a port or place subject to the jurisdiction of the United States, in sufficient time to permit advance vessel traffic planning prior to port entry, which shall include any information which is not already a matter of record and which the Secretary determines necessary for the control of the vessel and the safety of the port or the marine environment[.]; and (6) may prohibit the use on the bridge of a vessel of electronic or other devices that interfere with communications and navigation equipment.

\* \* \* \* \*

(e) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with public or private agencies, authorities, associations, institutions, corporations, organizations, or other persons to carry out the functions under subsection (a)(1).

(2) A nongovernmental entity may not under this subsection carry out an inherently governmental function.

(3) As used in this paragraph, the term “inherently governmental function” means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of judgment in making a decision for the Government.

**INLAND NAVIGATIONAL RULES ACT OF 1980**

\* \* \* \* \*

[SEC. 2. Inland Navigational Rules:

**[PART A—GENERAL**

**[RULE 1**

**[Application**

[(a) These Rules apply to all vessels upon the inland waters of the United States, and to vessels of the United States on the Canadian waters of the Great Lakes to the extent that there is no conflict with Canadian law.

[(b)(i) These Rules constitute special rules made by an appropriate authority within the meaning of Rule 1(b) of the International Regulations.

[(ii) All vessels complying with the construction and equipment requirements of the International Regulations are considered to be in compliance with these Rules.

[(c) Nothing in these Rules shall interfere with the operation of any special rules made by the Secretary of the Navy with respect to additional station or signal lights and shapes or whistle signals for ships of war and vessels proceeding under convoy, or by the Secretary with respect to additional station or signal lights and shapes for fishing vessels engaged in fishing as a fleet. These additional station or signal lights and shapes or whistle signals shall, so far as possible, be such that they cannot be mistaken for any light, shape, or signal authorized elsewhere under these Rules. Notice of such special rules shall be published in the Federal Register and, after the effective date specified in such notice, they shall have effect as if they were a part of these Rules.

[(d) Traffic separation schemes may be established for the purpose of these Rules. Vessel traffic service regulations may be in effect in certain areas.

[(e) Whenever the Secretary determines that a vessel or class of vessels of special construction or purpose cannot comply fully with the provisions of any of these Rules with respect to the number, position, range, or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signaling appliances, the vessel shall comply with such other provisions in regard to the number, position, range, or arc of visibility of lights or shapes, as well as to the disposition and characteristics of sound-signaling appliances, as the Secretary shall have determined to be the closest possible compliance with these Rules. The Secretary may issue a certificate of alternative compliance for a vessel or class of vessels specifying the closest possible compliance with these Rules. The Secretary of the Navy shall make these determinations and issue certificates of alternative compliance for vessels of the Navy.

[(f) The Secretary may accept a certificate of alternative compliance issued by a contracting party to the International Regulations if he determines that the alternative compliance standards of the contracting party are substantially the same as those of the United States.

## [RULE 2

### [Responsibility

[(a) Nothing in these Rules shall exonerate any vessel, or the owner, master, or crew thereof, from the consequences of any neglect to comply with these Rules or of the neglect of any precaution which may be required by the ordinary practice of seamen, or by the special circumstances of the case.

[(b) In construing and complying with these Rules due regard shall be had to all dangers of navigation and collision and to any special circumstances, including the limitations of the vessels involved, which may make a departure from these Rules necessary to avoid immediate danger.

## 【RULE 3

## 【General Definitions

【For the purpose of these Rules and this Act, except where the context otherwise requires:

【(a) The word “vessel” includes every description of water craft, including nondisplacement craft and seaplanes, used or capable of being used as a means of transportation on water;

【(b) The term “power-driven vessel” means any vessel propelled by machinery;

【(c) The term “sailing vessel” means any vessel under sail provided that propelling machinery, if fitted, is not being used;

【(d) The term “vessel engaged in fishing” means any vessel fishing with nets, lines, trawls, or other fishing apparatus which restricts maneuverability but does not include a vessel fishing with trolling lines or other fishing apparatus which do not restrict maneuverability;

【(e) The word “seaplane” includes any aircraft designed to maneuver on the water;

【(f) The term “vessel not under command” means a vessel which through some exceptional circumstance is unable to maneuver as required by these Rules and is therefore unable to keep out of the way of another vessel;

【(g) The term “vessel restricted in her ability to maneuver” means a vessel which from the nature of her work is restricted in her ability to maneuver as required by these Rules and is therefore unable to keep out of the way of another vessel; vessels restricted in their ability to maneuver include, but are not limited to:

【(i) a vessel engaged in laying, servicing, or picking up a navigation mark, submarine cable, or pipeline;

【(ii) a vessel engaged in dredging, surveying, or underwater operations;

【(iii) a vessel engaged in replenishment or transferring persons, provisions, or cargo while underway;

【(iv) a vessel engaged in the launching or recovery of aircraft;

【(v) a vessel engaged in mineclearance operations; and

【(vi) a vessel engaged in a towing operation such as severely restricts the towing vessel and her tow in their ability to deviate from their course.

【(h) The word “underway” means that a vessel is not at anchor, or made fast to the shore, or aground;

【(i) The words “length” and “breadth” of a vessel means her length overall and greatest breadth;

【(j) Vessels shall be deemed to be in sight of one another only when one can be observed visually from the other;

【(k) The term “restricted visibility” means any condition in which visibility is restricted by fog, mist, falling snow, heavy rainstorms, sandstorms, or any other similar causes;

【(l) “Western Rivers” means the Mississippi River, its tributaries, South Pass, and Southwest Pass, to the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States, and the Port Allen-Morgan City Alternate Route, and that part of the Atchafalaya River above its junc-



tion with the Port Allen-Morgan City Alternate Route including the Old River and the Red River.

[(m) “Great Lakes” means the Great Lakes and their connecting and tributary waters including the Calumet River as far as the Thomas J. O’Brien Lock and Controlling Works (between mile 326 and 327), the Chicago River as far as the east side of the Ashland Avenue Bridge (between mile 321 and 322), and the Saint Lawrence River as far east as the lower exist of Saint Lambert Lock;

[(n) “Secretary” means the Secretary of the department in which the Coast Guard is operating;

[(o) “Inland Waters” means the navigable waters of the United States shoreward of the navigational demarcation lines dividing the high seas from harbors, rivers, and other inland waters of the United States and the waters of the Great Lakes on the United States side of the International Boundary;

[(p) “Inland Rules” or “Rules” mean the Inland Navigational Rules and the annexes thereto, which govern the conduct of vessels and specify the lights, shapes, and sound signals that apply on inland waters; and

[(q) “International Regulations” means the International Regulations for Preventing Collisions at Sea, 1972, including annexes currently in force for the United States.

## **[PART B—STEERING AND SAILING RULES**

### **[Subpart I—Conduct of Vessels in Any Condition of Visibility**

#### **[RULE 4**

##### **[Application**

[Rules in this subpart apply in any condition of visibility.

#### **[RULE 5**

##### **[Look-out**

[Every vessel shall at all times maintain a proper look-out by sight and hearing as well as by all available means appropriate in the prevailing circumstances and conditions so as to make a full appraisal of the situation and of the risk of collision.

#### **[RULE 6**

##### **[Safe Speed**

[Every vessel shall at all times proceed at a safe speed so that she can take proper and effective action to avoid collision and be stopped within a distance appropriate to the prevailing circumstances and conditions.

[In determining a safe speed the following factors shall be among those taken into account:

[(a) By all vessels:

[(i) the state of visibility;

[(ii) the traffic density including concentration of fishing vessels or any other vessels;

- [(iii) the maneuverability of the vessel with special reference to stopping distance and turning ability in the prevailing conditions;
- [(iv) at night the presence of background light such as from shores lights or from back scatter of her own lights;
- [(v) the state of wind, sea, and current, and the proximity of navigational hazards;
- [(vi) the draft in relation to the available depth of water.
- [(b) Additionally, by vessels with operational radar;
  - [(i) the characteristics, efficiency and limitations of the radar equipment;
  - [(ii) any constraints imposed by the radar range scale in use;
  - [(iii) the effect on radar detection of the sea state, weather, and other sources of interference;
  - [(iv) the possibility that small vessels, ice and other floating objects may not be detected by radar at an adequate range;
  - [(v) the number, location, and movement of vessels detected by radar; and
  - [(vi) the more exact assessment of the visibility that may be possible when radar is used to determine the range of vessels or other objects in the vicinity.

#### 【RULE 7

#### 【Risk of Collision

- [(a) Every vessel shall use all available means appropriate to the prevailing circumstances and conditions to determine if risk of collision exists. If there is any doubt such risk shall be deemed to exist.
- [(b) Proper use shall be made of radar equipment if fitted and operational, including long-range scanning to obtain early warning of risk of collision and radar plotting or equivalent systematic observation of detected objects.
- [(c) Assumptions shall not be made on the basis of scanty information, especially scanty radar information.
- [(d) In determining if risk of collision exists the following considerations shall be among those taken into account:
  - [(i) such risk shall be deemed to exist if the compass bearing of an approaching vessel does not appreciably change; and
  - [(ii) such risk may sometimes exist even when an appreciable bearing change is evident, particularly when approaching a very large vessel or a tow or when approaching a vessel at close range.

#### 【RULE 8

#### 【Action To Avoid Collision

- [(a) Any action taken to avoid collision shall, if the circumstances of the case admit, be positive, made in ample time and with due regard to the observance of good seamanship.
- [(b) Any alteration of course or speed to avoid collision shall, if the circumstances of the case admit, be large enough to be readily apparent to another vessel observing visually or by radar; a succession of small alterations of course or speed should be avoided.

[(c) If there is sufficient sea room, alteration of course alone may be the most effective action to avoid a close-quarters situation provided that it is made in good time, is substantial and does not result in another close-quarters situation.

[(d) Action taken to avoid collision with another vessel shall be such as to result in passing at a safe distance. The effectiveness of the action shall be carefully checked until the other vessel is finally past and clear.

[(e) If necessary to avoid collision or allow more time to assess the situation, a vessel shall slacken her speed or take all way off by stopping or reversing her means of propulsion.

[(f)(i) A vessel which, by any of these Rules, is required not to impede the passage or safe passage of another vessel shall, when required by the circumstances of the case, take early action to allow sufficient sea room for the safe passage of the other vessel.

[(ii) A vessel required not to impede the passage or safe passage of another vessel is not relieved of this obligation if approaching the other vessel so as to involve risk of collision and shall, when taking action, have full regard to the action which may be required by the Rules of this part.

[(iii) A vessel the passage of which is not to be impeded remains fully obliged to comply with the Rules of this part when the two vessels are approaching one another so as to involve risk of collision.

#### [RULE 9

##### [Narrow Channels

[(a)(i) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable.

[(ii) Notwithstanding paragraph (a)(i) and Rule 14(a), a power-driven vessel operating in narrow channels or fairways on the Great Lakes, Western Rivers, or waters specified by the Secretary, and proceeding downbound with a following current shall have the right-of-way over an upbound vessel, shall propose the manner and place of passage, and shall initiate the maneuvering signals prescribed by Rule 34(a)(i), as appropriate. The vessel proceeding upbound against the current shall hold as necessary to permit safe passing.

[(b) A vessel of less than 20 meters in length or a sailing vessel shall not impede the passage of a vessel that can safely navigate only within narrow channel or fairway.

[(c) A vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway.

[(d) A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel that can safely navigate only within that channel or fairway. The latter vessel shall use the danger signal prescribed in Rule 34(d) if in doubt as to the intention of the crossing vessel.

[(e)(i) In a narrow channel or fairway when overtaking, the power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) and take steps to permit safe passing. The power-driven vessel being overtaken, if in agreement, shall

sound the same signal and may, if specifically agreed to take steps to permit safe passing. If in doubt she shall sound the danger signal prescribed in Rule 34(d).

[(ii) This Rule does not relieve the overtaking vessel of her obligation under Rule 13.

[(f) A vessel nearing a bend or an area of a narrow channel or fairway where other vessels may be obscured by an intervening obstruction shall navigate with particular alertness and caution and shall sound the appropriate signal prescribed in Rule 34(e).

[(g) Every vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.

#### [RULE 10

#### [Traffic Separation Schemes

[(a) This Rule applies to traffic separation schemes and does not relieve any vessel of her obligation under any other Rule.

[(b) A vessel using a traffic separation scheme shall:

[(i) proceed in the appropriate traffic lane in the general direction of traffic flow for that lane;

[(ii) so far as practicable keep clear of a traffic separation line or separation zone;

[(iii) normally join or leave a traffic lane at the termination of the lane, but when joining or leaving from either side shall do so at as small an angle to the general direction of traffic flow as practicable.

[(c) A vessel shall, so far as practicable, avoid crossing traffic lanes but if obliged to do so shall cross on a heading as nearly as practicable at right angles to the general direction of traffic flow.

[(d)(i) A vessel shall not use an inshore traffic zone when she can safely use the appropriate traffic lane within the adjacent traffic separation scheme. However, vessels of less than twenty meters in length, sailing vessels, and vessels engaged in fishing may use the inshore traffic zone.

[(ii) Notwithstanding subparagraph (d)(i), a vessel may use an inshore traffic zone when en route to or from a port, offshore installation or structure, pilot station, or any other place situated within the inshore traffic zone, or to avoid immediate danger.

[(e) A vessel other than a crossing vessel or a vessel joining or leaving a lane shall not normally enter a separation zone or cross a separation line except:

[(i) in cases of emergency to avoid immediate danger, or

[(ii) to engage in fishing within a separation zone.

[(f) A vessel navigating in areas near the terminations of traffic separation schemes shall do so with particular caution.

[(g) A vessel shall so far as practicable avoid anchoring in a traffic separation scheme or in areas near its terminations.

[(h) A vessel not using a traffic separation scheme shall avoid it by as wide a margin as is practicable.

[(i) A vessel engaged in fishing shall not impede the passage of any vessel following a traffic lane.

[(j) A vessel of less than twenty meters in length or a sailing vessel shall not impede the safe passage of a power-driven vessel following a traffic lane.

[(k) A vessel restricted in her ability to maneuver when engaged in an operation for the maintenance of safety of navigation in a traffic separation scheme is exempted from complying with this Rule to the extent necessary to carry out the operation.

[(l) A vessel restricted in her ability to maneuver when engaged in an operation for the laying, servicing, or picking up of a submarine cable, within a traffic separation scheme, is exempted from complying with this Rule to the extent necessary to carry out the operation.

#### [RULE 11

##### [Application

[Rules in this subpart apply to vessels in sight of one another.

#### [RULE 12

##### [Sailing Vessels

[(a) When two sailing vessels are approaching one another, so as to involve risk of collision, one of them shall keep out of the way of the other as follows:

[(i) when each has the wind on a different side, the vessel which has the wind on the port side shall keep out of the way of the other;

[(ii) when both have the wind on the same side, the vessel which is to windward shall keep out of the way of the vessel which is to leeward; and

[(iii) if a vessel with the wind on the port side sees a vessel to windward and cannot determine with certainty whether the other vessel has the wind on the port or on the starboard side, she shall keep out of the way of the other.

[(b) For the purpose of this Rule the windward side shall be deemed to be the side opposite to that on which the mainsail is carried or, in the case of a square-rigged vessel, the side opposite to that on which the largest fore-and-aft sail is carried.

#### [RULE 13

##### [Overtaking

[(a) Notwithstanding anything contained in Rules 4 through 18, any vessel overtaking any other shall keep out of the way of the vessel being overtaken.

[(b) A vessel shall be deemed to be overtaking when coming up with another vessel from a direction more than 22.5 degrees abaft her beam; that is, in such a position with reference to the vessel she is overtaking, that at night she should be able to see only the sternlight of that vessel but neither of her sidelights.

[(c) When a vessel is in any doubt as to whether she is overtaking another, she shall assume that this is the case and act accordingly.

[(d) Any subsequent alteration of the bearing between the two vessels shall not make the overtaking vessel a crossing vessel within the meaning of these Rules or relieve her of the duty of keeping clear of the overtaken vessel until she is finally past and clear.

## 【RULE 14

## 【Head-on Situation

【(a) Unless otherwise agreed, when two power-driven vessels are meeting on reciprocal or nearly reciprocal courses so as to involve risk of collision each shall alter her course to starboard so that each shall pass on the port side of the other.

【(b) Such a situation shall be deemed to exist when a vessel sees the other ahead or nearly ahead and by night she could see the masthead lights of the other in a line or nearly in a line or both sidelights and by day she observes the corresponding aspect of the other vessel.

【(c) When a vessel is in any doubt as to whether such a situation exists she shall assume that it does exist and act accordingly.

【(d) Notwithstanding paragraph (a) of this Rule, a power-driven vessel operating on the Great Lakes, Western Rivers, or waters specified by the Secretary, and proceeding downbound with a following current shall have the right-of-way over an upbound vessel, shall propose the manner of passage, and shall initiate the maneuvering signals prescribed by Rule 34(a)(i), as appropriate.

## 【RULE 15

## 【Crossing Situation

【(a) When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her starboard side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel.

【(b) Notwithstanding paragraph (a), on the Great Lakes, Western Rivers, or water specified by the Secretary, a power-driven vessel crossing a river shall keep out of the way of a power-driven vessel ascending or descending the river.

## 【RULE 16

## 【Action by Give-Way Vessel

【Every vessel which is directed to keep out of the way of another vessel shall, so far as possible, take early and substantial action to keep well clear.

## 【RULE 17

## 【Action by Stand-on Vessel

【(a)(i) Where one of two vessels is to keep out of the way, the other shall keep her course and speed.

【(ii) The latter vessel may, however, take action to avoid collision by her maneuver alone, as soon as it becomes apparent to her that the vessel required to keep out of the way is not taking appropriate action in compliance with these Rules.

【(b) When, from any cause, the vessel required to keep her course and speed finds herself so close that collision cannot be avoided by the action of the give-way vessel alone, she shall take such action as will best aid to avoid collision.

【(c) A power-driven vessel which takes action in a crossing situation in accordance with subparagraph (a)(ii) of this Rule to avoid

collision with another power-driven vessel shall, if the circumstances of the case admit, not alter course to port for a vessel on her own port side.

[(d) This Rule does not relieve the give-way vessel of her obligation to keep out of the way.

#### [RULE 18

#### [Responsibilities Between Vessels

[Except where Rules 9, 10, and 13 otherwise require:

[(a) A power-driven vessel underway shall keep out of the way of:

- [(i) a vessel not under command;
- [(ii) a vessel restricted in her ability to maneuver;
- [(iii) a vessel engaged in fishing; and
- [(iv) a sailing vessel.

[(b) A sailing vessel underway shall keep out of the way of:

- [(i) a vessel not under command;
- [(ii) a vessel restricted in her ability to maneuver; and
- [(iii) a vessel engaged in fishing.

[(c) A vessel engaged in fishing when underway shall, so far as possible, keep out of the way of:

- [(i) a vessel not under command; and
- [(ii) a vessel restricted in her ability to maneuver.

[(d) A seaplane on the water shall, in general, keep well clear of all vessels and avoid impeding their navigation. In circumstances, however, where risk of collision exists, she shall comply with the Rules of this Part.

### [Subpart III—Conduct of Vessels in Restricted Visibility

#### [RULE 19

#### [Conduct of Vessels in Restricted Visibility

[(a) This Rule applies to vessels not in sight of one another when navigating in or near an area of restricted visibility.

[(b) Every vessel shall proceed at a safe speed adapted to the prevailing circumstances and conditions of restricted visibility. A power-driven vessel shall have her engines ready for immediate maneuver.

[(c) Every vessel shall have due regard to the prevailing circumstances and conditions of restricted visibility when complying with Rules 4 through 10.

[(d) A vessel which detects by radar alone the presence of another vessel shall determine if a close-quarters situation is developing or risk of collision exists. If so, she shall take avoiding action in ample time, provided that when such action consists of an alteration of course, so far as possible the following shall be avoided:

- [(i) an alteration of course to port for a vessel forward of the beam, other than for a vessel being overtaken; and
- [(ii) an alteration of course toward a vessel abeam or abaft the beam.

[(e) Except where it has been determined that a risk of collision does not exist, every vessel which hears apparently forward of her beam the fog signal of another vessel, or which cannot avoid a close-quarters situation with another vessel forward of her beam, shall reduce her speed to the minimum at which she can be kept on course. She shall if necessary take all her way off and, in any event, navigate with extreme caution until danger of collision is over.

## **[PART C—LIGHTS AND SHAPES**

### **[RULE 20**

#### **[Application**

[(a) Rules in this Part shall be complied with in all weathers.

[(b) The Rules concerning lights shall be complied with from sunset to sunrise, and during such times no other lights shall be exhibited, except such lights as cannot be mistaken for the lights specified in these Rules or do not impair their visibility or distinctive character, or interfere with the keeping of a proper lookout.

[(c) The lights prescribed by these Rules shall, if carried, also be exhibited from sunrise to sunset in restricted visibility and may be exhibited in all other circumstances when it is deemed necessary.

[(d) The Rules concerning shapes shall be complied with by day.

[(e) The lights and shapes specified in these Rules shall comply with the provisions of Annex I of these Rules.

### **[RULE 21**

#### **[Definitions**

[(a) “Masthead light” means a white light placed over the fore and aft centerline of the vessel showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side of the vessel, except that on a vessel of less than 12 meters in length the masthead light shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

[(b) “Sidelights” mean a green light on the starboard side and a red light on the port side each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respective side. On a vessel of less than 20 meters in length the side lights may be combined in one lantern carried on the fore and aft centerline of the vessel, except that on a vessel of less than 12 meters in length the sidelights when combined in one lantern shall be placed as nearly as practicable to the fore and aft centerline of the vessel.

[(c) “Sternlight” means a white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel.

[(d) “Towing light” means a yellow light having the same characteristics as the “sternlight” defined in paragraph (c) of this Rule.



[(e) "All-round light" means a light showing an unbroken light over an arc of the horizon of 360 degrees.

[(f) "Flashing light" means a light flashing at regular intervals at a frequency of 120 flashes or more per minute.

[(g) "Special flashing light" means a yellow light flashing at regular intervals at a frequency of 50 to 70 flashes per minute, placed as far forward and as nearly as practicable on the fore and aft centerline of the tow and showing an unbroken light over an arc of the horizon of not less than 180 degrees nor more than 225 degrees and so fixed as to show the light from right ahead to abeam and no more than 22.5 degrees abaft the beam on either side of the vessel.

#### [RULE 22

#### [Visibility of Lights

[The lights prescribed in these Rules shall have an intensity as specified in Annex I to these Rules, so as to be visible at the following minimum ranges:

[(a) In a vessel of 50 meters or more in length:

- [a masthead light, 6 miles;
- [a sidelight, 3 miles;
- [a sternlight, 3 miles;
- [a towing light, 3 miles;
- [a white, red, green or yellow all-around light, 3 miles; and
- [a special flashing light, 2 miles.

[(b) In a vessel of 12 meters or more in length but less than 50 meters in length:

- [a masthead light, 5 miles; except that where the length of the vessel is less than 20 meters; 3 miles;
- [a sidelight, 2 miles;
- [a sternlight, 2 miles;
- [a towing light, 2 miles;
- [a white, red, green or yellow all-round light, 2 miles; and
- [a special flashing light, 2 miles.

[(c) In a vessel of less than 12 meters in length:

- [a masthead light, 2 miles;
- [a sidelight, 1 mile;
- [a sternlight, 2 miles;
- [a towing light, 2 miles;
- [a white, red, green or yellow all-round light, 2 miles; and
- [a special flashing light, 2 miles.

[(d) In an inconspicuous, partly submerged vessel or object being towed:

- [a white all-round light, 3 miles.

#### [RULE 23

#### [Power-Driven Vessels Underway

[(a) A power-driven vessel underway shall exhibit:

- [(i) a masthead light forward;
- [(ii) a second masthead light abaft of and higher than the forward one; except that a vessel of less than 50 meters in length shall not be obliged to exhibit such light but may do so;
- [(iii) sidelights; and

[(iv) a sternlight.

[(b) An air-cushion vessel when operating in the nondisplacement mode shall, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit an all-round flashing yellow light where it can best be seen.

[(c) A power-driven vessel of less than 12 meters in length may, in lieu of the lights prescribed in paragraph (a) of this Rule, exhibit an all-round white light and sidelights.

[(d) A power-driven vessel when operating on the Great Lakes may carry an all-round white light in lieu of the second masthead light and sternlight prescribed in paragraph (a) of this Rule. The light shall be carried in the position of the second masthead light and be visible at the same minimum range.

#### [RULE 24

#### [Towing and Pushing

[(a) A power-driven vessel when towing astern shall exhibit:

[(i) instead of the light prescribed either in Rule 23(a)(i) or 22(a)(ii), two masthead lights in a vertical line. When the length of the tow, measuring from the stern of the towing vessel to the after end of the tow exceeds 200 meters, three such lights in a vertical line;

[(ii) sidelights;

[(iii) a sternlight;

[(iv) a towing light in a vertical line above the sternlight; and

[(v) when the length of the tow exceeds 200 meters, a diamond shape where it can best be seen.

[(b) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and exhibit the lights prescribed in Rule 23.

[(c) A power-driven vessel when pushing ahead or towing alongside, except as required by paragraph (b) and (i) of this Rule, shall exhibit:

[(i) instead of the light prescribed either in Rule 23(a)(i) or 23(a)(ii), two mastheads lights in a vertical line;

[(ii) sidelights; and

[(iii) two towing lights in a vertical line.

[(d) A power-driven vessel to which paragraphs (a) or (c) of this Rule apply shall also comply with Rule 23(a)(i) and 23(a)(ii).

[(e) A vessel or object other than those referred to in paragraph (g) of this Rule being towed shall exhibit:

[(i) sidelights;

[(ii) a sternlight; and

[(iii) when the length of the tow exceeds 200 meters, a diamond shape where it can best be seen.

[(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, except as provided in paragraph (iii):

[(i) a vessel being pushed ahead, not being part of a composite unit shall exhibit at the forward end, sidelights and a special flashing light;

[(ii) a vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights and a special flashing light; and

[(iii) when vessels are towed alongside on both sides of the towing vessels a stern light shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and a single set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.

[(g) An inconspicuous, partly submerged vessel or object being towed shall exhibit;

[(i) if it is less than 25 meters in breadth, one all-round white light at or near each end;

[(ii) if it is 25 meters or more in breadth, four all-round white lights to mark its length and breadth;

[(iii) if it exceeds 100 meters in length, additional all-round white lights between the lights prescribed in subparagraphs (i) and (ii) so that the distance between the lights shall not exceed 100 meters: *Provided*, That any vessels or objects being towed alongside each other shall be lighted as one vessel or object;

[(iv) a diamond shape at or near the aftermost extremity of the last vessel or object being towed; and

[(v) the towing vessel may direct a searchlight in the direction of the tow to indicate its presence to an approaching vessel.

[(h) Where from any sufficient cause it is impracticable for a vessel or object being towed to exhibit the lights prescribed in paragraph (e) or (g) of this Rule, all possible measures shall be taken to light the vessel or object towed or at least to indicate the presence of the unlighted vessel or object.

[(i) Notwithstanding paragraph (c), on the Western Rivers and on waters specified by the Secretary, a power-driven vessel when pushing ahead or towing alongside, except as paragraph (b) applies, shall exhibit:

[(i) sidelights; and

[(ii) two towing lights in a vertical line.

[(j) Where from any sufficient cause it is impracticable for a vessel not normally engaged in towing operations to display the lights prescribed by paragraph (a), (c) or (i) of this Rule, such vessel shall not be required to exhibit those lights when engaged in towing another vessel in distress or otherwise in need of assistance. All possible measures shall be taken to indicate the nature of the relationship between the towing vessel and the vessel being assisted. The searchlight authorized by Rule 36 may be used to illuminate the tow.

#### 【RULE 25

##### 【Sailing Vessels Underway and Vessels Under Oars

[(a) A sailing vessel underway shall exhibit:

[(i) sidelights; and

[(ii) a sternlight.

[(b) In a sailing vessel of less than 20 meters in length the lights prescribed in paragraph (a) of this Rule may be combined in one lantern carried at or near the top of the mast where it can best be seen.

[(c) A sailing vessel underway may, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit at or near the top of the mast, where they can best be seen, two all-round lights in a vertical line, the upper being red and the lower green, but these lights shall not be exhibited in conjunction with the combined lantern permitted by paragraph (b) of this Rule.

[(d)(i) A sailing vessel of less than 7 meters in length shall, if practicable, exhibit the lights prescribed in paragraph (a) or (b) of this Rule, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

[(ii) A vessel under oars may exhibit the lights prescribed in this Rule for sailing vessels, but if she does not, she shall have ready at hand an electric torch or lighted lantern showing a white light which shall be exhibited in sufficient time to prevent collision.

[(e) A vessel proceeding under sail when also being propelled by machinery shall exhibit forward where it can best be seen a conical shape, apex downward. A vessel of less than 12 meters in length is not required to exhibit this shape, but may do so.

#### 【RULE 26

#### 【Fishing Vessels

[(a) A vessel engaged in fishing, whether underway or at anchor, shall exhibit only the lights and shapes prescribed in this Rule.

[(b) A vessel when engaged in trawling, by which is meant the dragging through the water of a dredge net or other apparatus used as a fishing appliance, shall exhibit:

[(i) two all-round lights in a vertical line, the upper being green and the lower white, or a shape consisting of two cones with their apexes together in a vertical line one above the other;

[(ii) a masthead light abaft of and higher than the all-round green light; a vessel of less than 50 meters in length shall not be obliged to exhibit such a light but may do so; and

[(iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

[(c) A vessel engaged in fishing, other than trawling, shall exhibit:

[(i) two all-round lights in a vertical line, the upper being red and the lower white, or a shape consisting of two cones with apexes together in a vertical line one above the other;

[(ii) when there is outlying gear extending more than 150 meters horizontally from the vessel, an all-round white light or a cone apex upward in the direction of the gear; and

[(iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

[(d) The additional signals described in Annex II to these Rules apply to a vessel engaged in fishing in close proximity to other vessels engaged in fishing.

[(e) A vessel when not engaged in fishing shall not exhibit the lights or shapes prescribed in this Rule, but only those prescribed for a vessel of her length.

## [RULE 27

## [Vessels Not Under Command or Restricted in Their Ability To Maneuver

[(a) A vessel not under command shall exhibit:

[(i) two all-round red lights in a vertical line where they can best be seen;

[(ii) two balls or similar shapes in a vertical line where they can best be seen; and

[(iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

[(b) A vessel restricted in her ability to maneuver, except a vessel engaged in mineclearance operations, shall exhibit:

[(i) three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white;

[(ii) three shapes in a vertical line where they can best be seen. The highest and lowest of these shapes shall be balls and the middle one a diamond;

[(iii) when making way through the water, masthead lights, sidelights and a sternlight, in addition to the lights prescribed in subparagraph (b)(i); and

[(iv) when at anchor, in addition to the lights or shapes prescribed in subparagraphs (b) (i) and (ii), the light, lights or shapes prescribed in Rule 30.

[(c) A vessel engaged in a towing operation which severely restricts the towing vessel and her tow in their ability to deviate from their course shall, in addition to the lights or shapes prescribed in subparagraphs (b) (i) and (ii) of this Rule, exhibit the lights or shape prescribed in Rule 24.

[(d) A vessel engaged in dredging or underwater operations, when restricted in her ability to maneuver, shall exhibit the lights and shapes prescribed in subparagraphs (b) (i), (ii), and (iii) of this Rule and shall in addition, when an obstruction exists, exhibit:

[(i) two all-round red lights or two balls in a vertical line to indicate the side on which the obstruction exists;

[(ii) two all-round green lights or two diamonds in a vertical line to indicate the side on which another vessel may pass; and

[(iii) when at anchor, the lights or shape prescribed by this paragraph, instead of the lights or shapes prescribe in Rule 30 for anchored vessels.

[(e) Whenever the size of a vessel engaged in diving operations makes it impracticable to exhibit all lights and shapes prescribed in paragraph (d) of this Rule, the following shall instead be exhibited:

[(i) Three all-round lights in a vertical line where they can best be seen. The highest and lowest of these lights shall be red and the middle light shall be white.

[(ii) A rigid replica of the international Code flag "A" not less than 1 meter in height. Measures shall be taken to ensure its all-round visibility.

[(f) A vessel engaged in mineclearance operations shall, in addition to the lights prescribed for a power-driven vessel in Rule 23 or to the lights or shape prescribed for a vessel at anchor in Rule 30, as appropriate, exhibit three all-round green lights or three

balls. One of these lights or shapes shall be exhibited near the foremast head and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach within 1,000 meters of the mineclearance vessel.

[(g) A vessel of less than 12 meters in length, except when engaged in diving operations, is not required to exhibit the lights or shapes prescribed in this Rule.

[(h) The signals prescribed in this Rule are not signals of vessels in distress and requiring assistance. Such signals are contained in Annex IV to these Rules.

[RULE 28

[[Reserved]

[RULE 29

[Pilot Vessels

[(a) A vessel engaged on pilotage duty shall exhibit:

[(i) at or near the masthead, two all-round lights in a vertical line, the upper being white and the lower red;

[(ii) When underway, in addition, sidelights and a sternlight; and

[(iii) when at anchor, in addition to the lights prescribed in subparagraph (i), the anchor light, lights, or shape prescribed in Rule 30 for anchored vessels.

[(b) A pilot vessel when not engaged on pilotage duty shall exhibit the lights or shapes prescribed for a vessel of her length.

[RULE 30

[Anchored Vessels and Vessels Aground

[(a) A vessel at anchor shall exhibit where it can best be seen:

[(i) in the fore part, an all-round white light or one ball; and

[(ii) at or near the stern and at a lower level than the light prescribed in subparagraph (i), an all-round white light.

[(b) A vessel of less than 50 meters in length may exhibit an all-round white light where it can best be seen instead of the lights prescribed in paragraph (a) of this Rule.

[(c) A vessel at anchor may, and a vessel of 100 meters or more in length shall, also use the available working or equivalent lights to illuminate her decks.

[(d) A vessel aground shall exhibit the lights prescribed in paragraph (a) or (b) of this Rule and in addition, if practicable, where they can best be seen:

[(i) two all-round red lights in a vertical line; and

[(ii) three balls in a vertical line.

[(e) A vessel of less than 7 meters in length, when at anchor, not in or near a narrow channel, fairway, anchorage, or where other vessels normally navigate, shall not be required to exhibit the lights or shape prescribed in paragraphs (a) and (b) of this Rule.

[(f) A vessel of less than 12 meters in length when aground shall not be required to exhibit the lights or shapes prescribed in subparagraphs (d) (i) and (ii) of this Rule.

[(g) A vessel of less than 20 meters in length, when at anchor in a special anchorage area designated by the Secretary, shall not

be required to exhibit the anchor lights and shapes required by this Rule.

**【RULE 31**

**【Seaplanes**

【Where it is impracticable for a seaplane to exhibit lights and shapes of the characteristics or in the positions prescribed in the Rules of this Part she shall exhibit lights and shapes as closely similar in characteristics and position as is possible.

**【PART D—SOUND AND LIGHT SIGNALS**

**【RULE 32**

**【Definitions**

【(a) The word “whistle” means any sound signaling appliance capable of producing the prescribed blasts and which complies with specifications in Annex III to these Rules.

【(b) The term “short blast” means a blast of about 1 second’s duration.

【(c) The term “prolonged blast” means a blast of from 4 to 6 seconds’ duration.

**【RULE 33**

**【Equipment for Sound Signals**

【(a) A vessel of 12 meters or more in length shall be provided with a whistle and a bell and a vessel of 100 meters or more in length shall, in addition, be provided with a gong, the tone and sound of which cannot be confused with that of the bell. The whistle, bell and gong shall comply with the specifications in Annex III to these Rules. The bell or gong or both may be replaced by other equipment having the same respective sound characteristics, provided that manual sounding of the prescribed signals shall always be possible.

【(b) A vessel of less than 12 meters in length shall not be obliged to carry the sound signaling appliances prescribed in paragraph (a) of this Rule but if she does not, she shall be provided with some other means of making an efficient sound signal.

**【RULE 34**

**【Maneuvering and Warning Signals**

【(a) When power-driven vessels are in sight of one another and meeting or crossing at a distance within half a mile of each other, each vessel underway, when maneuvering as authorized or required by these Rules:

【(i) shall indicate that maneuver by the following signals on her whistle: one short blast to mean “I intend to leave you on my port side”; two short blasts to mean “I intend to leave you on my starboard side”; and three short blasts to mean “I am operating astern propulsion”.

[(ii) upon hearing the one or two blast signal of the other shall, if in agreement, sound the same whistle signal and take the steps necessary to effect a safe passing. If, however, from any cause, the vessel doubts the safety of the proposed maneuver, she shall sound the danger signal specified in paragraph (d) of this Rule and each vessel shall take appropriate precautionary action until a safe passing agreement is made.

[(b) A vessel may supplement the whistle signals prescribed in paragraph (a) of this Rule by light signals:

[(i) These signals shall have the following significance: one flash to mean "I intend to leave you my port side"; two flashes to mean "I intend to leave you on my starboard side"; three flashes to mean "I am operating astern propulsion";

[(ii) The duration of each flash shall be about 1 second; and

[(iii) The light used for this signal shall, if fitted, be one all-around white or yellow light, visible at a minimum range of 2 miles, synchronized with the whistle, and shall comply with the provisions of Annex I to these Rules.

[(c) When in sight of one another:

[(i) a power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by the following signals on her whistle: one short blast to mean "I intend to overtake you on your starboard side"; two short blasts to mean "I intend to overtake you on your port side"; and

[(ii) the power-driven vessel about to be overtaken shall, if in agreement, sound a similar sound signal. If in doubt she shall sound the danger signal prescribed in paragraph (d).

[(d) When vessels in sight of one another are approaching each other and from any cause either vessel fails to understand the intentions or actions of the other, or is in doubt whether sufficient action is being taken by the other to avoid collision, the vessel in doubt shall immediately indicate such doubt by giving at least five short and rapid blasts on the whistle. This signal may be supplemented by a light signal of at least five short and rapid flashes.

[(e) A vessel nearing a bend or an area of a channel or fairway where other vessels may be obscured by an intervening obstruction shall sound one prolonged blast. This signal shall be answered with a prolonged blast by any approaching vessel that may be within hearing around the bend or behind the intervening obstruction.

[(f) If whistles are fitted on a vessel at a distance apart or more than 100 meters, one whistle only shall be used for giving maneuvering and warning signals.

[(g) When a power-driven vessel is leaving a dock or berth, she shall sound one prolonged blast.

[(h) A vessel that reaches agreement with another vessel in a head-on, crossing, or overtaking situation, as for example, by using the radiotelephone as prescribed by the Vessel Bridge-to-Bridge Radiotelephone Act (85 Stat. 164; 33 U.S.C. 1201 et seq.), is not obliged to sound the whistle signals prescribed by this rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.



## 【RULE 35

## 【Sound Signals in Restricted Visibility

【In or near an area of restricted visibility, whether by day or night, the signals prescribed in this Rule shall be used as follows:

【(a) A power-driven vessel making way through the water shall sound at intervals of not more than 2 minutes one prolonged blast.

【(b) A power-driven vessel underway but stopped and making no way through the water shall sound at intervals of not more than 2 minutes two prolonged blasts in succession with an interval of about 2 seconds between them.

【(c) A vessel not under command; a vessel restricted in her ability to maneuver, whether underway or at anchor; a sailing vessel; a vessel engaged in fishing, whether underway or at anchor; and a vessel engaged in towing or pushing another vessel shall, instead of the signals prescribed in paragraphs (a) or (b) of this Rule, sound at intervals of not more than 2 minutes, three blasts in succession; namely, one prolonged followed by two short blasts.

【(d) A vessel towed or if more than one vessel is towed the last vessel of the tow, if manned, shall at intervals of not more than 2 minutes sound four blasts in succession; namely, one prolonged followed by three short blasts. When practicable, this signal shall be made immediately after the signal made by the towing vessel.

【(e) When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and shall give the signals prescribed in paragraphs (a) or (b) of this Rule.

【(f) A vessel at anchor shall at intervals of not more than 1 minute ring the bell rapidly for 5 seconds. In a vessel of 100 meters or more in length the bell shall be sounded in the forepart of the vessel and immediately after the ringing of the bell the gong shall be sounded rapidly for about 5 seconds in the after part of the vessel. A vessel at anchor may in addition sound three blasts in succession; namely, one short, one prolonged and one short blast, to give warning of her position and of the possibility of collision to an approaching vessel.

【(g) A vessel aground shall give the bell signal and if required the gong signal prescribed in paragraph (f) of this Rule and shall, in addition, give three separate and distinct strokes on the bell immediately before and after the rapid ringing of the bell. A vessel aground may in addition sound an appropriate whistle signal.

【(h) A vessel of less than 12 meters in length shall not be obliged to give the above-mentioned signals but, if she does not, shall make some other efficient sound signal at intervals of not more than 2 minutes.

【(i) A pilot vessel when engaged on pilotage duty may in addition to the signals prescribed in paragraphs (a), (b) or (f) of this Rule sound an identity signal consisting of four short blasts.

【(j) The following vessels shall not be required to sound signals as prescribed in paragraph (f) of this Rule when anchored in a special anchorage area designated by the Secretary:

【(i) a vessel of less than 20 meters in length; and

【(ii) a barge, canal boat, scow, or other nondescript craft.

**[RULE 36****[Signals To Attract Attention**

**[If necessary to attract the attention of another vessel, any vessel may make light or sound signals that cannot be mistaken for any signal authorized elsewhere in these Rules, or may direct the beam of her searchlight in the direction of the danger, in such a way as not to embarrass any vessel.**

**[RULE 37****[Distress Signals**

**[When a vessel is in distress and requires assistance she shall use or exhibit the signals described in Annex IV to these Rules.**

**[PART E—EXEMPTIONS****[RULE 38****[Exemptions**

**[Any vessel or class of vessels, the keel of which is laid or which is at a corresponding stage of construction before the date of enactment of this Act, provided that she complies with the requirements of—**

**[(a) The Act of June 7, 1897 (30 Stat. 96), as amended (33 U.S.C. 154–232) for vessels navigating the waters subject to that statute;**

**[(b) Section 4233 of the Revised Statutes (33 U.S.C. 301–356) for vessels navigating the waters subject to that statute;**

**[(c) The Act of February 8, 1895 (28 Stat. 645), as amended (33 U.S.C. 241–295) for vessels navigating the waters subject to that statute; or**

**[(d) Sections 3, 4, and 5 of the Act of April 25, 1940 (54 Stat. 163), as amended (46 U.S.C. 526 b, c, and d) for motorboats navigating the waters subject to that statute; shall be exempted from compliance with the technical Annexes to these Rules as follows:**

**[(i) the installation of lights with ranges prescribed in Rule 22, until 4 years after the effective date of these Rules, except that vessels of less than 20 meters in length are permanently exempt;**

**[(ii) the installation of lights with color specifications as prescribed in Annex I to these Rules, until 4 years after the effective date of these Rules, except that vessels of less than 20 meters in length are permanently exempt;**

**[(iii) the repositioning of lights as a result of conversion to metric units and rounding off measurement figures, are permanently exempt; and**

**[(iv) the horizontal repositioning of masthead lights prescribed by Annex I to these Rules:**

**[(1) on vessels of less than 150 meters in length permanent exemption.**

**[(2) on vessels of 150 meters or more in length, until 9 years after the effective date of these Rules.**

[(v) the restructuring or repositioning of all lights to meet the prescriptions of Annex I to these Rules, until 9 years after the effective date of these Rules;

[(vi) power-driver vessels of 12 meters or more but less than 20 meters in length are permanently exempt from the provisions of Rule 23(a)(i) and 23(a)(iv) provided that, in place of these lights, the vessel exhibits a white light aft visible all round the horizon; and

[(vii) the requirements for sound signal appliances prescribed in Annex III to these Rules, until 9 years after the effective date of these Rules.

[SEC. 3. The Secretary may issue regulations necessary to implement and interpret this Act. The Secretary shall establish the following technical annexes to these Rules: Annex I, Positioning and Technical Details of Lights and Shapes; Annex II, Additional Signals for Fishing Vessels Fishing in Close Proximity; Annex III, Technical Details of Sound Appliances; and Annex IV, Distress Signals. These annexes shall be as consistent as possible with the respective annexes to the International Regulations. The Secretary may establish other technical annexes, including local pilot rules.]

\* \* \* \* \*

**TITLE 46, UNITED STATES CODE**

\* \* \* \* \*

**Subtitle II—Vessels and Seamen**

\* \* \* \* \*

**PART A—GENERAL PROVISIONS**

**CHAPTER 21—GENERAL**

\* \* \* \* \*

**§ 2110. Fees**

(a) \* \* \*

\* \* \* \* \*

(d)(1) \* \* \*

(2)(A) A Federal agency shall account for the agency's costs of collecting the fee or charge under this subsection as a reimbursable expense, and the costs shall be credited to the account from which expended.

(B) For purposes of subparagraph (A), costs of collecting the fee or charge include the reasonable administrative, accounting, personnel, contract, equipment, supply, training, and travel expenses of calculating, assessing, collecting, enforcing, reviewing, adjusting, and reporting on the fees and charges.

\* \* \* \* \*

**PART B—INSPECTION AND REGULATIONS OF VESSELS**

\* \* \* \* \*

**CHAPTER 32—MANAGEMENT OF VESSELS**

\* \* \* \* \*

**§ 3202. Application**

[(a) MANDATORY APPLICATION.—This chapter applies to the following vessels engaged on a foreign voyage:

[(1) Beginning July 1, 1998—

[(A) a vessel transporting more than 12 passengers described in section 2101(21)(A) of this title; and

[(B) a tanker, bulk freight vessel, or high-speed freight vessel, of at least 500 gross tons.

[(2) Beginning July 1, 2002, a freight vessel and a self-propelled mobile offshore drilling unit of at least 500 gross tons.]

(a) MANDATORY APPLICATION.—*This chapter applies to a vessel that—*

*(1)(A) is transporting more than 12 passengers described in section 2101(21)(A) of this title; or*

*(B) is of at least 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, that is a tanker, freight vessel, bulk freight vessel, high speed freight vessel, or self-propelled mobile offshore drilling unit; and*

*(2)(A) is engaged on a foreign voyage; or*

*(B) is a foreign vessel departing from a place under the jurisdiction of the United States on a voyage, any part of which is on the high seas.*

\* \* \* \* \*

**§ 3203. Safety management system**

(a) \* \* \*

(b) COMPLIANCE WITH CODE.—Regulations prescribed under this section shall be consistent with the International Safety Management Code with respect to [vessels engaged on a foreign voyage.] *vessels to which this chapter applies under section 3202(a) of this title.*

\* \* \* \* \*

**CHAPTER 33—INSPECTION GENERALLY**

\* \* \* \* \*

**§ 3303. Reciprocity for foreign vessels**

Except as provided in chapter 37 and section 3505 of this title, a foreign vessel of a country having inspection laws and standards similar to those of the United States and that has an unexpired certificate of inspection issued by proper authority of its respective country, is subject to an inspection to ensure that the condition of the vessel is as stated in its current certificate of inspection. A foreign country is considered to have inspection laws and standards similar to those of the United States when it is a party to an International Convention for Safety of Life at Sea to which the United States Government is currently a party. A foreign certificate of inspection may be accepted as evidence of lawful inspection only

when presented by a vessel of a country that has by its laws accorded to vessels of the United States visiting that country the same privileges accorded to vessels of that country visiting the United States.

\* \* \* \* \*

**CHAPTER 35—CARRIAGE OF PASSENGERS**

\* \* \* \* \*

**§ 3505. Prevention of departure**

【Notwithstanding section 3303(a) of this title, a foreign vessel may not depart from a United States port with passengers who are embarked at that port, if the Secretary finds that the vessel does not comply with the standards stated in the International Convention for the Safety of Life at Sea to which the United States Government is currently a party.】

**§ 3505. Prevention of departure**

*Notwithstanding section 3303 of this title, a foreign vessel carrying a citizen of the United States as a passenger or that embarks passengers from a United States port may not depart from a United States port if the Secretary finds that the vessel does not comply with the standards stated in the International Convention for the Safety of Life at Sea to which the United States Government is currently a party.*

\* \* \* \* \*

**CHAPTER 43—RECREATIONAL VESSELS**

\* \* \* \* \*

**§ 4311. Penalties and injunctions**

(a) \* \* \*

(b) 【A person violating section 4307(a)(1) of this title is liable to the United States Government for a civil penalty of not more than \$2,000, except that the maximum civil penalty may be not more than \$100,000 for a related series of violations.】 *A person violating section 4307(a) of this title is liable to the United States Government for a civil penalty of not more than \$5,000, except that the maximum civil penalty may be not more than \$250,000 for a related series of violations.* When a corporation violates section 【4307(a)(1)】 *4307(a)*, any director, officer, or executive employee of the corporation who knowingly and willfully ordered, or knowingly and willfully authorized, a violation is individually liable to the Government for the penalty, in addition to the corporation. However, the director, officer, or executive employee is not liable individually under this subsection if the director, officer, or executive employee can demonstrate by a preponderance of the evidence that—

(1) \* \* \*

\* \* \* \* \*

PART E—MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS

\* \* \* \* \*

CHAPTER 73—MERCHANT MARINERS’ DOCUMENTS

\* \* \* \* \*

§ 7319. Records of merchant mariners’ documents

The Secretary shall maintain records on each merchant mariner’s document issued, including the name and address of the seaman to whom issued and the next of kin of the seaman. [The records are not open to general or public inspection.]

\* \* \* \* \*

CHAPTER 77—SUSPENSION AND REVOCATION

\* \* \* \* \*

§ 7702. Administrative procedure

(a) \* \* \*

\* \* \* \* \*

(d)(1) The Secretary may temporarily, for not more than 45 days, suspend and take possession of the license, certificate of registry, or merchant mariner’s document held by an individual [if, when acting under the authority of that license, certificate, or document—] if—

(A) \* \* \*

(B) there is probable cause to believe that the individual—

(i) has, while acting under the authority of that license, certificate, or document, performed the safety sensitive function in violation of law or Federal regulation regarding use of alcohol or a dangerous drug;

(ii) has been convicted of an offense that would prevent the issuance or renewal of the license, certificate, or document; [or]

(iii) within the 3-year period preceding the initiation of a suspension proceeding, has been convicted of an offense described in section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982[.]; or

(iv) is a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment.

\* \* \* \* \*

§ 7703. Bases for suspension or revocation

A license, certificate of registry, or merchant mariner’s document issued by the Secretary may be suspended or revoked if the holder—

(1) when acting under the authority of that license, certificate, or document—

(A) \* \* \*

(B) has committed an act of [incompetence,] misconduct[,], or negligence;

(2) is convicted of an offense that would prevent the issuance or renewal of a license, certificate of registry, or merchant mariner's document; **[or]**

(3) within the 3-year period preceding the initiation of the suspension or revocation proceeding is convicted of an offense described in section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982 (23 U.S.C. 401 note)**[.];**

(4) *has committed an act of incompetence; or*

(5) *is a threat to the safety or security of a vessel or a structure located within or adjacent to the marine environment.*

**§ 7704. Dangerous drugs as grounds for revocation**

(b) If it is shown at a hearing under this chapter that a holder of a license, certificate of registry, or merchant mariner's document issued under this part, within 10 years before the beginning of the proceedings, has been convicted of violating a dangerous drug law of the United States or of a State, the license, certificate, or document shall be *suspended or* revoked.

\* \* \* \* \*

**PART F—MANNING OF VESSELS**

\* \* \* \* \*

**CHAPTER 89—SMALL VESSEL MANNING**

\* \* \* \* \*

**§ 8904. Towing vessels**

(a) \* \* \*

\* \* \* \* \*

(c) *The Secretary may prescribe by regulation requirements for maximum hours of service (including recording and record-keeping of that service) of individuals engaged on a towing vessel that is at least 26 feet in length measured from end to end over the deck (excluding the sheer).*

\* \* \* \* \*

**PART H—IDENTIFICATION OF VESSELS**

**CHAPTER 121—DOCUMENTATION OF VESSELS**

\* \* \* \* \*

**§ 12110. Limitations on operations authorized by certificates**

(a) \* \* \*

\* \* \* \* \*

(d) A documented vessel, other than a vessel with only a recreational endorsement *or an unmanned barge not engaged on a coastwise voyage*, may be placed under the command only of a citizen of the United States.

\* \* \* \* \*

**§ 12120. Reports**

To ensure compliance with this chapter and laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary of Transportation may require [owners and masters] *owners, masters, and charterers* of documented vessels to submit reports in any reasonable form and manner the Secretary may prescribe.

\* \* \* \* \*

**§ 12122. Penalties**

(a) \* \* \*

(b) A vessel and its equipment are liable to seizure by and forfeiture to the United States Government—

(1) \* \* \*

\* \* \* \* \*

(6) when a documented vessel, other than a vessel with only a recreational endorsement or an *unmanned barge not engaged on a coastwise voyage*, is placed under the command of a person not a citizen of the United States.

\* \* \* \* \*

**Subtitle VI—Miscellaneous**

\* \* \* \* \*

**CHAPTER 701—PORT SECURITY**

\* \* \* \* \*

**§ 70114. Automatic identification systems**

(a) SYSTEM REQUIREMENTS.—(1) Subject to paragraph (2), the following vessels, while operating on the navigable waters of the United States, shall be equipped with and operate an automatic identification system, *including an electronic chart and related display*, under regulations prescribed by the Secretary:

(A) \* \* \*

\* \* \* \* \*

**SECTION 5 OF THE ACT OF MARCH 23, 1906**

(POPULARLY KNOWN AS THE “BRIDGE ACT OF 1906”)

An Act To regulate the construction of bridges over navigable waters.

SEC. 5. (a) \* \* \*

(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than ~~[\$1,000]~~ *\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter*. Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil pen-



alty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

---

### SECTION 5 OF THE ACT OF AUGUST 18, 1894

**CHAP. 299.**—An Act Making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

SEC. 5. (a) \* \* \*

\* \* \* \* \*

(c) Whoever violates any rule or regulation issued under subsection (a) or (b), shall be liable to a civil penalty of not more than **[\$1,000]** *\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter.* No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

---

### SECTION 510 OF THE GENERAL BRIDGE ACT OF 1946

SEC. 510. (a) \* \* \*

(b) Whoever violates any provision of this Act, or any order issued under this Act, shall be liable to a civil penalty of not more than **[\$1,000]** *\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter.* Each day a violation continues shall be deemed a separate offense. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of Transportation may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

---

SECTION 311 OF THE FEDERAL WATER POLLUTION CONTROL ACT

OIL AND HAZARDOUS SUBSTANCE LIABILITY

SEC. 311. (a) \* \* \*

\* \* \* \* \*

(j) NATIONAL RESPONSE SYSTEM.—

(1) \* \* \*

\* \* \* \* \*

(5) TANK VESSEL, NONTANK VESSEL, AND FACILITY RESPONSE PLANS.—(A) The President shall issue regulations which require an owner or operator of a tank vessel, nontank vessel, or facility described in subparagraph (B) to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance.

(B) The tank vessels, nontank vessels, and facilities referred to in subparagraph (A) are the following:

(i) \* \* \*

(ii) A nontank vessel.

[(ii)] (iii) An offshore facility.

[(iii)] (iv) An onshore facility that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging into or on the navigable waters, adjoining shorelines, or the exclusive economic zone.

\* \* \* \* \*

(D) With respect to any response plan submitted under this paragraph for an onshore facility that, because of its location, could reasonably be expected to cause significant and substantial harm to the environment by discharging into or on the navigable waters or adjoining shorelines or the exclusive economic zone, and with respect to each response plan submitted under this paragraph for a tank vessel, nontank vessel, or offshore facility, the President shall—

(i) \* \* \*

\* \* \* \* \*

(iii) approve any plan that meets the requirements of this paragraph; [and]

(iv) review each plan periodically thereafter[.]; and

(v) for nontank vessels, consider any applicable State-mandated response plan and ensure consistency to the extent practicable.

(E) A tank vessel, nontank vessel, offshore facility, or onshore facility required to prepare a response plan under this subsection may not handle, store, or transport oil unless—

(i) in the case of a tank vessel, nontank vessel, offshore facility, or onshore facility for which a response plan is reviewed by the President under subparagraph (D), the plan has been approved by the President; and

\* \* \* \* \*

(F) Notwithstanding subparagraph (E), the President may authorize a tank vessel, offshore facility, or onshore facility to operate without a response plan approved under this paragraph, until not later than 2 years after the date of the submission to the President of a plan for the [tank] vessel or facility, if the owner or operator certifies that the owner or operator has ensured by contract or other means approved by the President the availability of private personnel and equipment necessary to respond, to the maximum extent practicable, to a worst case discharge or a substantial threat of such a discharge.

(G) The owner or operator of a tank vessel, *nontank vessel*, offshore facility, or onshore facility may not claim as a defense to liability under title I of the Oil Pollution Act of 1990 that the owner or operator was acting in accordance with an approved response plan.

(H) The Secretary shall maintain, in the Vessel Identification System established under chapter 125 of title 46, United States Code, the dates of approval and review of a response plan under this paragraph for each tank vessel *and nontank vessel* that is a vessel of the United States.

(6) EQUIPMENT REQUIREMENTS AND INSPECTION.—[Not later than 2 years after the date of enactment of this section, the President shall require—] *The President may require—*

(A) \* \* \*

(B) vessels operating on navigable waters and carrying oil or a hazardous substance in bulk as cargo, *and nontank vessels carrying oil of any kind as fuel for main propulsion*, to carry appropriate removal equipment that employs the best technology economically feasible and that is compatible with the safe operation of the vessel.

(7) AREA DRILLS.—The President shall periodically conduct drills of removal capability, without prior notice, in areas for which Area Contingency Plans are required under this subsection and under relevant tank vessel, *nontank vessel*, and facility response plans. The drills may include participation by Federal, State, and local agencies, the owners and operators of vessels and facilities in the area, and private industry. The President may publish annual reports on these drills, including assessments of the effectiveness of the plans and a list of amendments made to improve plans.

\* \* \* \* \*

(9) *NONTANK VESSEL DEFINED.*—*In this subsection, the term “nontank vessel” means a self-propelled vessel of 400 gross tons (as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of such title as prescribed by the Secretary under section 14104 of such title) or greater, other than a tank vessel, that carries oil of any kind as fuel for main propulsion and that—*

(A) *is a vessel of the United States; or*

(B) *operates on the navigable waters of the United States.*

\* \* \* \* \*

## OIL POLLUTION ACT OF 1990

TITLE I—OIL POLLUTION LIABILITY  
AND COMPENSATION

## SEC. 1001. DEFINITIONS.

For the purposes of this Act, the term—

(1) \* \* \*

\* \* \* \* \*

[(26) “owner or operator” means (A) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel, and (B) in the case of an onshore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;]

(26) “owner or operator”—

(A) means—

(i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel;

(ii) in the case of an onshore or offshore facility, any person owning or operating such facility;

(iii) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

(iv) in the case of any facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of State or local government, any person who owned, operated, or otherwise controlled activities at such facility immediately beforehand;

(v) notwithstanding subparagraph (B)(i), any State or local government that has caused or contributed to a discharge or substantial threat of a discharge of oil from a vessel or facility ownership or control of which was acquired involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign; and

(vi) notwithstanding subparagraph (B)(ii), a person that is a lender and that holds indicia of ownership primarily to protect a security interest in a vessel or facility if, while the borrower is still in possession of the vessel or facility encumbered by the security interest, the person—

(I) exercises decisionmaking control over the environmental compliance related to the vessel or facility, such that the person has undertaken responsibility for oil handling or disposal practices related to the vessel or facility; or

(II) exercises control at a level comparable to that of a manager of the vessel or facility, such

that the person has assumed or manifested responsibility—

(aa) for the overall management of the vessel or facility encompassing day-to-day decision-making with respect to environmental compliance; or

(bb) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the vessel or facility other than the function of environmental compliance; and

(B) does not include—

(i) a unit of State or local government that acquired ownership or control of a vessel or facility involuntarily through bankruptcy, tax delinquency, abandonment, or other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign;

(ii) a person that is a lender that does not participate in management of a vessel or facility, but holds indicia of ownership primarily to protect the security interest of the person in the vessel or facility;

(iii) a person that is a lender that did not participate in management of a vessel or facility prior to foreclosure, notwithstanding that the person—

(I) forecloses on the vessel or facility; and

(II) after foreclosure, sells, re-leases (in the case of a lease finance transaction), or liquidates the vessel or facility, maintains business activities, winds up operations, undertakes a removal action under 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 311(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan, with respect to the vessel or facility, or takes any other measure to preserve, protect, or prepare the vessel or facility prior to sale or disposition,

if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the person of the vessel or facility at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements;

\* \* \* \* \*

(36) “United States” and “State” mean the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession of the United States; **[and]**

(37) “vessel” means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, other than a public vessel**[.]**;

(38) “participate in management”—

(A)(i) means actually participating in the management or operational affairs of a vessel or facility; and

(ii) does not include merely having the capacity to influence, or the unexercised right to control, vessel or facility operations; and

(B) does not include—

(i) performing an act or failing to act prior to the time at which a security interest is created in a vessel or facility;

(ii) holding a security interest or abandoning or releasing a security interest;

(iii) including in the terms of an extension of credit, or in a contract or security agreement relating to the extension, a covenant, warranty, or other term or condition that relates to environmental compliance;

(iv) monitoring or enforcing the terms and conditions of the extension of credit or security interest;

(v) monitoring or undertaking one or more inspections of the vessel or facility;

(vi) requiring a removal action or other lawful means of addressing a discharge or substantial threat of a discharge of oil in connection with the vessel or facility prior to, during, or on the expiration of the term of the extension of credit;

(vii) providing financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the vessel or facility;

(viii) restructuring, renegotiating, or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest, exercising forbearance;

(ix) exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement; or

(x) conducting a removal action under 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan, if such actions do not rise to the level of participating in management under subparagraph (A) of this paragraph and paragraph (26)(A)(vi);

(39) “extension of credit” has the meaning provided in section 101(20)(G)(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(i));

(40) “financial or administrative function” has the meaning provided in section 101(20)(G)(ii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(ii));

(41) “foreclosure” and “foreclose” each has the meaning provided in section 101(20)(G)(iii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iii));

(42) “lender” has the meaning provided in section 101(20)(G)(iv) of the Comprehensive Environmental Response,

*Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iv));*

*(43) "operational function" has the meaning provided in section 101(20)(G)(v) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(v)); and*

*(44) "security interest" has the meaning provided in section 101(20)(G)(vi) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(vi)).*

\* \* \* \* \*

**SEC. 1003. DEFENSES TO LIABILITY.**

(a) \* \* \*

\* \* \* \* \*

(d) **DEFINITION OF CONTRACTUAL RELATIONSHIP.—**

*(1) IN GENERAL.—For purposes of subsection (a)(3) the term "contractual relationship" includes, but is not limited to, land contracts, deeds, easements, leases, or other instruments transferring title or possession, unless—*

*(A) the real property on which the facility concerned is located was acquired by the responsible party after the discharge of the oil on, in, or at the facility;*

*(B) one or more of the circumstances described in subparagraph (A), (B), or (C) of paragraph (2) is established by the responsible party by a preponderance of the evidence; and*

*(C) the responsible party complies with paragraph (3).*

*(2) REQUIRED CIRCUMSTANCE.—The circumstances referred to in paragraph (1)(B) are the following:*

*(A) At the time the responsible party acquired the real property on which the facility is located the responsible party did not know and had no reason to know that oil that is the subject of the discharge or substantial threat of discharge was placed on, in, or at the facility.*

*(B) The responsible party is a government entity that acquired the facility—*

*(i) by escheat;*

*(ii) through any other involuntary transfer or acquisition; or*

*(iii) through the exercise of eminent domain authority by purchase or condemnation.*

*(C) The responsible party acquired the facility by inheritance or bequest.*

*(3) ADDITIONAL REQUIREMENTS.—For purposes of paragraph (1)(C), the responsible party must establish by a preponderance of the evidence that the responsible party—*

*(A) has satisfied the requirements of section 1003(a)(3)(A) and (B);*

*(B) has provided full cooperation, assistance, and facility access to the persons that are authorized to conduct removal actions, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial removal action;*

(C) is in compliance with any land use restrictions established or relied on in connection with the removal action; and

(D) has not impeded the effectiveness or integrity of any institutional control employed in connection with the removal action.

(4) REASON TO KNOW.—

(A) APPROPRIATE INQUIRIES.—To establish that the responsible party had no reason to know of the matter described in paragraph (2)(A), the responsible party must demonstrate that—

(i) on or before the date on which the responsible party acquired the real property on which the facility is located, the responsible party carried out all appropriate inquiries, as provided in subparagraphs (B) and (D), into the previous ownership and uses of the real property on which the facility is located in accordance with generally accepted good commercial and customary standards and practices; and

(ii) the responsible party took reasonable steps to—

(I) stop any continuing discharge;

(II) prevent, minimize or mitigate any substantial threat of discharge; and

(III) prevent or limit any human, environmental, or natural resource exposure to any discharged oil.

(B) REGULATIONS ESTABLISHING STANDARDS AND PRACTICES.—Not later than 2 years after the date of the enactment of this paragraph, the Secretary shall by regulation establish standards and practices for the purpose of satisfying the requirement to carry out all appropriate inquiries under subparagraph (A).

(C) CRITERIA.—In promulgating regulations that establish the standards and practices referred to in subparagraph (B), the Secretary shall include in such standards provisions regarding each of the following:

(i) The results of an inquiry by an environmental professional.

(ii) Interviews with past and present owners, operators, and occupants of the facility and the real property on which the facility is located for the purpose of gathering information regarding the potential for oil at the facility and on the real property on which the facility is located.

(iii) Reviews of historical sources, including, to the extent available, chain of title documents, aerial photographs, building department records, and land use records, to determine previous uses and occupancies of the real property on which the facility is located since the property was first developed.

(iv) Searches for recorded environmental cleanup liens against the facility and the real property on which the facility is located that are filed under Federal, State, or local law.

(v) Reviews of Federal, State, and local government records, waste disposal records, underground storage



tank records, and waste handling, generation, treatment, disposal, and spill records, concerning oil at the facility and on the real property on which the facility is located.

(vi) Visual inspections of the facility, the real property on which the facility is located, and adjoining properties.

(vii) Specialized knowledge or experience on the part of the responsible party.

(viii) The relationship of the purchase price to the value of the facility and the real property on which the facility is located, if oil was not at the facility or on the real property.

(ix) Commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located.

(x) The degree of obviousness of the presence or likely presence of oil at the facility and on the real property on which the facility is located, and the ability to detect the oil by appropriate investigation.

**(D) INTERIM STANDARDS AND PRACTICES.—**

(i) **REAL PROPERTY PURCHASED BEFORE MAY 31, 1997.**—With respect to real property purchased before May 31, 1997, in making a determination with respect to a responsible party described in subparagraph (A), a court or appropriate official shall take into account—

(I) any specialized knowledge or experience on the part of the responsible party;

(II) the relationship of the purchase price to the value of the facility and the real property on which the facility is located, if oil was not at the facility or on the real property;

(III) commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located;

(IV) the obviousness of the presence or likely presence of oil at the facility and on the real property on which the facility is located; and

(V) the ability of the responsible party to detect the oil by appropriate inspection.

(ii) **REAL PROPERTY PURCHASED ON OR AFTER MAY 31, 1997.**—With respect to real property purchased on or after May 31, 1997, until the Secretary promulgates the regulations described in clause (i), the procedures of the American Society for Testing and Materials, including the document known as “Standard E1527-97”, entitled “Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process”, shall satisfy the requirements in subparagraph (A).

**(E) SITE INSPECTION AND TITLE SEARCH.**—In the case of real property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, inspection and title search of the facility and the real property on which the facility is located that reveal no basis for

*further investigation shall be considered to satisfy the requirements of this paragraph.*

(5) *PREVIOUS OWNER OR OPERATOR.—Nothing in this paragraph or in section 1003(a)(3) shall diminish the liability of any previous owner or operator of such facility who would otherwise be liable under this Act. Notwithstanding this paragraph, if a responsible party obtained actual knowledge of the discharge or substantial threat of discharge of oil at such facility when the responsible party owned the facility and then subsequently transferred ownership of the facility or the real property on which the facility is located to another person without disclosing such knowledge, the responsible party shall be treated as liable under 1002(a) and no defense under section 1003(a) shall be available to such responsible party.*

(6) *LIMITATION ON DEFENSE.—Nothing in this paragraph shall affect the liability under this Act of a responsible party who, by any act or omission, caused or contributed to the discharge or substantial threat of discharge of oil which is the subject of the action relating to the facility.*

\* \* \* \* \*

## TITLE IV—PREVENTION AND REMOVAL

### Subtitle A—Prevention

\* \* \* \* \*

#### SEC. 4110. OVERFILL AND TANK LEVEL OR PRESSURE MONITORING DEVICES.

(a) **STANDARDS.**—[Not later than 1 year after the date of the enactment of this Act, the Secretary shall] *The Secretary may* establish, by regulation, minimum standards for devices for warning persons of overfills and tank levels of oil in cargo tanks and devices for monitoring the pressure of oil cargo tanks.

(b) **USE.**—[Not later than 1 year after the date of the enactment of this Act, the Secretary shall] *No sooner than 1 year after the Secretary prescribes regulations under subsection (a), the Secretary may* issue regulations establishing, consistent with generally recognized principles of international law, requirements concerning the use of—

(1) \* \* \*

\* \* \* \* \*

which are referred to in subsection (a) and which meet [the standards] *any standards* established by the Secretary under subsection (a), on vessels constructed or adapted to carry, or that carry, oil in bulk as cargo or cargo residue on the navigable waters and the waters of the exclusive economic zone.

\* \* \* \* \*