

COAST GUARD AUTHORIZATION ACT OF 2010

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OCTOBER 16, 2009.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. OBERSTAR, from the Committee on Transportation and  
Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 3619]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom  
was referred the bill (H.R. 3619) to authorize appropriations for the  
Coast Guard for fiscal year 2010, and for other purposes, having  
considered 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.**

(a) **SHORT TITLE.**—This Act may be cited as the “Coast Guard Authorization Act  
of 2010”.

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

Sec. 1. Short title.

TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.

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

TITLE II—COAST GUARD

Sec. 201. Appointment of civilian Coast Guard judges.

Sec. 202. Industrial activities.

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

Sec. 204. Commissioned officers.

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

Sec. 206. Grants to international maritime organizations.

Sec. 207. Emergency leave retention authority.

Sec. 208. Enforcement authority.

Sec. 209. Repeal.

Sec. 210. Merchant Mariner Medical Advisory Committee.

Sec. 211. Reserve commissioned warrant officer to lieutenant program.

Sec. 212. Enhanced status quo officer promotion system.

Sec. 213. Laser Training System.

Sec. 214. Coast Guard vessels and aircraft.

Sec. 215. Coast Guard District Ombudsmen.

Sec. 216. Coast Guard commissioned officers: compulsory retirement.

- Sec. 217. Enforcement of coastwise trade laws.
- Sec. 218. Academy nominations.
- Sec. 219. Report on sexual assaults in the Coast Guard.
- Sec. 220. Home port of Coast Guard vessels in Guam.
- Sec. 221. Minority serving institutions.

#### TITLE III—SHIPPING AND NAVIGATION

- Sec. 301. Goods and services.
- Sec. 302. Seaward extension of anchorage grounds jurisdiction.
- Sec. 303. Maritime Drug Law Enforcement Act amendment-simple possession.
- Sec. 304. Technical amendments to tonnage measurement law.
- Sec. 305. Adjustment of liability limits for natural gas deepwater ports.
- Sec. 306. Period of limitations for claims against Oil Spill Liability Trust Fund.
- Sec. 307. Merchant mariner document standards.
- Sec. 308. Report on Coast Guard determinations.
- Sec. 309. Ship emission reduction technology demonstration project.
- Sec. 310. Phaseout of vessels supporting oil and gas development.
- Sec. 311. Arctic marine shipping assessment implementation.
- Sec. 312. Supplemental positioning system.
- Sec. 313. Dual escort vessels for double hulled tankers in Prince William Sound, Alaska.

#### TITLE IV—GREAT LAKES ICEBREAKER

- Sec. 401. Short title.
- Sec. 402. Findings.
- Sec. 403. Authorization of appropriations.

#### TITLE V—ACQUISITION REFORM

- Sec. 501. Short title.
- Sec. 502. Definitions.

##### Subtitle A—Restrictions on the Use of Lead Systems Integrators

- Sec. 511. Procurement structure.

##### Subtitle B—Coast Guard Acquisition Policy

- Sec. 521. Operational requirements.
- Sec. 522. Required contract terms.
- Sec. 523. Life-cycle cost estimates.
- Sec. 524. Test and evaluation.
- Sec. 525. Capability standards.
- Sec. 526. Acquisition program reports.
- Sec. 527. Undefined contractual actions.
- Sec. 528. Guidance on excessive pass-through charges.
- Sec. 529. Acquisition of major capabilities: Alternatives analysis.
- Sec. 530. Cost overruns and delays.
- Sec. 531. Report on former Coast Guard officials employed by contractors to the agency.
- Sec. 532. Department of Defense consultation.

##### Subtitle C—Coast Guard Personnel

- Sec. 541. Chief Acquisition Officer.
- Sec. 542. Improvements in Coast Guard acquisition management.
- Sec. 543. Recognition of Coast Guard personnel for excellence in acquisition.
- Sec. 544. Coast Guard acquisition workforce expedited hiring authority.

#### TITLE VI—MARITIME WORKFORCE DEVELOPMENT

- Sec. 601. Short title.
- Sec. 602. Maritime education loan program.

#### TITLE VII—COAST GUARD MODERNIZATION

- Sec. 701. Short title.

##### Subtitle A—Coast Guard Leadership

- Sec. 711. Admirals and Vice Admirals.

##### Subtitle B—Marine Safety Administration

- Sec. 721. Marine safety.
- Sec. 722. Marine safety staff.
- Sec. 723. Marine safety mission priorities and long-term goals.
- Sec. 724. Powers and duties.
- Sec. 725. Appeals and waivers.
- Sec. 726. Coast Guard Academy.
- Sec. 727. Report regarding civilian marine inspectors.

#### TITLE VIII—MARINE SAFETY

- Sec. 801. Short title.
- Sec. 802. Vessel size limits.
- Sec. 803. Cold weather survival training.
- Sec. 804. Fishing vessel safety.
- Sec. 805. Mariner records.
- Sec. 806. Deletion of exemption of license requirement for operators of certain towing vessels.
- Sec. 807. Log books.
- Sec. 808. Safe operations and equipment standards.
- Sec. 809. Approval of survival craft.
- Sec. 810. Safety management.
- Sec. 811. Protection against discrimination.
- Sec. 812. Oil fuel tank protection.

- Sec. 813. Oaths.
- Sec. 814. Duration of credentials.
- Sec. 815. Fingerprinting.
- Sec. 816. Authorization to extend the duration of licenses, certificates of registry, and merchant mariners' documents.
- Sec. 817. Merchant mariner documentation.
- Sec. 818. Merchant mariner assistance report.
- Sec. 819. Offshore supply vessels.
- Sec. 820. Associated equipment.
- Sec. 821. Lifesaving devices on uninspected vessels.
- Sec. 822. Study of blended fuels in marine application.
- Sec. 823. Renewal of advisory committees.

#### TITLE IX—CRUISE VESSEL SAFETY

- Sec. 901. Short title.
- Sec. 902. Findings.
- Sec. 903. Cruise vessel security and safety requirements.
- Sec. 904. Study and report on the security needs of passenger vessels.

#### TITLE X—UNITED STATES MARINER PROTECTION

- Sec. 1001. Short title.
- Sec. 1002. Use force against piracy.
- Sec. 1003. Agreements.

#### TITLE XI—PORT SECURITY

- Sec. 1101. Maritime homeland security public awareness program.
- Sec. 1102. Transportation Worker Identification Credential.
- Sec. 1103. Review of interagency operational centers.
- Sec. 1104. Maritime security response teams.
- Sec. 1105. Coast Guard detection canine team program expansion.
- Sec. 1106. Coast Guard port assistance program.
- Sec. 1107. Maritime biometric identification.
- Sec. 1108. Review of potential threats.
- Sec. 1109. Port security pilot.
- Sec. 1110. Seasonal workers.
- Sec. 1111. Comparative risk assessment of vessel-based and facility-based liquefied natural gas regasification processes.
- Sec. 1112. Pilot Program for fingerprinting of maritime workers.
- Sec. 1113. Transportation security cards on vessels.
- Sec. 1114. International labor study.
- Sec. 1115. Maritime Security Advisory Committees.
- Sec. 1116. Seamen's shoreside access.
- Sec. 1117. Waterside security around especially hazardous material terminals and tankers.
- Sec. 1118. Review of Liquefied Natural Gas Facilities.
- Sec. 1119. Use of secondary authentication for transportation security cards.
- Sec. 1120. Report on State and local law enforcement augmentation of Coast Guard resources with respect to security zones and United States ports.
- Sec. 1121. Assessment of transportation security card enrollment sites.

#### TITLE XII—ALIEN SMUGGLING

- Sec. 1201. Short title.
- Sec. 1202. Findings.
- Sec. 1203. Checks against terrorist watchlist.
- Sec. 1204. Strengthening prosecution and punishment of alien smugglers.
- Sec. 1205. Maritime law enforcement.
- Sec. 1206. Amendment to the sentencing guidelines.

#### TITLE XIII—MISCELLANEOUS PROVISIONS

- Sec. 1301. Certificate of documentation for GALLANT LADY.
- Sec. 1302. Waivers.
- Sec. 1303. Great Lakes Maritime Research Institute.
- Sec. 1304. Conveyance of Coast Guard Boat House, Nantucket, Massachusetts.
- Sec. 1305. Crew wages on passenger vessels.
- Sec. 1306. Technical corrections.
- Sec. 1307. Conveyance of decommissioned Coast Guard Cutter STORIS.
- Sec. 1308. Conveyance of Coast Guard HU-25 Falcon Jet aircraft.
- Sec. 1309. Decommissioned Coast Guard vessels for Haiti.
- Sec. 1310. Phaseout of vessels supporting oil and gas development.
- Sec. 1311. Vessel traffic risk assessment.
- Sec. 1312. Study of relocation of Coast Guard Sector Buffalo facilities.
- Sec. 1313. Conveyance of Coast Guard vessels to Mississippi.
- Sec. 1314. Coast Guard assets for United States Virgin Islands.
- Sec. 1315. Officer requirements for distant water tuna vessels.
- Sec. 1316. Assessment of needs for additional Coast Guard presence in high latitude regions.
- Sec. 1317. Study of regional response vessel and salvage capability for Olympic Peninsula coast, Washington.
- Sec. 1318. Study of bridges over navigable waters.
- Sec. 1319. Limitation on jurisdiction of States to tax certain seamen.
- Sec. 1320. Decommissioned Coast Guard vessels for Bermuda.
- Sec. 1321. Conveyance of Coast Guard vessels to Nassau County, New York.
- Sec. 1322. Newtown Creek, New York City, New York.
- Sec. 1323. Land conveyance, Coast Guard property in Marquette County, Michigan, to the City of Marquette, Michigan.
- Sec. 1324. Mission requirement analysis for navigable portions of the Rio Grande River, Texas, international water boundary.
- Sec. 1325. Conveyance of Coast Guard property in Cheboygan, Michigan.

## TITLE I—AUTHORIZATION

### SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for fiscal year 2010 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard, \$6,838,291,000, of which—

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

(B) \$1,110,923,000 shall be available only for paying for search and rescue programs;

(C) \$802,423,000 shall be available only for paying for marine safety programs; and

(D) \$2,274,312,000 shall be available only for paying for ports, waterways, and coastal security.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$1,597,580,000, of which—

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

(B) \$1,194,780,000 is authorized for the Integrated Deepwater System Program; and

(C) \$45,000,000 is authorized for shore facilities and aids to navigation.

(3) To the Commandant of the Coast Guard for research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, \$29,745,000, to remain available until expended, of which \$500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$1,361,245,000, to remain available until expended.

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

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operation and maintenance), \$13,198,000, to remain available until expended.

(7) For the Coast Guard Reserve program, including personnel and training costs, equipment, and services, \$133,632,000.

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

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 47,000 for the fiscal year ending on September 30, 2010.

(b) MILITARY TRAINING STUDENT LOADS.—For fiscal year 2010, the Coast Guard is authorized average military training student loads as follows:

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

(2) For flight training, 165 student years.

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

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

## TITLE II—COAST GUARD

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

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

**“§ 153. Appointment of judges**

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

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

“153. Appointment of judges.”

**SEC. 202. INDUSTRIAL ACTIVITIES.**

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

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

(2) by adding at the end the following:

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

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

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

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

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

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

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

**SEC. 204. COMMISSIONED OFFICERS.**

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

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

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

“(b) DISTRIBUTION PERCENTAGES BY GRADE.—

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

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

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

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

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

“(c) COMPUTATIONS.—

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

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

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

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

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

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

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

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

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

(1) by striking paragraph (4);

(2) in paragraph (5)—

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

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

(C) by inserting at the end the following:

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

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

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

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

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

(B) by striking subsection (c).

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

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

(B) by striking paragraph (4); and

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

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

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

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

**SEC. 207. EMERGENCY LEAVE RETENTION AUTHORITY.**

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

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

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

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

“426. Emergency leave retention authority.”

**SEC. 208. ENFORCEMENT AUTHORITY.**

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

**“§ 99. Enforcement authority**

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

“(1) carry a firearm; and

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

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

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

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

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

“99. Enforcement authority.”.

**SEC. 209. REPEAL.**

Section 216 of title 14, United States Code, and the item relating to such section in the analysis for chapter 11 of such title, are repealed.

**SEC. 210. MERCHANT MARINER MEDICAL ADVISORY COMMITTEE.**

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

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

“(a) ESTABLISHMENT.—

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

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

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

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

“(C) medical examiner education; and

“(D) medical research.

“(b) MEMBERSHIP.—

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

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

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

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

“(c) APPOINTMENTS; TERMS; VACANCIES.—

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

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

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

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

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

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

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

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

“7115. Merchant Mariner Medical Advisory Committee.”.

**SEC. 211. RESERVE COMMISSIONED WARRANT OFFICER TO LIEUTENANT PROGRAM.**

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

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

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

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

**SEC. 212. ENHANCED STATUS QUO OFFICER PROMOTION SYSTEM.**

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

(1) in section 253(a)—

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

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

(2) in section 258—

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

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

(C) by adding at the end the following:

“(b) PROVISION OF DIRECTION AND GUIDANCE.—

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

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

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

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

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

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

**SEC. 213. LASER TRAINING SYSTEM.**

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

(b) REPORT.—The Secretary shall submit a report to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate within 6 months after the conclusions of the test required under sub-

section (a) on the costs and benefits of using the system regionally and nationwide to train members of the Coast Guard in the use of individual weapons and machine guns.

**SEC. 214. COAST GUARD VESSELS AND AIRCRAFT.**

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

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

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

(3) by adding at the end the following:

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

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

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

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

**SEC. 215. COAST GUARD DISTRICT OMBUDSMEN.**

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

**“§ 55. District Ombudsmen**

“(a) **IN GENERAL.**—The Commandant shall appoint an employee of the Coast Guard in each Coast Guard District as a District Ombudsman to serve as a liaison between ports, terminal operators, shipowners, and labor representatives and the Coast Guard.

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

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

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

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

“(c) **FUNCTIONS.**—

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

“(2) **GUIDELINES FOR DISPUTES.**—

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

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

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

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

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

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

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

“(A) in a timely fashion; and

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

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

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

- “(1) the number of matters brought before each District Ombudsman;
- “(2) a brief summary of each such matter; and
- “(3) the eventual resolution of each such matter.”.

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

“55. District Ombudsmen.”.

**SEC. 216. COAST GUARD COMMISSIONED OFFICERS: COMPULSORY RETIREMENT.**

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended by striking section 293 and inserting the following:

**“§ 293. Compulsory retirement**

“(a) REGULAR COMMISSIONED OFFICERS.—Any regular commissioned officer, except a commissioned warrant officer, serving in a grade below rear admiral (lower half) shall be retired on the first day of the month following the month in which the officer becomes 62 years of age.

“(b) FLAG-OFFICER GRADES.—(1) Except as provided in paragraph (2), any regular commissioned officer serving in a grade of rear admiral (lower half) or above shall be retired on the first day of the month following the month in which the officer becomes 64 years of age.

“(2) The retirement of an officer under paragraph (1) may be deferred—

“(A) by the President, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 68 years of age; or

“(B) by the Secretary of the department in which the Coast Guard is operating, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 66 years of age.”.

(b) CLERICAL AMENDMENT.—The analysis at the beginning of such chapter is amended by striking the item relating to such section and inserting the following:

“293. Compulsory retirement.”.

**SEC. 217. ENFORCEMENT OF COASTWISE TRADE LAWS.**

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

**“§ 100. Enforcement of coastwise trade laws**

“Officers and members of the Coast Guard are authorized to enforce chapter 551 of title 46. The Secretary shall establish a program for these officers and members to enforce that chapter, including the application of those laws to vessels that support the exploration, development, and production of oil, gas, or mineral resources in the Gulf of Mexico.”.

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

“100. Enforcement of coastwise trade laws.”.

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

**SEC. 218. ACADEMY NOMINATIONS.**

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

“(a) CORPS OF CADETS; NUMBER; NOMINATION.—

“(1) The authorized strength of the Corps of Cadets (determined for any academic program year as of the day before the last day of the academic program year) is 1,000, excluding those foreign nationals admitted for instructions pursuant to section 195. Subject to that limitation, cadets are selected as follows:

“(A) Not more than 10 individuals, appointed by the Secretary of Homeland Security, in order of merit as established by competitive examination, from the children of members of the Armed Forces who were killed in action or died of, or have a service-connected disability at not less than 100 per centum resulting from, wounds or injuries received or diseases contracted in, or preexisting injury or disease aggravated by, active service, children of members who are in a ‘missing status’ (as defined in section

551(2) of title 37), and children of civilian employees who are in 'missing status' (as defined in section 5561(5) of title 5). The determination of the Department of Veterans Affairs as to service connection of the cause of death or disability is rated, is binding upon the Secretary.

"(B) Not less than one, nominated at large by the Vice President or, if there is no Vice President, by the President pro tempore of the Senate.

"(C) Not less than one, nominated by each Senator.

"(D) Not less than one, nominated by each Representative in Congress.

"(E) Not less than one, nominated by the Delegate to the House of Representatives from the District of Columbia, the Delegate in Congress from the Virgin Islands, the Resident Commissioner from Puerto Rico, the Delegate in Congress from Guam, the Delegate in Congress from American Samoa, or the Resident Representative from the Commonwealth of the Northern Mariana Islands.

Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner and the Resident Representative, is entitled to nominate 10 persons each year. Cadets who do not graduate on time shall not count against the allocations pursuant to subparagraphs (B)–(E). Nominees may be submitted without ranking or with a principal candidate and 9 ranked or unranked alternates. A nominee not selected for appointment under this paragraph shall be considered an alternate for the purposes of appointment under paragraph (2).

"(2) The Secretary may appoint, each academic program year, individuals who are either—

"(A) alternates nominated pursuant to paragraph (1) (C), (D), or (E); or

"(B) applicants who applied directly for admission.

"(3) In addition, the Secretary may appoint, each academic program year, individuals who are—

"(A) children of members of the Armed Forces who—

"(i) are on active duty (other than for training) and who have served continuously on active duty for at least eight years;

"(ii) are, or who died while they were, retired with pay or granted retired or retainer pay;

"(iii) are serving as members of reserve components and are credited with at least eight years of service;

"(iv) would be, or who died while they would have been, entitled to retired pay, except for not having attained 60 years of age; or

"(v) have been awarded the Medal of Honor;

the total number of whom cannot exceed 5 percent of the class to be admitted; however, a person who is eligible for selection under subsection (a)(1)(A) may not be selected under this subparagraph;

"(B) enlisted members of the Coast Guard or the Coast Guard Reserve, the total number of whom cannot exceed 5 percent of the class to be admitted;

"(C) graduates of the Coast Guard Scholars program, the total number of whom cannot exceed 30 percent of the class to be admitted; and

"(D) individuals who possess qualities that the Superintendent identifies to be of particular value to the Academy and the Service, the total number of whom cannot exceed 20 percent of the class to be admitted.

"(4) An individual shall be qualified for nomination, selection, and appointment as a cadet at the Academy only if the individual—

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

"(B) meets such minimum requirements that the Secretary may establish.

"(5) The Superintendent shall furnish to any Member of Congress, upon the written request of such Member, the name of the Congressman or other nominating authority responsible for the nomination of any named or identified person for appointment to the Academy.

"(6) For purposes of the limitation in subsection (a)(1) establishing the aggregate authorized strength of the Corps of Cadets, the Secretary may, for any academic program year, permit a variance in that limitation by not more than 5 percent. In applying that limitation, and any such variance, the last day of an academic program year shall be considered to be graduation day."

(b) TRANSITION.—This section shall provide for the nomination, selection, and appointment of individuals, pursuant to section 182 of title 14, United States Code, who will matriculate in academic program year 2012 and thereafter, except that for—

(1) academic program year 2012, no less than 135 cadets of the corps (or 14 percent of the corps, whichever is smaller) shall be from nominations made pursuant to section 182(a)(1)(B)–(E);

(2) academic program year 2013, no less than 270 cadets of the corps (or 27 percent of the corps, whichever is smaller) shall be from nominations made pursuant to section 182(a)(1)(B)–(E); and

(3) academic program year 2014, no less than 405 cadets of the corps (or 41 percent of the corps, whichever is smaller) shall be from nominations made pursuant to section 182(a)(1)(B)–(E).

The Secretary is hereby authorized to take any additional action the Secretary believes necessary and proper to provide for the transition to the nomination, selection, and appointment process provided under this section.

(c) **MINORITY RECRUITING PROGRAM.**—

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

**“§ 199. Minority recruiting program**

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

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

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

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

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

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

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

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

“199. Minority recruiting program.”.

**SEC. 219. REPORT ON SEXUAL ASSAULTS IN THE COAST GUARD.**

(a) **IN GENERAL.**—Not later than January 15 of each year, the Commandant of the Coast Guard shall submit a report on the sexual assaults involving members of the Coast Guard to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(b) **CONTENTS.**—The report required under subsection (a) shall contain the following:

(1) The number of sexual assaults against members of the Coast Guard, and the number of sexual assaults by members of the Coast Guard, that were reported to military officials during the year covered by such report, and the number of the cases so reported that were substantiated.

(2) A synopsis of, and the disciplinary action taken in, each substantiated case.

(3) The policies, procedures, and processes implemented by the Secretary concerned during the year covered by such report in response to incidents of sexual assault involving members of the Coast Guard concerned.

(4) A plan for the actions that are to be taken in the year following the year covered by such report on the prevention of and response to sexual assault involving members of the Coast Guard concerned.

**SEC. 220. HOME PORT OF COAST GUARD VESSELS IN GUAM.**

Section 96 of title 14, United States Code, is amended—

(1) by striking “a State of the United States” and inserting “the United States or Guam”; and

(2) by inserting “or Guam” after “outside the United States”.

**SEC. 221. MINORITY SERVING INSTITUTIONS.**

(a) **MSI MANAGEMENT INTERNSHIP PROGRAM.**—

(1) **ESTABLISHMENT AND PURPOSE.**—The Commandant of the Coast Guard shall establish a two part management internship program for students at minority serving institutions (MSI) to intern at Coast Guard headquarters or a Coast Guard regional office, to be known as the “MSI Management Internship Program”, to develop a cadre of civilian, career mid-level and senior managers for the Coast Guard.

(2) **OPERATION.**—The MSI Management Internship Program shall be managed by the Secretary of Homeland Security, acting through the Commandant of the Coast Guard, in coordination with National Association for Equal Opportunity

in Higher Education, the Hispanic Association of Colleges and Universities, and the American Indian Higher Education Consortium and other non-profit educational organizations that can undertake effective recruitment efforts to attract minority students and students with disabilities.

(3) CRITERIA FOR SELECTION.—Participation in the MSI Management Internship Program shall be open to sophomores, juniors, and seniors at minority serving institutions, with an emphasis on such students who are majoring in management or business administration, international affairs, political science, marine sciences, criminal justice, or any other major related to homeland security.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$2,000,000 to the Commandant to carry out this subsection.

(b) MSI INITIATIVES.—

(1) ESTABLISHMENT OF MSI STUDENT PRE-COMMISSIONING INITIATIVE.—The Commandant of the Coast Guard shall establish an MSI component of the College Student Pre-Commissioning Initiative (to be known as the “MSI Student Pre-Commissioning Initiative Program”) to ensure greater participation by students from MSIs in the College Student Pre-Commissioning Initiative.

(2) PARTICIPATION IN OFFICER CANDIDATE SCHOOL.—The Commandant of the Coast Guard shall ensure that graduates of the MSI Student Pre-Commissioning Initiative Program are included in the first enrollment for Officer Candidate School that commences after the date of enactment of this Act and each enrollment period thereafter.

(3) REPORTS.—Not later than 90 days after the conclusion of each academic year with respect to which the College Student Pre-Commissioning Initiative and the MSI Student Pre-Commissioning Initiative Program is carried out beginning with the first full academic year after the date of the enactment of this Act, the Commandant shall submit to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce of the Senate a report on the number of students in the College Student Pre-Commissioning Initiative and the number of students in the MSI Student Pre-Commissioning Initiative Program, outreach efforts, and demographic information of enrollees including, age, gender, race, and disability.

(4) ESTABLISHMENT OF MSI AVIATION OFFICER CORPS INITIATIVE.—The Commandant of the Coast Guard shall establish an MSI Aviation Officer Corps Initiative to increase the diversity of the Coast Guard Aviation Officer Corps through an integrated recruiting, accession, training, and assignment process that offers guaranteed flight school opportunities to students from minority serving institutions.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$3,000,000 to the Commandant to carry out this subsection.

(c) COAST GUARD-MSI COOPERATIVE TECHNOLOGY PROGRAM.—

(1) ESTABLISHMENT.—The Commandant of the Coast Guard shall establish a Coast Guard Laboratory of Excellence-MSI Cooperative Technology Program at three minority serving institutions to focus on priority security areas for the Coast Guard, such as global maritime surveillance, resilience, and recovery.

(2) COLLABORATION.—The Commandant shall encourage collaboration among the minority serving institutions selected under paragraph (1) and institutions of higher education with institutional research and academic program resources and experience.

(3) PARTNERSHIPS.—The heads of the laboratories established at the minority serving institutions pursuant to paragraph (1) may seek to establish partnerships with the private sector, especially small, disadvantaged businesses, to—

(A) develop increased research and development capacity;

(B) increase the number of baccalaureate and graduate degree holders in science, technology, engineering, mathematics (STEM), and information technology or other fields critical to the mission of the Coast Guard; and

(C) strengthen instructional ability among faculty.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$2,500,000 to the Commandant to carry out this subsection, including for instrumentation acquisition and funding undergraduate student scholarships, graduate fellowships, and faculty-post doctoral study.

(d) DEFINITION.—For purposes of this section, the terms “minority serving institution”, “minority serving institutions”, and “MSI” mean a historically Black college or university (as defined in section 322 of the Higher Education Act of 1965), a Hispanic-serving institution (as defined in section 502 of such Act), a Tribal College or University (as defined in section 316 of such Act), a Predominantly Black institution

(as defined in section 499A(c) of such Act), or a Native American-serving nontribal institution (as defined in section 499A(c) of such Act).

## TITLE III—SHIPPING AND NAVIGATION

### SEC. 301. GOODS AND SERVICES.

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

- (1) by striking “or” at the end of paragraph (2)(C);
- (2) by striking the period at the end of paragraph (3) and inserting “; or”; and
- (3) by adding at the end the following:
 

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

### SEC. 302. SEAWARD EXTENSION OF ANCHORAGE GROUNDS JURISDICTION.

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

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

“(a) IN GENERAL.—The”.

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

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

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

### SEC. 303. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENT—SIMPLE POSSESSION.

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

“(c) SIMPLE POSSESSION.—

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

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

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

### SEC. 304. TECHNICAL AMENDMENTS TO TONNAGE MEASUREMENT LAW.

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

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

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

- (3) in subparagraph (B)—

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

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

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

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

(b) DELEGATION OF AUTHORITY.—Section 14103(c) of that title is amended by striking “intended to be engaged on” and inserting “that engages on”.

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

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

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

- (2) in subsection (b)—

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

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

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

(D) by striking paragraph (5);

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

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

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

(3) by striking subsection (c);

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

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

(d) MEASUREMENT.—Section 14302(b) of that title is amended to read as follows: “(b) A vessel measured under this chapter may not be required to be measured under another law.”.

(e) TONNAGE CERTIFICATE.—

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

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

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

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

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

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

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

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

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

“14303. Tonnage Certificate.”.

(f) OPTIONAL REGULATORY MEASUREMENT.—Section 14305(a) of that title is amended by striking “documented vessel measured under this chapter,” and inserting “vessel measured under this chapter that is of United States registry or nationality, or a vessel operated under the authority of the United States,”.

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

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

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

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

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

(1) in paragraph (1)—

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

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

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

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

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

“For a foreign vessel not measured under chapter 143, if the Secretary finds that the laws and regulations of a foreign country related to measurement of vessels are

substantially similar to those of this chapter and the regulations prescribed under this chapter, the Secretary may accept the measurement and certificate of a vessel of that foreign country as complying with this chapter and the regulations prescribed under this chapter.”

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

“14514. Reciprocity for foreign vessels.”

**SEC. 305. ADJUSTMENT OF LIABILITY LIMITS FOR NATURAL GAS DEEPWATER PORTS.**

Section 1004(d)(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(d)(2)) is amended by adding at the end the following:

“(D) The Secretary may establish, by regulation, a limit of liability of not less than \$12,000,000 for a deepwater port used only in connection with transportation of natural gas.”

**SEC. 306. PERIOD OF LIMITATIONS FOR CLAIMS AGAINST OIL SPILL LIABILITY TRUST FUND.**

Section 1012(h)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(h)(1)) is amended by striking “6” and inserting “3”.

**SEC. 307. MERCHANT MARINER DOCUMENT STANDARDS.**

Not later than 270 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(1) a plan to ensure that the process for an application, by an individual who has, or has applied for, a transportation security card under section 70105 of title 46, United States Code, for a merchant mariner document can be completed entirely by mail; and

(2) a report on the feasibility of, and a timeline to, redesign the merchant mariner document to comply with the requirements of such section, including a biometric identifier, and all relevant international conventions, including the International Labour Organization Convention Number 185 concerning the seafarers identity document, and include a review on whether or not such redesign will eliminate the need for separate credentials and background screening and streamline the application process for mariners.

**SEC. 308. REPORT ON COAST GUARD DETERMINATIONS.**

Not later than 180 days after enactment of this Act, the Secretary of Homeland Security shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the loss of United States shipyard jobs and industrial base expertise as a result of rebuild, conversion, and double-hull work on United States-flag vessels eligible to engage in the coastwise trade being performed in foreign shipyards, enforcement of the Coast Guard’s foreign rebuild determination regulations, and recommendations for improving the transparency in the Coast Guard’s foreign rebuild determination process.

**SEC. 309. SHIP EMISSION REDUCTION TECHNOLOGY DEMONSTRATION PROJECT.**

(a) STUDY.—The Commandant of the Coast Guard shall conduct a study—

(1) on the methods and best practices of the use of exhaust emissions reduction technology on cargo or passenger ships that operate in United States waters and ports; and

(2) that identifies the Federal, State, and local laws, regulations, and other requirements that affect the ability of any entity to effectively demonstrate on-board technology for the reduction of contaminated emissions from ships.

(b) REPORT.—Within 180 days after the date of enactment of this Act, the Commandant shall submit a report on the results of the study conducted under subsection (a) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

**SEC. 310. PHASEOUT OF VESSELS SUPPORTING OIL AND GAS DEVELOPMENT.**

(a) IN GENERAL.—Notwithstanding section 12111(d) of title 46, United States Code, foreign-flag vessels may be chartered by, or on behalf of, a lessee to be employed for the setting, relocation, or recovery of anchors or other mooring equipment of a mobile offshore drilling unit that is located over the Outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))) for operations in support of exploration, or flow-testing and stimulation of wells, for offshore mineral or energy resources in the Beaufort Sea or the Chukchi Sea adjacent to Alaska—

(1) for a 1-year period from the date the lessee gives the Secretary of Transportation written notice of the commencement of such exploration drilling if the Secretary determines, after publishing notice in the Federal Register, that insufficient vessels documented under section 12111(d) of title 46, United States Code, are reasonably available and suitable for these support operations and all such reasonably available and suitable vessels are employed in support of such operations; and

(2) for an additional period until such vessels are available if the Secretary of Transportation determines—

(A) that, by April 30 of the year following the commencement of exploration drilling, the lessee has entered into a binding agreement to employ a suitable vessel or vessels to be documented under section 12111(d) of title 46, United States Code, in sufficient numbers and with sufficient suitability to replace any foreign-flag vessel or vessels operating under this section; and

(B) after publishing notice in the Federal Register, that insufficient vessels documented under section 12111(d) of title 46, United States Code, are reasonably available and suitable for these support operations and all such reasonably available and suitable vessels are employed in support of such operations.

(b) EXPIRATION.—Irrespective of the year in which the commitment referred to in subsection (a)(2)(A) occurs, foreign-flag anchor handling vessels may not be employed for the setting, relocation, or recovery of anchors or other mooring equipment of a mobile offshore drilling unit after December 31, 2017.

(c) LESSEE DEFINED.—In this section, the term “lessee” means the holder of a lease (as defined in section 1331(c) of title 43, United States Code), who, prior to giving the written notice in subsection (a)(1), has entered into a binding agreement to employ a suitable vessel documented or to be documented under 12111(d) of title 46, United States Code.

(d) SAVINGS PROVISION.—Nothing in subsection (a) may be construed to authorize the employment in the coastwise trade of a vessel that does not meet the requirements of 12111 of title 46, United States Code.

#### SEC. 311. ARCTIC MARINE SHIPPING ASSESSMENT IMPLEMENTATION.

(a) PURPOSE.—The purpose of this section is to ensure safe, secure, and reliable maritime shipping in the Arctic including the availability of aids to navigation, vessel escorts, spill response capability, and maritime search and rescue in the Arctic.

(b) INTERNATIONAL MARITIME ORGANIZATION AGREEMENTS.—To carry out the purpose of this section, the Secretary of the department in which the Coast Guard is operating shall work through the International Maritime Organization to establish agreements to promote coordinated action among the United States, Russia, Canada, Iceland, Norway, and Denmark and other seafaring and Arctic nations to ensure, in the Arctic—

- (1) placement and maintenance of aids to navigation;
- (2) appropriate icebreaking escort, tug, and salvage capabilities;
- (3) oil spill prevention and response capability;
- (4) maritime domain awareness, including long-range vessel tracking; and
- (5) search and rescue.

(c) COORDINATION BY COMMITTEE ON THE MARITIME TRANSPORTATION SYSTEM.—The Committee on the Maritime Transportation System established under a directive of the President in the Ocean Action Plan, issued December 17, 2004, shall coordinate the establishment of domestic transportation policies in the Arctic necessary to carry out the purpose of this section.

(d) AGREEMENTS AND CONTRACTS.—The Secretary of the department in which the Coast Guard is operating may, subject to the availability of appropriations, enter into cooperative agreements, contracts, or other agreements with, or make grants to individuals and governments to carry out the purpose of this section or any agreements established under subsection (b).

(e) ICEBREAKING.—The Secretary of the department in which the Coast Guard is operating shall promote safe maritime navigation by means of icebreaking where needed to assure the reasonable demands of commerce.

(f) DEMONSTRATION PROJECTS.—The Secretary of Transportation may enter into cooperative agreements, contracts, or other agreements with, or make grants to, individuals to conduct demonstration projects to reduce emissions or discharges from vessels operating in the Arctic.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

- (1) to the Secretary of the department in which the Coast Guard is operating—

(A) \$5,000,000 for each of fiscal years 2011 through 2015 for seasonal operations in the Arctic; and

(B) \$10,000,000 for each of fiscal years 2012 through 2015 to carry out agreements established under subsection (d); and

(2) to the Secretary of Transportation \$5,000,000 for each of fiscal years 2011 through 2015 to conduct demonstration projects under subsection (f).

(h) ICEBREAKERS.—

(1) ANALYSES.—Not later than 90 days after the date of enactment of this Act or the date of completion of the ongoing High Latitude Study to assess Arctic polar ice-breaking mission requirements, which ever occurs later, the Commandant of the Coast Guard shall—

(A) conduct a comparative cost-benefit analysis of—

(i) rebuilding, renovating, or improving the existing fleet of icebreakers for operation by the Coast Guard,

(ii) constructing new icebreakers for operation by the Coast Guard, and

(iii) any combination of the activities described in clauses (i) and (ii), to carry out the missions of the Coast Guard; and

(B) conduct an analysis of the impact on mission capacity and the ability of the United States to maintain a presence in the Arctic regions through the year 2020 if recapitalization of the icebreaker fleet, either by constructing new icebreakers or rebuilding, renovating, or improving the existing fleet of icebreakers, is not fully funded.

(2) REPORTS TO CONGRESS.—

(A) Not later than 90 days after the date of enactment of this Act or the date of completion of the ongoing High Latitude Study to assess Arctic ice-breaking mission requirements, which ever occurs later, the Commandant of the Coast Guard shall submit a report containing the results of the study, together with recommendations the Commandant deems appropriate under section 93(a)(24) of title 14, United States Code, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(B) Not later than 1 year after the date of enactment of this Act, the Commandant shall submit reports containing the results of the analyses required under subparagraphs (A) and (B) of paragraph (1), together with recommendations the Commandant deems appropriate under section 93(a)(24) of title 14, United States Code, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(i) ARCTIC DEFINITION.—In this section the term “Arctic” has the same meaning as in section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111).

**SEC. 312. SUPPLEMENTAL POSITIONING SYSTEM.**

(a) FINDINGS.—The Congress finds the following:

(1) In August 2006, the Department of Transportation and Department of Homeland Security sponsored the formation of an Independent Assessment Team to review the need for enhanced Loran (eLORAN) as a supplement to the Global Positioning System (GPS).

(2) In December 2006, the Independent Assessment Team unanimously recommended that eLORAN be completed and retained as the national backup system for critical safety of life, national and economic security, and quality of life applications currently that are reliant on position, time, or frequency from GPS.

(3) Based on the Independent Assessment Team report, the Department of Transportation and Department of Homeland Security jointly recommended in March 2007 that eLORAN be the national backup for GPS.

(4) The Department of Homeland Security formally announced on February 7, 2008, its intention to implement eLORAN as a national positioning, navigation, and timing system to complement the GPS in the even of an outage or disruption in service.

(5) A recent outage of GPS services in California due to an unintentional jamming incident resulted in the shutdown of the Coast Guard’s maritime Differential Global Positions System program and the Automatic Identification System, caused disruption to vessel and aircraft operations, and severely degraded transmissions at over 150 cell phone base stations.

(6) In January 2009, the Independent Assessment Team reiterated its unanimous recommendation that the Federal Government commit to operating the eLORAN system as a backup to GPS for not less than a 20-year period.

(b) REQUIRED ACTIONS.—The Secretary of the department in which the Coast Guard is operating—

(1) shall establish eLORAN as the supplemental navigation system for the United States;

(2) shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(A) a plan for modernizing the remaining LORAN–C stations;

(B) a timeline for the completion of such modernization; and

(C) a comprehensive estimate of the costs associated with modernizing LORAN–C infrastructure to meet eLORAN specifications; and

(3) may not take action to terminate or decommission the LORAN–C program until 30 days after the Secretary certifies to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that the eLORAN system is operational.

**SEC. 313. DUAL ESCORT VESSELS FOR DOUBLE HULLED TANKERS IN PRINCE WILLIAM SOUND, ALASKA.**

(a) IN GENERAL.—Section 4116(c) of the Oil Pollution Act of 1990 (46 U.S.C. 3703 note; Public Law 101–380) is amended—

(1) by striking “Not later than 6 months” and inserting the following:

“(1) IN GENERAL.—Not later than 180 days”; and

(2) by adding at the end the following:

“(2) PRINCE WILLIAM SOUND, ALASKA.—

“(A) IN GENERAL.—The requirement in paragraph (1) relating to single hulled tankers in Prince William Sound, Alaska, described in that paragraph being escorted by at least 2 towing vessels or other vessels considered to be appropriate by the Secretary (including regulations promulgated in accordance with section 3703(a)(3) of title 46, United States Code, as set forth in part 168 of title 33, Code of Federal Regulations (as in effect on March 1, 2009), implementing this subsection with respect to those tankers) shall apply to double hulled tankers over 5,000 gross tons transporting oil in bulk in Prince William Sound, Alaska.

“(B) IMPLEMENTATION OF REQUIREMENTS.—The Secretary of the Federal agency with jurisdiction over the Coast Guard shall carry out subparagraph (A) by order without notice and hearing pursuant to section 553 of title 5, United States Code.”.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) take effect on the date that is 90 days after the date of enactment of this Act.

## TITLE IV—GREAT LAKES ICEBREAKER

**SEC. 401. SHORT TITLE.**

This title may be cited as the “Great Lakes Icebreaker Replacement Act”.

**SEC. 402. FINDINGS.**

Congress finds that—

(1) five of the Coast Guard’s Great Lakes icebreakers are nearing the end of their useful lives;

(2) two other Coast Guard icebreaking assets have experienced difficulty in heavy ice conditions;

(3) during the spring of 2008, United States-flag vessels operating on the Great Lakes suffered more than \$1,300,000 in damages to their hulls because the Coast Guard did not have enough assets available to keep Great Lakes shipping lanes open;

(4) during the 2006–2007 ice season, shipments of iron ore, coal, and limestone on the Great Lakes exceeded 20,000,000 tons;

(5) during the 2006–2007 ice season, the transportation of 10,400,000 tons of iron ore on the Great Lakes helped support 100,000 jobs at steel mills and 300,000 jobs at supplier industries by keeping those industries working during the winter season; and

(6) the 6,400,000 tons of coal shipped on the Great Lakes during the 2006–2007 ice season kept the Great Lakes region supplied with electricity.

**SEC. 403. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated \$153,000,000 for necessary expenses of the Coast Guard for the design, acquisition, and construction of a combined buoy tender-icebreaker to replace icebreaking capacity on the Great Lakes, to remain available until expended.

## TITLE V—ACQUISITION REFORM

### SEC. 501. SHORT TITLE.

This title may be cited as the “Coast Guard Acquisition Reform Act of 2009”.

### SEC. 502. DEFINITIONS.

In this title, the following definitions apply:

- (1) **APPROPRIATE CONGRESSIONAL COMMITTEES.**—The term “appropriate congressional committees” means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.
- (2) **COMMANDANT.**—The term “Commandant” means the Commandant of the Coast Guard.
- (3) **LEVEL 1 ACQUISITION.**—The term “Level 1 acquisition” means—
- (A) an acquisition by the Coast Guard—
    - (i) the estimated life-cycle costs of which exceed \$1,000,000,000; or
    - (ii) the estimated total acquisition costs of which exceed \$300,000,000; or
  - (B) any acquisition that the Chief Acquisition Officer of the Coast Guard determines to have a special interest—
    - (i) due to—
      - (I) the experimental or technically immature nature of the asset;
      - (II) the technological complexity of the asset;
      - (III) the commitment of resources; or
      - (IV) the nature of the capability or set of capabilities to be achieved; or
    - (ii) because such acquisition is a joint acquisition.
- (4) **LEVEL 2 ACQUISITION.**—The term “Level 2 acquisition” means an acquisition by the Coast Guard—
- (A) the estimated life-cycle costs of which are equal to or less than \$1,000,000,000, but greater than \$300,000,000; or
  - (B) the estimated total acquisition costs of which are equal to or less than \$300,000,000, but greater than \$100,000,000.
- (5) **LIFE-CYCLE COST.**—The term “life-cycle cost” means all costs for development, procurement, construction, and operations and support for a particular capability or asset, without regard to funding source or management control.

## Subtitle A—Restrictions on the Use of Lead Systems Integrators

### SEC. 511. PROCUREMENT STRUCTURE.

#### (a) IN GENERAL.—

- (1) **USE OF LEAD SYSTEMS INTEGRATOR.**—Except as provided in subsection (b), the Commandant may not use a private sector entity as a lead systems integrator for an acquisition contract awarded or delivery order or task order issued after the end of the 180-day period beginning on the date of enactment of this Act.
- (2) **FULL AND OPEN COMPETITION.**—The Commandant and any lead systems integrator engaged by the Coast Guard shall use full and open competition for any acquisition contract awarded after the date of enactment of this Act, unless otherwise excepted in accordance with Federal acquisition laws and regulations promulgated under those laws, including the Federal Acquisition Regulation.
- (3) **NO EFFECT ON SMALL BUSINESS ACT.**—Nothing in this subsection shall be construed to supersede or otherwise affect the authorities provided by and under the Small Business Act (15 U.S.C. 631 et seq.).

#### (b) EXCEPTIONS.—

- (1) **NATIONAL DISTRESS AND RESPONSE SYSTEM MODERNIZATION PROGRAM; NATIONAL SECURITY CUTTERS 2 AND 3.**—Notwithstanding subsections (a) and (e), the Commandant may use a private sector entity as a lead systems integrator for the Coast Guard to complete the National Distress and Response System Modernization Program (otherwise known as the “Rescue 21” program) and National Security Cutters 2 and 3.
- (2) **COMPLETION OF ACQUISITION BY LEAD SYSTEMS INTEGRATOR.**—Notwithstanding subsection (a), the Commandant may use a private sector entity as a lead systems integrator for the Coast Guard—

(A) to complete any delivery order or task order, including the exercise of previously established options on a delivery order or task order that was issued to a lead systems integrator on or before the date that is 180 days after the date of enactment of this Act without any change in the quantity of capabilities or assets or the specific type of capabilities or assets covered by the order;

(B) for a contract awarded after the date that is 180 days after the date of enactment of this Act for acquisition of, or in support of, the HC-130J aircraft, the HH-65 aircraft, or the C4ISR system, if the requirements of subsection (c) are met with respect to such acquisitions;

(C) for a contract awarded after the date that is 180 days after the date of enactment of this Act for acquisition of, or in support of, Maritime Patrol Aircraft, if the requirements of subsection (c) are met with respect to such an acquisition; and

(D) for the acquisition of, or in support of, additional National Security Cutters or Maritime Patrol Aircraft, if the Commandant determines that—

(i) the acquisition is in accordance with Federal acquisition laws and regulations promulgated under those laws, including the Federal Acquisition Regulation;

(ii) the acquisition and the use of a private sector entity as a lead systems integrator for the acquisition are in the best interest of the Federal Government; and

(iii) the requirements of subsection (c) are met with respect to such acquisition.

(3) REPORT ON DECISIONMAKING PROCESS.—If the Commandant determines under subparagraph (B), (C), or (D) of subsection (b)(2) that the Coast Guard will use a private sector lead systems integrator for an acquisition, the Commandant shall notify in writing the appropriate congressional committees of the Commandant's determination and shall provide a detailed rationale for the determination, at least 30 days before the award of a contract or issuance of a delivery order or task order, using a private sector lead systems integrator, including a comparison of the cost of the acquisition through the private sector lead systems integrator with the expected cost if the acquisition were awarded directly to the manufacturer or shipyard. For purposes of that comparison, the cost of award directly to a manufacturer or shipyard shall include the costs of Government contract management and oversight.

(c) LIMITATION ON LEAD SYSTEMS INTEGRATORS.—Neither an entity performing lead systems integrator functions for a Coast Guard acquisition nor a Tier 1 subcontractor for any acquisition described in subparagraph (B), (C), or (D) of subsection (b)(2) may have a financial interest in a subcontractor below the Tier 1 subcontractor level unless—

(1) the subcontractor was selected by the prime contractor through full and open competition for such procurement;

(2) the procurement was awarded by the lead systems integrator or a subcontractor through full and open competition;

(3) the procurement was awarded by a subcontractor through a process over which the lead systems integrator or a Tier 1 subcontractor exercised no control; or

(4) the Commandant has determined that the procurement was awarded in a manner consistent with Federal acquisition laws and regulations promulgated under those laws, including the Federal Acquisition Regulation.

(d) RULE OF CONSTRUCTION.—The limitation in subsection (b)(1)(A) on the quantity and specific type of assets to which subsection (b) applies shall not be construed to apply to the modification of the number or type of any sub-systems or other components of a vessel or aircraft described in subparagraph (B), (C), or (D) of subsection (b)(2).

(e) TERMINATION DATE FOR EXCEPTIONS.—Except as described in subsection (b)(1), the Commandant may not use a private sector entity as a lead systems integrator for acquisition contracts awarded, or task orders or delivery orders issued, after the earlier of—

(1) September 30, 2011; or

(2) the date on which the Commandant certifies in writing to the appropriate congressional committees that the Coast Guard has available and can retain sufficient acquisition workforce personnel and expertise within the Coast Guard, through an arrangement with other Federal agencies, or through contracts or other arrangements with private sector entities, to perform the functions and responsibilities of the lead systems integrator in an efficient and cost-effective manner.

## Subtitle B—Coast Guard Acquisition Policy

### SEC. 521. OPERATIONAL REQUIREMENTS.

(a) **IN GENERAL.**—No Level 1 or Level 2 acquisition program may be initiated by the Coast Guard, and no production contract may be awarded for such an acquisition, unless the Commandant has approved an operational requirement for such acquisition.

(b) **OPERATIONAL REQUIREMENT FOR ACQUISITION PROGRAMS.**—

(1) **IN GENERAL.**—The Commandant shall establish mature and stable operational requirements for acquisition programs.

(2) **ELEMENTS.**—Prior to establishing operational requirements under paragraph (1), the Commandant shall—

(A) prepare a preliminary statement of need, a concept of operations, an analysis of alternatives or the equivalent, an estimate of life-cycle costs, and requirements for interoperability with other capabilities and assets within and external to the Coast Guard; and

(B) in preparing the concept of operations under subparagraph (A), coordinate with acquisition and support professionals, requirements officials, operational users and maintainers, and resource officials who can ensure the appropriate consideration of performance, cost, schedule and risk trade-offs.

(c) **CONSIDERATION OF TRADE-OFFS.**—In establishing operational requirements under subsection (a), the Commandant shall develop and implement mechanisms to ensure that trade-offs among performance, cost, schedule, and risk are considered in the establishment of operational requirements for development and production of a Level 1 or Level 2 acquisition.

(d) **ELEMENTS.**—The mechanisms required under this section shall ensure at a minimum that Coast Guard officials responsible for acquisition management, budget, and cost estimating functions have the authority to develop cost estimates and raise cost and schedule matters at any point in the process of establishing operational requirements for a Level 1 or Level 2 acquisition.

### SEC. 522. REQUIRED CONTRACT TERMS.

(a) **IN GENERAL.**—The Commandant shall ensure that a contract awarded or a delivery order or task order issued for an acquisition of a capability or an asset with an expected service life of 10 years and with a total acquisition cost that is equal to or exceeds \$10,000,000 awarded or issued by the Coast Guard after the date of enactment of this Act—

(1) provides that all certifications for an end-state capability or asset under such contract, delivery order, or task order, respectively, will be conducted by the Commandant or an independent third party, and that self-certification by a contractor or subcontractor is not allowed;

(2) requires that the Commandant shall maintain the authority to establish, approve, and maintain technical requirements;

(3) requires that any measurement of contractor and subcontractor performance be based on the status of all work performed, including the extent to which the work performed met all performance, cost, and schedule requirements;

(4) specifies that, for the acquisition or upgrade of air, surface, or shore capabilities and assets for which compliance with TEMPEST certification is a requirement, the standard for determining such compliance will be the air, surface, or shore standard then used by the Department of the Navy for that type of capability or asset; and

(5) for any contract awarded to acquire an Offshore Patrol Cutter, includes provisions specifying the service life, fatigue life, and days underway in general Atlantic and North Pacific Sea conditions, maximum range, and maximum speed the cutter will be built to achieve.

(b) **PROHIBITED CONTRACT PROVISIONS.**—The Commandant shall ensure that any contract awarded or delivery order or task order issued by the Coast Guard after the date of enactment of this Act does not include any provision allowing for equitable adjustment that differs from the Federal Acquisition Regulation.

(c) **EXTENSION OF PROGRAM.**—Any contract, contract modification, or award term extending a contract with a lead systems integrator—

(1) shall not include any minimum requirements for the purchase of a given or determinable number of specific capabilities or assets; and

(2) shall be reviewed by an independent third party with expertise in acquisition management, and the results of that review shall be submitted to the appropriate congressional committees at least 60 days prior to the award of the contract, contract modification, or award term.

**SEC. 523. LIFE-CYCLE COST ESTIMATES.**

(a) **IN GENERAL.**—The Commandant shall implement mechanisms to ensure the development and regular updating of life-cycle cost estimates for each acquisition with a total acquisition cost that equals or exceeds \$10,000,000 and an expected service life of 10 years, and to ensure that these estimates are considered in decisions to develop or produce new or enhanced capabilities and assets.

(b) **TYPES OF ESTIMATES.**—In addition to life-cycle cost estimates that may be developed by acquisition program offices, the Commandant shall require that an independent life-cycle cost estimate be developed for each Level 1 or Level 2 acquisition program or project.

(c) **REQUIRED UPDATES.**—For each Level 1 or Level 2 acquisition program or project the Commandant shall require that life-cycle cost estimates shall be updated before each milestone decision is concluded and the program or project enters a new acquisition phase.

**SEC. 524. TEST AND EVALUATION.**

(a) **TEST AND EVALUATION MASTER PLAN.**—

(1) **IN GENERAL.**—For any Level 1 or Level 2 acquisition program or project the Coast Guard Chief Acquisition Officer must approve a Test and Evaluation Master Plan specific to the acquisition program or project for the capability, asset, or sub-systems of the capability or asset and intended to minimize technical, cost, and schedule risk as early as practicable in the development of the program or project.

(2) **TEST AND EVALUATION STRATEGY.**—The TEMP shall—

(A) set forth an integrated test and evaluation strategy that will verify that capability-level or asset-level and sub-system-level design and development, including performance and supportability, have been sufficiently proven before the capability, asset, or sub-system of the capability or asset is approved for production; and

(B) require that adequate developmental tests and evaluations and operational tests and evaluations established under subparagraph (A) are performed to inform production decisions.

(3) **OTHER COMPONENTS OF TEMP.**—At a minimum, the TEMP shall identify—

(A) the key performance parameters to be resolved through the integrated test and evaluation strategy;

(B) critical operational issues to be assessed in addition to the key performance parameters;

(C) specific development test and evaluation phases and the scope of each phase;

(D) modeling and simulation activities to be performed, if any, and the scope of such activities;

(E) early operational assessments to be performed, if any, and the scope of such assessments;

(F) operational test and evaluation phases;

(G) an estimate of the resources, including funds, that will be required for all test, evaluation, assessment, modeling, and simulation activities; and

(H) the Government entity or independent entity that will perform the test, evaluation, assessment, modeling, and simulation activities.

(4) **UPDATE.**—The Coast Guard Chief Acquisition Officer shall approve an updated TEMP whenever there is a revision to program or project test and evaluation strategy, scope, or phasing.

(5) **LIMITATION.**—The Coast Guard may not—

(A) proceed past that phase of the acquisition process that entails approving the supporting acquisition of a capability or asset before the TEMP is approved by the Coast Guard Chief Acquisition Officer; or

(B) award any production contract for a capability, asset, or sub-system for which a TEMP is required under this subsection before the TEMP is approved by the Coast Guard Chief Acquisition Officer.

(b) **TESTS AND EVALUATIONS.**—

(1) **IN GENERAL.**—The Commandant shall ensure that the Coast Guard conducts developmental tests and evaluations and operational tests and evaluations of a capability or asset and the sub-systems of the capability or asset for which a TEMP has been prepared under subsection (a).

(2) **USE OF THIRD PARTIES.**—The Commandant shall ensure that the Coast Guard uses third parties with expertise in testing and evaluating the capabilities or assets and the sub-systems of the capabilities or assets being acquired to conduct developmental tests and evaluations and operational tests and evaluations whenever the Coast Guard lacks the capability to conduct the tests and evaluations required by a TEMP.

(3) COMMUNICATION OF SAFETY CONCERNS.—The Commandant shall require that safety concerns identified during developmental or operational tests and evaluations or through independent or Government-conducted design assessments of capabilities or assets and sub-systems of capabilities or assets to be acquired by the Coast Guard shall be communicated as soon as practicable, but not later than 30 days after the completion of the test or assessment event or activity that identified the safety concern, to the program manager for the capability or asset and the sub-systems concerned and to the Coast Guard Chief Acquisition Officer.

(4) REPORTING OF SAFETY CONCERNS.—Any safety concerns that have been reported to the Chief Acquisition Officer for an acquisition program or project shall be reported by the Commandant to the appropriate congressional committees at least 90 days before the award of any contract or issuance of any delivery order or task order for low, initial, or full-rate production of the capability or asset concerned if they will remain uncorrected or unmitigated at the time such a contract is awarded or delivery order or task order is issued. The report shall include a justification for the approval of that level of production of the capability or asset before the safety concern is corrected or mitigated. The report shall also include an explanation of the actions that will be taken to correct or mitigate the safety concern, the date by which those actions will be taken, and the adequacy of current funding to correct or mitigate the safety concern.

(5) ASSET ALREADY IN LOW, INITIAL, OR FULL-RATE PRODUCTION.—If operational test and evaluation on a capability or asset already in low, initial, or full-rate production identifies a safety concern with the capability or asset or any sub-systems of the capability or asset not previously identified during developmental or operational test and evaluation, the Commandant shall—

(A) notify the program manager and the Chief Acquisition Officer of the safety concern as soon as practicable, but not later than 30 days after the completion of the test and evaluation event or activity that identified the safety concern; and

(B) notify the appropriate congressional Committee of the safety concern not later than 30 days after notification is made to the program manager and Chief Acquisition Officer, and include in such notification—

(i) an explanation of the actions that will be taken to correct or mitigate the safety concern in all capabilities or assets and sub-systems of the capabilities or assets yet to be produced, and the date by which those actions will be taken;

(ii) an explanation of the actions that will be taken to correct or mitigate the safety concern in previously produced capabilities or assets and sub-systems of the capabilities or assets, and the date by which those actions will be taken; and

(iii) an assessment of the adequacy of current funding to correct or mitigate the safety concern in capabilities or assets and sub-systems of the capabilities or assets and in previously produced capabilities or assets and sub-systems.

(c) DEFINITIONS.—In this section:

(1) DEVELOPMENTAL TEST AND EVALUATION.—The term “developmental test and evaluation” means—

(A) the testing of a capability or asset and the sub-systems of the capability or asset to determine whether they meet all contractual performance requirements, including technical performance requirements, supportability requirements, and interoperability requirements and related specifications; and

(B) the evaluation of the results of such testing.

(2) OPERATIONAL TEST AND EVALUATION.—The term “operational test and evaluation” means—

(A) the testing of a capability or asset and the sub-systems of the capability or asset, under conditions similar to those in which the capability or asset and subsystems will actually be deployed, for the purpose of determining the effectiveness and suitability of the capability or asset and sub-systems for use by typical Coast Guard users to conduct those missions for which the capability or asset and sub-systems are intended to be used; and

(B) the evaluation of the results of such testing.

(3) SAFETY CONCERN.—The term “safety concern” means any hazard associated with a capability or asset or a sub-system of a capability or asset that is likely to cause serious bodily injury or death to a typical Coast Guard user in testing, maintaining, repairing, or operating the capability, asset, or sub-system or any hazard associated with the capability, asset, or sub-system that is likely

to cause major damage to the capability, asset, or sub-system during the course of its normal operation by a typical Coast Guard user.

(4) TEMP.—The term “TEMP” means a Test and Evaluation Master Plan for which approval is required under this section.

**SEC. 525. CAPABILITY STANDARDS.**

(a) CUTTER CLASSIFICATION.—The Commandant shall cause each cutter, other than a National Security Cutter, acquired by the Coast Guard and delivered after the date of enactment of this Act to be classed by the American Bureau of Shipping before final acceptance.

(b) TEMPEST TESTING.—The Commandant shall—

(1) cause all electronics on all aircraft, surface, and shore capabilities and assets that require TEMPEST certification and that are delivered after the date of enactment of this Act to be tested in accordance with TEMPEST standards and communication security (COMSEC) standards by an independent third party that is authorized by the Federal Government to perform such testing; and

(2) certify that the capabilities and assets meet all applicable TEMPEST requirements.

(c) NATIONAL SECURITY CUTTERS.—

(1) NATIONAL SECURITY CUTTERS 1 AND 2.—Not later than 90 days before the Coast Guard awards any contract or issues any delivery order or task order to strengthen the hull of either of National Security Cutter 1 or 2 to resolve the structural design and performance issues identified in the Department of Homeland Security Inspector General’s report OIG–07–23 dated January 2007, the Commandant shall submit to the appropriate congressional committees and the Committee on Homeland Security of the House of Representatives all results of an assessment of the proposed hull strengthening design conducted by the Coast Guard, including—

(A) a description in detail of the extent to which the hull strengthening measures to be implemented on those cutters will enable the cutters to meet contract and performance requirements;

(B) a cost benefit analysis of the proposed hull strengthening measures for National Security Cutters 1 and 2; and

(C) a description of any operational restrictions that would have to be applied to either National Security Cutter 1 or 2 if the proposed hull strengthening measures were not implemented on either cutter.

(2) OTHER VESSELS.—The Commandant shall cause the design and construction of each National Security Cutter, other than National Security Cutters 1, 2, and 3, to be assessed by an independent third party with expertise in vessel design and construction certification.

(d) AIRCRAFT AIRWORTHINESS.—The Commandant shall cause all aircraft and aircraft engines acquired by the Coast Guard and delivered after the date of enactment of this Act to be assessed for airworthiness by an independent third party with expertise in aircraft and aircraft engine certification, before final acceptance.

**SEC. 526. ACQUISITION PROGRAM REPORTS.**

Any Coast Guard Level 1 or Level 2 acquisition program or project may not begin to obtain any capability or asset or proceed beyond that phase of its development that entails approving the supporting acquisition until the Commandant submits to the appropriate congressional committees the following:

(1) The key performance parameters, the key system attributes, and the operational performance attributes of the capability and asset to be acquired under the proposed acquisition program or project will be built to achieve.

(2) A detailed list of the systems or other capabilities with which the capability or asset to be acquired is intended to be interoperable, including an explanation of the attributes of interoperability.

(3) The anticipated acquisition program baseline and acquisition unit cost for the capability or asset to be produced and deployed under the program or project.

(4) A detailed schedule for the acquisition process showing when all capability and asset acquisitions are to be completed and when all acquired capabilities and assets are to be initially and fully deployed.

**SEC. 527. UNDEFINITE CONTRACTUAL ACTIONS.**

(a) IN GENERAL.—The Coast Guard may not enter into an undefinitized contractual action unless such action is directly approved by the Head of Contracting Activity of the Coast Guard.

(b) REQUESTS FOR UNDEFINITE CONTRACTUAL ACTIONS.—Any request to the Head of Contracting Activity for approval of an undefinitized contractual action cov-

ered under subsection (a) must include a description of the anticipated effect on requirements of the Coast Guard if a delay is incurred for the purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

(c) REQUIREMENTS FOR UNDEFINITIZED CONTRACTUAL ACTIONS.—

(1) DEADLINE FOR AGREEMENT ON TERMS, SPECIFICATIONS, AND PRICE.—A contracting officer of the Coast Guard may not enter into an undefinitized contractual action unless the contractual action provides for agreement upon contractual terms, specification, and price by the earlier of—

(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price; or

(B) the date on which the amount of funds obligated under the contractual action is equal to more than 50 percent of the negotiated overall ceiling price for the contractual action.

(2) LIMITATION ON OBLIGATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the contracting officer for an undefinitized contractual action may not obligate under such contractual action an amount that exceeds 50 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

(B) EXCEPTION.—Notwithstanding subparagraph (A), if a contractor submits a qualifying proposal to definitize an undefinitized contractual action before an amount that exceeds 50 percent of the negotiated overall ceiling price is obligated on such action, the contracting officer for such action may not obligate with respect to such contractual action an amount that exceeds 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

(3) WAIVER.—The Commandant may waive the application of this subsection with respect to a contract if the Commandant determines that the waiver is necessary to support—

(A) a contingency operation (as that term is defined in section 101(a)(13) of title 10, United States Code);

(B) an operation in response to an emergency that poses an unacceptable threat to human health or safety or to the marine environment; or

(C) an operation in response to a natural disaster or major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(4) LIMITATION ON APPLICATION.—This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

(d) INCLUSION OF NONURGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action by the Coast Guard for spare parts and support equipment that are needed on an urgent basis unless the Commandant approves such inclusion as being—

(1) good business practice; and

(2) in the best interests of the United States.

(e) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the Commandant approves such modification as being—

(1) good business practice; and

(2) in the best interests of the United States.

(f) ALLOWABLE PROFIT.—The Commandant shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

(g) DEFINITIONS.—In this section:

(1) UNDEFINITIZED CONTRACTUAL ACTION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the term “undefinitized contractual action” means a new procurement action entered into by the Coast Guard for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action.

(B) EXCLUSION.—Such term does not include contractual actions with respect to the following:

(i) Foreign military sales.

(ii) Purchases in an amount not in excess of the amount of the simplified acquisition threshold.

(iii) Special access programs.

(2) **QUALIFYING PROPOSAL.**—The term “qualifying proposal” means a proposal that contains sufficient information to enable complete and meaningful audits of the information contained in the proposal as determined by the contracting officer.

**SEC. 528. GUIDANCE ON EXCESSIVE PASS-THROUGH CHARGES.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Commandant shall issue guidance to ensure that pass-through charges on contracts, subcontracts, delivery orders, and task orders that are entered into with a private entity acting as a lead systems integrator by or on behalf of the Coast Guard are not excessive in relation to the cost of work performed by the relevant contractor or subcontractor. The guidance shall, at a minimum—

(1) set forth clear standards for determining when no, or negligible, value has been added to a contract by a contractor or subcontractor;

(2) set forth procedures for preventing the payment by the Government of excessive pass-through charges; and

(3) identify any exceptions determined by the Commandant to be in the best interest of the Government.

(b) **EXCESSIVE PASS-THROUGH CHARGE DEFINED.**—In this section the term “excessive pass-through charge”, with respect to a contractor or subcontractor that adds no, or negligible, value to a contract or subcontract, means a charge to the Government by the contractor or subcontractor that is for overhead or profit on work performed by a lower-tier contractor or subcontractor, other than reasonable charges for the direct costs of managing lower-tier contractors and subcontracts and overhead and profit based on such direct costs.

(c) **APPLICATION OF GUIDANCE.**—The guidance under this subsection shall apply to contracts awarded to a private entity acting as a lead systems integrator by or on behalf of the Coast Guard on or after the date that is 360 days after the date of enactment of this Act.

**SEC. 529. ACQUISITION OF MAJOR CAPABILITIES: ALTERNATIVES ANALYSIS.**

The Coast Guard may not acquire an experimental or technically immature capability or asset or implement a Level 1 or Level 2 acquisition, unless it has conducted an alternatives analysis for the capability or asset to be acquired in the concept and technology development phase of the acquisition process for the capability or asset. Such analysis shall be conducted by a federally funded research and development center, a qualified entity of the Department of Defense, or a similar independent third party entity that has appropriate acquisition expertise. Such alternatives analysis shall include—

(1) an assessment of the technical maturity of the capability or asset and technical and other risks;

(2) an examination of capability, interoperability, and other advantages and disadvantages;

(3) an evaluation of whether different combinations or quantities of specific capabilities or assets could meet the Coast Guard’s overall performance needs;

(4) a discussion of key assumptions and variables, and sensitivity to change in such assumptions and variables;

(5) when an alternative is an existing capability, asset, or prototype, an evaluation of relevant safety and performance records and costs;

(6) a calculation of life-cycle costs, including—

(A) an examination of development costs and the levels of uncertainty associated with such estimated costs;

(B) an examination of likely production and deployment costs and the levels of uncertainty associated with such estimated costs;

(C) an examination of likely operating and support costs and the levels of uncertainty associated with such estimated costs;

(D) if they are likely to be significant, an examination of likely disposal costs and the levels of uncertainty associated with such estimated costs; and

(E) such additional measures the Commandant determines to be necessary for appropriate evaluation of the capability or asset; and

(7) the business case for each viable alternative.

**SEC. 530. COST OVERRUNS AND DELAYS.**

(a) **IN GENERAL.**—The Commandant shall submit a report to the appropriate congressional committees as soon as possible, but not later than 30 days, after the

Chief Acquisition Officer of the Coast Guard becomes aware of the breach of an acquisition program baseline for any Level 1 or Level 2 acquisition program, by—

- (1) a likely cost overrun greater than 10 percent of the acquisition program baseline for that individual capability or asset or a class of capabilities or assets;
  - (2) a likely delay of more than 180 days in the delivery schedule for any individual capability or asset or class of capabilities or assets; or
  - (3) an anticipated failure for any individual capability or asset or class of capabilities or assets to satisfy any key performance threshold or parameter under the acquisition program baseline.
- (b) **CONTENT.**—The report submitted under subsection (a) shall include—
- (1) a detailed description of the breach and an explanation of its cause;
  - (2) the projected impact to performance, cost, and schedule;
  - (3) an updated acquisition program baseline and the complete history of changes to the original acquisition program baseline;
  - (4) the updated acquisition schedule and the complete history of changes to the original schedule;
  - (5) a full life-cycle cost analysis for the capability or asset or class of capabilities or assets;
  - (6) a remediation plan identifying corrective actions and any resulting issues or risks; and
  - (7) a description of how progress in the remediation plan will be measured and monitored.
- (c) **SUBSTANTIAL VARIANCES IN COSTS OR SCHEDULE.**—If a likely cost overrun is greater than 20 percent or a likely delay is greater than 12 months from the costs and schedule described in the acquisition program baseline for any Level 1 or Level 2 acquisition program or project of the Coast Guard, the Commandant shall include in the report a written certification, with a supporting explanation, that—
- (1) the capability or asset or capability or asset class to be acquired under the program or project is essential to the accomplishment of Coast Guard missions;
  - (2) there are no alternatives to such capability or asset or capability or asset class which will provide equal or greater capability in both a more cost-effective and timely manner;
  - (3) the new acquisition schedule and estimates for total acquisition cost are reasonable; and
  - (4) the management structure for the acquisition program is adequate to manage and control performance, cost, and schedule.

**SEC. 531. REPORT ON FORMER COAST GUARD OFFICIALS EMPLOYED BY CONTRACTORS TO THE AGENCY.**

(a) **REPORT REQUIRED.**—Not later than December 31, 2009, and annually thereafter, the Comptroller General of the United States shall submit a report to the appropriate congressional committees on the employment during the preceding year by Coast Guard contractors of individuals who were Coast Guard officials in the previous 5-year period. The report shall assess the extent to which former Coast Guard officials were provided compensation by Coast Guard contractors in the preceding calendar year.

(b) **OBJECTIVES OF REPORT.**—At a minimum, the report required by this section shall assess the extent to which former Coast Guard officials who receive compensation from Coast Guard contractors have been assigned by those contractors to work on contracts or programs between the contractor and the Coast Guard, including contracts or programs for which the former official personally had oversight responsibility or decisionmaking authority when they served in or worked for the Coast Guard.

(c) **CONFIDENTIALITY REQUIREMENT.**—The report required by this subsection shall not include the names of the former Coast Guard officials who receive compensation from Coast Guard contractors.

(d) **ACCESS TO INFORMATION.**—A Coast Guard contractor shall provide the Comptroller General access to information requested by the Comptroller General for the purpose of conducting the study required by this section.

(e) **DEFINITIONS.**—In this section:

(1) **COAST GUARD CONTRACTOR.**—The term “Coast Guard contractor” includes any person that received at least \$10,000,000 in contractor awards from the Coast Guard in the calendar year covered by the annual report.

(2) **COAST GUARD OFFICIAL.**—The term “Coast Guard official” includes former officers of the Coast Guard who were compensated at a rate of pay for grade O-7 or above during the calendar year prior to the date on which they separated from the Coast Guard, and former civilian employees of the Coast Guard who served at any level of the Senior Executive Service under subchapter VIII

of chapter 53 of title 5, United States Code, during the calendar year prior to the date on which they separated from the Coast Guard.

**SEC. 532. DEPARTMENT OF DEFENSE CONSULTATION.**

(a) **IN GENERAL.**—The Commandant shall make arrangements as appropriate with the Secretary of Defense for support in contracting and management of Coast Guard acquisition programs. The Commandant shall also seek opportunities to make use of Department of Defense contracts, and contracts of other appropriate agencies, to obtain the best possible price for capabilities and assets acquired for the Coast Guard.

(b) **INTER-SERVICE TECHNICAL ASSISTANCE.**—The Commandant may enter into a memorandum of understanding or a memorandum of agreement with the Secretary of the Navy to obtain the assistance of the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including the Navy Systems Commands, with the oversight of Coast Guard major acquisition programs. Such memorandum of understanding or memorandum of agreement shall, at a minimum, provide for—

(1) the exchange of technical assistance and support that the Coast Guard Chief Acquisition Officer, Coast Guard Chief Engineer, and the Coast Guard Chief Information Officer may identify;

(2) the use, as appropriate, of Navy technical expertise; and

(3) the temporary assignment or exchange of personnel between the Coast Guard and the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including Naval Systems Commands, to facilitate the development of organic capabilities in the Coast Guard.

(c) **TECHNICAL REQUIREMENT APPROVAL PROCEDURES.**—The Coast Guard Chief Acquisition Officer shall adopt, to the extent practicable, procedures that are similar to those used by the senior procurement executive of the Department of the Navy to approve all technical requirements.

(d) **ASSESSMENT.**—Within 180 days after the date of enactment of this Act, the Comptroller General shall transmit a report to the appropriate congressional committees that—

(1) contains an assessment of current Coast Guard acquisition and management capabilities to manage Level 1 and Level 2 acquisitions;

(2) includes recommendations as to how the Coast Guard can improve its acquisition management, either through internal reforms or by seeking acquisition expertise from the Department of Defense; and

(3) addresses specifically the question of whether the Coast Guard can better leverage Department of Defense or other agencies' contracts that would meet the needs of Level 1 or Level 2 acquisitions in order to obtain the best possible price.

## **Subtitle C—Coast Guard Personnel**

**SEC. 541. CHIEF ACQUISITION OFFICER.**

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

**“§ 56. Chief Acquisition Officer**

“(a) **ESTABLISHMENT OF CHIEF ACQUISITION OFFICER.**—There shall be in the Coast Guard a Chief Acquisition Officer selected by the Commandant who shall be a Rear Admiral or civilian from the Senior Executive Service (career reserved) and who meets the qualifications set forth under subsection (b). The Chief Acquisition Officer shall serve at the Assistant Commandant level and have acquisition management as that individual's primary duty.

“(b) **QUALIFICATIONS.**—

“(1) The Chief Acquisition Officer and any Flag Officer serving in the Acquisitions Directorate shall be an acquisition professional with a program manager level III certification and must have at least 10 years experience in an acquisition position, of which at least 4 years were spent in one of the following qualifying positions:

“(A) Program executive officer.

“(B) Program manager of a Level 1 or Level 2 acquisition.

“(C) Deputy program manager of a Level 1 or Level 2 acquisition.

“(D) Project manager for a Level 1 or Level 2 acquisition.

“(E) Any other acquisition position of significant responsibility in which the primary duties are supervisory or management duties.

“(2) The Commandant shall periodically publish a list of the positions designated under this subsection.

“(c) **AUTHORITY AND FUNCTIONS OF THE CHIEF ACQUISITION OFFICER.**—The functions of the Chief Acquisition Officer shall include—

“(1) monitoring the performance of programs and projects on the basis of applicable performance measurements and advising the Commandant, through the chain of command, regarding the appropriate business strategy to achieve the missions of the Coast Guard;

“(2) maximizing the use of full and open competition at the prime contract and subcontract levels in the acquisition of property, capabilities, assets, and services by the Coast Guard by establishing policies, procedures, and practices that ensure that the Coast Guard receives a sufficient number of sealed bids or competitive proposals from responsible sources to fulfill the Government’s requirements, including performance and delivery schedules, at the lowest cost or best value considering the nature of the property, capability, asset, or service procured;

“(3) making acquisition decisions in concurrence with the technical authority of the Coast Guard, as designated by the Commandant, and consistent with all other applicable laws and decisions establishing procedures within the Coast Guard;

“(4) ensuring the use of detailed performance specifications in instances in which performance based contracting is used;

“(5) managing the direction of acquisition policy for the Coast Guard, including implementation of the unique acquisition policies, regulations, and standards of the Coast Guard;

“(6) developing and maintaining an acquisition career management program in the Coast Guard to ensure that there is an adequate acquisition workforce;

“(7) assessing the requirements established for Coast Guard personnel regarding knowledge and skill in acquisition resources and management and the adequacy of such requirements for facilitating the achievement of the performance goals established for acquisition management;

“(8) developing strategies and specific plans for hiring, training, and professional development; and

“(9) reporting to the Commandant, through the chain of command, on the progress made in improving acquisition management capability.”

(b) **APPLICATION OF QUALIFICATION REQUIREMENT.**—Section 56(b) of title 14, United States Code, as amended by this section, shall apply beginning October 1, 2011.

(c) **CLERICAL AMENDMENT.**—The table of sections at the beginning of such chapter is further amended by adding at the end the following:

“56. Chief Acquisition Officer.”.

(d) **ELEVATION OF DISPUTES TO THE CHIEF ACQUISITION OFFICER.**—Within 45 days after the elevation to the Chief Acquisition Officer of any design or other dispute regarding a Level 1 or Level 2 acquisition, the Commandant shall provide to the appropriate congressional committees a detailed description of the issue and the rationale underlying the decision taken by the Chief Acquisition Officer to resolve the issue.

(e) **SPECIAL RATE SUPPLEMENTS.**—

(1) **REQUIREMENT TO ESTABLISH.**—Not later than 1 year after the date of enactment of this Act and in accordance with part 9701.333 of title 5, Code of Federal Regulations, the Commandant shall establish special rate supplements that provide higher pay levels for employees necessary to carry out the amendment made by this section.

(2) **SUBJECT TO APPROPRIATIONS.**—The requirement under paragraph (1) is subject to the availability of appropriations.

**SEC. 542. IMPROVEMENTS IN COAST GUARD ACQUISITION MANAGEMENT.**

(a) **PROGRAM AND PROJECT MANAGERS.**—An individual may not be assigned as the program manager for a Level 1 or Level 2 acquisition unless the individual holds a Level III acquisition certification as a program manager.

(b) **INTEGRATED PRODUCT TEAMS.**—Integrated product teams, and all teams that oversee integrated product teams, shall be chaired by officers, members, or employees of the Coast Guard.

(c) **TECHNICAL AUTHORITY.**—The Commandant shall maintain or designate the technical authority to establish, approve, and maintain technical requirements. Any such designation shall be made in writing and may not be delegated to the authority of the Chief Acquisition Officer established by section 55 of title 14, United States Code.

(d) **DESIGNATION OF POSITIONS IN THE ACQUISITION WORKFORCE.**—

- (1) IN GENERAL.—The Commandant shall designate a sufficient number of positions to be in the Coast Guard's acquisition workforce to perform acquisition-related functions at Coast Guard headquarters and field activities.
- (2) REQUIRED POSITIONS.—In designating positions under subsection (a), the Commandant shall include, at a minimum, positions encompassing the following competencies and functions:
- (A) Program management.
  - (B) Systems planning, research, development, engineering, and testing.
  - (C) Procurement, including contracting.
  - (D) Industrial and contract property management.
  - (E) Life-cycle logistics.
  - (F) Quality control and assurance.
  - (G) Manufacturing and production.
  - (H) Business, cost estimating, financial management, and auditing.
  - (I) Acquisition education, training, and career development.
  - (J) Construction and facilities engineering.
  - (K) Testing and evaluation.
- (3) ACQUISITION MANAGEMENT HEADQUARTER ACTIVITIES.—The Commandant shall also designate as positions in the acquisition workforce under paragraph (1) those acquisition-related positions located at Coast Guard headquarters units.
- (4) APPROPRIATE EXPERTISE REQUIRED.—The Commandant shall ensure that each individual assigned to a position in the acquisition workforce has the appropriate expertise to carry out the responsibilities of that position.
- (e) MANAGEMENT INFORMATION SYSTEM.—
- (1) IN GENERAL.—The Commandant shall establish a management information system capability to improve acquisition workforce management and reporting.
- (2) INFORMATION MAINTAINED.—Information maintained with such capability shall include the following standardized information on individuals assigned to positions in the workforce:
- (A) Qualifications, assignment history, and tenure of those individuals assigned to positions in the acquisition workforce or holding acquisition-related certifications.
  - (B) Promotion rates for officers and members of the Coast Guard in the acquisition workforce.
- (f) REPORT ON ADEQUACY OF ACQUISITION WORKFORCE.—
- (1) IN GENERAL.—The Commandant shall report to the Congress by July 1 of each year on the scope of the acquisition activities to be performed in the next fiscal year and on the adequacy of the current acquisition workforce to meet that anticipated workload.
- (2) CONTENTS.—The report shall—
- (A) specify the number of officers, members, and employees of the Coast Guard currently and planned to be assigned to each position designated under subsection (d); and
  - (B) identify positions that are understaffed to meet the anticipated acquisition workload, and actions that will be taken to correct such understaffing.
- (g) APPOINTMENTS TO ACQUISITION POSITIONS.—The Commandant shall ensure that no requirement or preference for officers or members of the Coast Guard is used in the consideration of persons for positions in the acquisition workforce.
- (h) CAREER PATHS.—
- (1) IDENTIFICATION OF CAREER PATHS.—To establish acquisition management as a core competency of the Coast Guard, the Commandant shall—
- (A) ensure that career paths for officers, members, and employees of the Coast Guard who wish to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression of those officers, members, and employees to the most senior positions in the acquisition workforce; and
  - (B) publish information on such career paths.
- (2) PROMOTION PARITY.—The Commandant shall ensure that promotion parity is established for officers and members of the Coast Guard who have been assigned to the acquisition workforce relative to officers and members who have not been assigned to the acquisition workforce.
- (i) BALANCED WORKFORCE POLICY.—In the development of acquisition workforce policies under this section with respect to any civilian employees or applicants for employment, the Commandant shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, United States Code, take into consideration the need to maintain a balanced workforce in which women and

members of racial and ethnic minority groups are appropriately represented in Government service.

(j) **GUIDANCE ON TENURE AND ACCOUNTABILITY OF PROGRAM MANAGERS.—**

(1) **ISSUANCE OF GUIDANCE.—**Not later than 1 year after the date of enactment of this Act, the Commandant shall issue guidance to address the qualifications, resources, responsibilities, tenure, and accountability of program managers for the management of acquisition programs and projects. The guidance shall address, at a minimum—

(A) the qualifications that shall be required of program managers, including the number of years of acquisition experience and the professional training levels to be required of those appointed to program management positions;

(B) authorities available to program managers, including, to the extent appropriate, the authority to object to the addition of new program requirements that would be inconsistent with the parameters established for an acquisition program; and

(C) the extent to which a program manager who initiates a new program or project will continue in management of that program or project without interruption until the delivery of the first production units of the program.

(2) **STRATEGY.—**

(A) **IN GENERAL.—**Not later than 18 months after the date of enactment of this Act, the Commandant shall develop a comprehensive strategy for enhancing the role of Coast Guard program managers in developing and carrying out acquisition programs.

(B) **MATTERS TO BE ADDRESSED.—**The strategy required by this section shall address, at a minimum—

(i) the creation of a specific career path and career opportunities for individuals who are or may become program managers, including the rotational assignments that will be provided to program managers;

(ii) the provision of enhanced training and educational opportunities for individuals who are or may become program managers;

(iii) the provision of mentoring support to current and future program managers by experienced senior executives and program managers within the Coast Guard, and through rotational assignments to the Department of Defense;

(iv) the methods by which the Coast Guard will collect and disseminate best practices and lessons learned on systems acquisition to enhance program management throughout the Coast Guard;

(v) the templates and tools that will be used to support improved data gathering and analysis for program management and oversight purposes, including the metrics that will be utilized to assess the effectiveness of Coast Guard program managers in managing systems acquisition efforts;

(vi) a description in detail of how the Coast Guard will promote a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service; and

(vii) the methods by which the accountability of program managers for the results of acquisition programs will be increased.

**SEC. 543. RECOGNITION OF COAST GUARD PERSONNEL FOR EXCELLENCE IN ACQUISITION.**

(a) **IN GENERAL.—**Not later than 180 days after the date of enactment of this Act, the Commandant shall commence implementation of a program to recognize excellent performance by individuals and teams comprised of officers, members, and employees of the Coast Guard that contributed to the long-term success of a Coast Guard acquisition program or project.

(b) **ELEMENTS.—**The program required by subsection (a) shall include the following:

(1) Specific award categories, criteria, and eligibility and manners of recognition.

(2) Procedures for the nomination by personnel of the Coast Guard of individuals and teams comprised of officers, members, and employees of the Coast Guard for recognition under the program.

(3) Procedures for the evaluation of nominations for recognition under the program by one or more panels of individuals from the Government, academia, and the private sector who have such expertise and are appointed in such manner as the Commandant shall establish for the purposes of this program.

(c) **AWARD OF CASH BONUSES.—**As part of the program required by subsection (a), the Commandant, subject to the availability of appropriations, may award to any

individual recognized pursuant to the program a cash bonus to the extent that the performance of such individual so recognized warrants the award of such bonus.

**SEC. 544. COAST GUARD ACQUISITION WORKFORCE EXPEDITED HIRING AUTHORITY.**

(a) IN GENERAL.—For purposes of sections 3304, 5333, and 5753 of title 5, United States Code, the Commandant may—

- (1) designate any category of acquisition positions within the Coast Guard as shortage category positions; and
- (2) use the authorities in such sections to recruit and appoint highly qualified persons directly to positions so designated.

(b) LIMITATION.—The Commandant may not appoint a person to a position of employment under this subsection after September 30, 2012.

## **TITLE VI—MARITIME WORKFORCE DEVELOPMENT**

**SEC. 601. SHORT TITLE.**

This title may be cited as the “Maritime Workforce Development Act”.

**SEC. 602. MARITIME EDUCATION LOAN PROGRAM.**

(a) IN GENERAL.—Chapter 517 of title 46, United States Code, is amended by adding at the end the following:

**“§ 51705. Maritime career training loan program**

“(a) ESTABLISHMENT.—The Secretary of Transportation shall establish a maritime career training loan program (in this section referred to as the ‘program’) in accordance with the requirements of this section.

“(b) PURPOSE.—The purpose of the program shall be to make maritime career training loans available to eligible students to provide for the training of United States mariners.

“(c) ADMINISTRATION.—The program shall be carried out by the Secretary, acting through the Administrator of the Maritime Administration.

“(d) DUTIES.—The Secretary shall—

- “(1) allocate, on an annual basis, the award of loans under the program based on the needs of students;
- “(2) develop an application process and eligibility criteria for the award of loans under the program;
- “(3) approve applications for loans under the program based on the eligibility criteria and allocations made under paragraph (1); and
- “(4) designate maritime training institutions at which loans made under the program may be used.

“(e) DESIGNATION OF MARITIME TRAINING INSTITUTIONS.—

“(1) IN GENERAL.—In designating maritime training institutions under subsection (d)(4), the Secretary—

“(A) may include Federal, State, and commercial training institutions and nonprofit training organizations, except that undergraduate students at the United States Merchant Marine Academy shall not be eligible for loans under the program;

“(B) shall designate institutions based on geographic diversity and scope of classes offered;

“(C) shall ensure that designated institutions have the ability to administer the program; and

“(D) shall ensure that designated institutions meet requirements to provide training instruction for appropriate Coast Guard-approved training instruction.

“(2) EXCLUSIONS.—The Secretary—

“(A) may exclude from participation in the program a maritime training institution that has had severe performance deficiencies, including deficiencies demonstrated by audits or program reviews conducted during the 5 calendar years immediately preceding the present year;

“(B) shall exclude from participation in the program a maritime training institution that has delinquent or outstanding debts to the United States, unless such debts are being repaid under or in accordance with a repayment arrangement satisfactory to the United States, or the Secretary in the Secretary’s discretion determines that the existence or amount of any such debts has not been finally determined by the appropriate Federal agency;

“(C) may exclude from participation in the program a maritime training institution that has failed to comply with quality standards established by the Department of Labor, the Coast Guard, or a State; and

“(D) may establish such other criteria as the Secretary determines will protect the financial interest of the United States and promote the purposes of this section.

“(f) STATE MARITIME ACADEMIES.—

“(1) USE OF FUNDS FOR LOANS TO STUDENTS ATTENDING STATE MARITIME ACADEMIES.—The Secretary may obligate not more than 50 percent of the amounts appropriated to carry out this section for a fiscal year for loans to undergraduate students attending State maritime academies receiving assistance under chapter 515 of this title.

“(2) ACADEMIC STANDARDS FOR STUDENTS.—Students at State maritime academies receiving loans under the program shall maintain satisfactory progress toward the completion of their course of study as evidenced by the maintenance of a cumulative C average, or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution.

“(g) LOAN AMOUNTS AND USE.—

“(1) MAXIMUM AMOUNTS.—The Secretary may not make loans to a student under the program in an amount that exceeds \$15,000 in a calendar year or \$60,000 in the aggregate.

“(2) USE OF LOAN PROCEEDS.—A student who receives a loan under the program may use the proceeds of the loan only for postsecondary expenses incurred at an institution designated by the Secretary under subsection (d)(4) for books, tuition, required fees, travel to and from training facilities, and room and board.

“(h) STUDENT ELIGIBILITY.—To be eligible to receive a loan under the program, a student shall—

“(1) be eligible to hold a license or merchant mariner document issued by the Coast Guard;

“(2) provide to the Secretary such information as the Secretary may require, including all current Coast Guard documents, certifications, proof of United States citizenship or permanent legal status, and a statement of intent to enter a maritime career;

“(3) meet the enrollment requirements of a maritime training institution designated by the Secretary under subsection (d)(4); and

“(4) sign an agreement to—

“(A) complete a course of instruction at such a maritime training institution; and

“(B)(i) maintain a license and serve as an officer in the merchant marine on a documented vessel or a vessel owned and operated by the United States for at least 18 months of service at sea following the date of graduation from the maritime program for which the loan proceeds will be used;

or

“(ii) serve as an unlicensed merchant mariner on a documented vessel or a vessel owned and operated by the United States for at least 18 months of service at sea following the date of graduation from the maritime program for which the loan proceeds will be used.

“(i) ADMINISTRATION OF LOANS.—

“(1) CONTENTS OF LOAN AGREEMENTS.—Any agreement between the Secretary and a student borrower for a loan under the program shall—

“(A) be evidenced by a note or other written instrument that provides for the repayment of the principal amount of the loan and any origination fee, together with interest thereon, in equal installments (or, if the student borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Secretary) payable quarterly, bimonthly, or monthly, at the option of the student borrower, over a period beginning 9 months from the date on which the student borrower completes study or discontinues attendance at the maritime program for which the loans are used at the institution approved by the Secretary and not exceeding 10 years;

“(B) include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the student borrower;

“(C) provide the loan without security and without endorsement;

“(D) provide that the liability to repay the loan shall be canceled upon the death of the student borrower, or if the student borrower becomes permanently and totally disabled, as determined in accordance with regulations to be issued by the Secretary;

“(E) contain a notice of the system of disclosure of information concerning default on such loan to credit bureau organizations; and

“(F) include provisions for deferral of repayment, as determined by the Secretary.

“(2) RATE OF INTEREST.—A student borrower who receives a loan under the program on or after January 1, 2010, and before October 1, 2015, shall be obligated to repay the loan amount to the Secretary, together with interest beginning in the period referred to in paragraph (1)(A), at a rate to be determined as follows:

“(A) For a loan for which the first disbursement is made on or after January 1, 2010, and before October 1, 2011, 5.6 percent on the unpaid principal balance of the loan.

“(B) For a loan for which the first disbursement is made on or after October 1, 2011, and before October 1, 2012, 4.5 percent on the unpaid principal balance of the loan.

“(C) For a loan for which the first disbursement is made on or after October 1, 2012, 3.4 percent on the unpaid principal balance of the loan.

“(3) DISCLOSURE REQUIRED PRIOR TO DISBURSEMENT.—

“(A) IN GENERAL.—The Secretary shall at or prior to the time the Secretary makes a loan to a student borrower under the program, provide thorough and adequate loan information on such loan to the student borrower. The disclosures required by this paragraph may be made as part of the written application material provided to the student borrower, as part of the promissory note evidencing the loan, or on a separate written form provided to the student borrower.

“(B) CONTENTS.—The disclosures shall include—

“(i) the address to which communications and payments should be sent;

“(ii) the principal amount of the loan;

“(iii) the amount of any charges collected at or prior to the disbursement of the loan and whether such charges are to be deducted from the proceeds of the loan or paid separately by the student borrower;

“(iv) the stated interest rate on the loan;

“(v) the yearly and cumulative maximum amounts that may be borrowed;

“(vi) an explanation of when repayment of the loan will be required and when the student borrower will be obligated to pay interest that accrues on the loan;

“(vii) a statement as to the minimum and maximum repayment term that the Secretary may impose, and the minimum monthly payment required by law and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary to collect on a loan;

“(viii) a statement of the total cumulative balance, including the loan applied for, owed by the student borrower to the Secretary, and an estimate of the projected monthly payment, given such cumulative balance;

“(ix) an explanation of any special options the student borrower may have for loan consolidation or other refinancing of the loan;

“(x) a statement that the student borrower has the right to prepay all or part of the loan, at any time, without penalty;

“(xi) a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to the Department of Defense educational loan repayment program (10 U.S.C. 16302);

“(xii) a definition of default and the consequences to the student borrower if the student borrower defaults, together with a statement that the disbursement of, and the default on, a loan under this part shall be reported to a credit bureau or credit reporting agency;

“(xiii) to the extent practicable, the effect of accepting the loan on the eligibility of the student borrower for other forms of student assistance; and

“(xiv) an explanation of any cost the student borrower may incur in the making or collection of the loan.

“(C) INFORMATION TO BE PROVIDED WITHOUT COST.—The information provided under this paragraph shall be available to the Secretary without cost to the student borrower.

“(4) REPAYMENT AFTER DEFAULT.—The Secretary may require any student borrower who has defaulted on a loan made under the program to—

“(A) pay all reasonable collection costs associated with such loan; and

“(B) repay the loan pursuant to an income contingent repayment plan.

“(5) AUTHORIZATION TO REDUCE RATES AND FEES.—Notwithstanding any other provision of this section, the Secretary may prescribe by regulation any reductions in the interest rate or origination fee paid by a student borrower of a loan made under the program as the Secretary determines appropriate to encourage ontime repayment of the loan. Such reductions may be offered only if the Secretary determines the reductions are cost neutral and in the best financial interest of the United States.

“(6) COLLECTION OF REPAYMENTS.—The Secretary shall collect repayments made under the program and exercise due diligence in such collection, including maintenance of all necessary records to ensure that maximum repayments are made. Collection and servicing of repayments under the program shall be pursued to the full extent of the law, including wage garnishment if necessary. The Secretary of the Department in which the Coast Guard is operating shall provide the Secretary of Transportation with any information regarding a mariner that may aid in the collection of repayments under this section.

“(7) REPAYMENT SCHEDULE.—A student borrower who receives a loan under the program shall repay the loan quarterly, bimonthly, or monthly, at the option of the student borrower, over a period beginning 9 months from the date the student borrower completes study or discontinues attendance at the maritime program for which the loan proceeds are used and ending not more than 10 years after the date repayment begins. Provisions for deferral of repayment shall be determined by the Secretary.

“(8) CONTRACTS FOR SERVICING AND COLLECTION OF LOANS.—The Secretary may—

“(A) enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this section; and

“(B) conduct litigation necessary to carry out this section.

“(j) REVOLVING LOAN FUND.—

“(1) ESTABLISHMENT.—The Secretary shall establish a revolving loan fund consisting of amounts deposited in the fund under paragraph (2).

“(2) DEPOSITS.—The Secretary shall deposit in the fund—

“(A) receipts from the payment of principal and interest on loans made under the program; and

“(B) any other monies paid to the Secretary by or on behalf of individuals under the program.

“(3) AVAILABILITY OF AMOUNTS.—Amounts in the fund shall be available to the Secretary, without further appropriation—

“(A) to cover the administrative costs of the program, including the maintenance of records and making collections under this section; and

“(B) to the extent that amounts remain available after paying such administrative costs, to make loans under the program.

“(4) MAINTENANCE OF RECORDS.—The Secretary shall maintain accurate records of the administrative costs referred to in paragraph (3)(A).

“(k) ANNUAL REPORT.—The Secretary, on an annual basis, shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the program, including—

“(1) the total amount of loans made under the program in the preceding year;

“(2) the number of students receiving loans under the program in the preceding year; and

“(3) the total amount of loans made under program that are in default as of the date of the report.

“(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2010 through 2015—

“(1) \$10,000,000 for making loans under the program; and

“(2) \$1,000,000 for administrative expenses of the Secretary in carrying out the program.

**“§ 51706. Maritime recruitment, training, and retention grant program**

“(a) STRATEGIC PLAN.—

“(1) IN GENERAL.—Not later than one year after the date of enactment of this section, and at least once every 3 years thereafter, the Secretary of Transportation, acting through the Administrator of the Maritime Administration, shall publish in the Federal Register a plan that describes the demonstration, research, and multistate project priorities of the Department of Transportation concerning merchant mariner recruitment, training, and retention for the 3-year period following the date of publication of the plan.

“(2) CONTENTS.—A plan published under paragraph (1) shall contain strategies and identify potential projects to address merchant mariner recruitment, training, and retention issues in the United States.

“(3) FACTORS.—In developing a plan under paragraph (1), the Secretary shall take into account, at a minimum—

“(A) the availability of existing research (as of the date of publication of the plan);

“(B) the need to ensure results that have broad applicability;

“(C) the benefits of economies of scale and the efficiency of potential projects; and

“(D) the likelihood that the results of potential projects will be useful to policymakers and stakeholders in addressing merchant mariner recruitment, training, and retention issues.

“(4) CONSULTATION.—In developing a plan under paragraph (1), the Secretary shall consult with representatives of the maritime industry, labor organizations, and other governmental entities and parties with an interest in the maritime industry.

“(5) TRANSMITTAL TO CONGRESS.—The Secretary shall transmit copies of a plan published under paragraph (1) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

“(b) DEMONSTRATION PROJECTS.—

“(1) IN GENERAL.—The Secretary may award grants to a maritime training institution to carry out demonstration projects that implement the priorities identified in the plan prepared under subsection (a)(1), for the purpose of developing and implementing methods to address merchant mariner recruitment, training, and retention issues.

“(2) GRANT AWARDS.—Grants shall be awarded under this subsection on a competitive basis under guidelines and requirements to be established by the Secretary.

“(3) APPLICATIONS.—To be eligible to receive a grant for a project under this subsection, a maritime training institution shall submit to the Secretary a grant proposal that includes, at a minimum—

“(A) information demonstrating the estimated effectiveness of the project; and

“(B) a method for evaluating the effectiveness of the project.

“(4) ELIGIBLE PROJECTS.—Projects eligible for grants under this subsection may include—

“(A) the establishment of maritime technology skill centers developed through local partnerships of industry, labor, education, community-based organizations, economic development organizations, or Federal, State, and local government agencies to meet unmet skills needs of the maritime industry;

“(B) projects that provide training to upgrade the skills of workers who are employed in the maritime industry;

“(C) projects that promote the use of distance learning, enabling students to take courses through the use of media technology, such as videos, teleconferencing, and the Internet;

“(D) projects that assist in providing services to address maritime recruitment and training of youth residing in targeted high poverty areas within empowerment zones and enterprise communities;

“(E) the establishment of partnerships with national and regional organizations with special expertise in developing, organizing, and administering merchant mariner recruitment and training services; and

“(F) the establishment of maritime training programs that foster technical skills and operational productivity in communities in which economies are related to or dependent upon the maritime industry.

“(c) PROJECTS AUTHORIZED.—

“(1) PROJECTS.—The Secretary may award grants to carry out projects identified in a plan published under subsection (a)(1) under which the project sponsor will—

“(A) design, develop, and test an array of approaches to providing recruitment, training, or retention services to one or more targeted populations;

“(B) in conjunction with employers, organized labor, other groups (such as community coalitions), and Federal, State, or local agencies, design, develop, and test various training approaches in order to determine effective practices; or

“(C) assist in the development and replication of effective service delivery strategies for the national maritime industry as a whole.

“(2) RESEARCH PROJECTS.—The Secretary may award grants to carry out research projects identified in a plan published under subsection (a)(1) that will contribute to the solution of maritime industry recruitment, training, and retention issues in the United States.

“(3) MULTISTATE OR REGIONAL PROJECTS.—The Secretary may award grants to carry out multistate or regional projects identified in a plan published under subsection (a)(1) to effectively disseminate best practices and models for implementing maritime recruitment, training, and retention services designed to address industry-wide skill shortages.

“(4) GRANT AWARDS.—Grants shall be awarded under this subsection on a competitive basis under guidelines and requirements to be established by the Secretary.

“(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2010 through 2015—

“(1) \$10,000,000 for making grants under this section; and

“(2) \$1,000,000 for administrative expenses of the Secretary in carrying out this section.”.

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

“51705. Maritime career training loan program.

“51706. Maritime recruitment, training, and retention grant program.”.

## TITLE VII—COAST GUARD MODERNIZATION

### SEC. 701. SHORT TITLE.

This title may be cited as the “Coast Guard Modernization Act of 2009”.

### Subtitle A—Coast Guard Leadership

#### SEC. 711. ADMIRALS AND VICE ADMIRALS.

(a) ADMIRALS.—Section 41 of title 14, United States Code, is amended by striking “an admiral,” and inserting “admirals;”.

(b) VICE COMMANDANT.—Section 47 of title 14, United States Code, is amended—

(1) in the section heading by striking “assignment” and inserting “appointment”; and

(2) in the text by striking “vice admiral” and inserting “admiral”.

(c) VICE ADMIRALS.—

(1) IN GENERAL.—Section 50 of title 14, United States Code, is amended to read as follows:

#### “§ 50. Vice admirals

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

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

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

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

“(A) The Deputy Commandant for Mission Support.

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

“(C) The Commander, Force Readiness Command.

“(D) The Commander, Operations Command.

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

“(4)(A) Except as provided in subparagraph (B), the Deputy Commandant for Operations and Policy must have at least 10 years experience in vessel inspection, marine casualty investigations, mariner licensing, or an equivalent technical expertise in the design and construction of commercial vessels, with at least 4 years of leadership experience at a staff or unit carrying out marine safety functions.

“(B) The requirements of subparagraph (A) do not apply to such Deputy Commandant if the subordinate officer serving in the grade of rear admiral with responsibilities for marine safety, security, and stewardship possesses that experience.

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

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

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

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

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

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

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

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

(2) APPLICATION OF DEPUTY COMMANDANT QUALIFICATION REQUIREMENT.—The requirement under section 50(a)(4)(A) of title 14, United States Code, as amended by this subsection, shall apply on and after October 1, 2011.

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

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

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

“(a) An officer, other than the Commandant, who, while serving in the grade of admiral or vice admiral, is retired for physical disability shall be placed on the retired list with the highest grade in which that officer served.

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

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

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

(f) CONTINUITY OF GRADE.—Section 52 of title 14, United States Code, is amended—

(1) in the section heading by inserting “**and admirals**” after “**Vice admirals**”; and

(2) in the text by inserting “or admiral” after “vice admiral” the first time that term appears.

(g) CONTINUATION ON ACTIVE DUTY.—The second sentence of section 290(a) of title 14, United States Code, is amended to read as follows: “Officers, other than the Commandant, serving for the time being or who have served in the grade of vice admiral or admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued in the grade of rear admiral.”

(h) TREATMENT OF INCUMBENTS; TRANSITION.—

(1) VICE COMMANDANT.—Notwithstanding any other provision of law, the officer who, on the date of enactment of this Act, is serving in the Coast Guard as Vice Commandant—

(A) shall continue to serve as Vice Commandant;

(B) shall have the grade of admiral with pay and allowances of that grade; and

(C) shall not be required to be reappointed by reason of the enactment of this Act.

(2) CHIEF OF STAFF, COMMANDER, ATLANTIC AREA, OR COMMANDER, PACIFIC AREA.—Notwithstanding any other provision of law, an officer who, on the date

of enactment of this Act, is serving in the Coast Guard as Chief of Staff, Commander, Atlantic Area, or Commander, Pacific Area—

(A) shall continue to have the grade of vice admiral with pay and allowance of that grade until such time that the officer is relieved of his or her duties and appointed and confirmed to another position as a vice admiral or admiral; and

(B) for the purposes of transition, may continue, for not more than one year after the date of enactment of this Act, to perform the duties of the officer's former position and any other such duties that the Commandant prescribes.

(i) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 3 of title 14, United States Code, is amended—

(A) by striking the item relating to section 47 and inserting the following:  
“47. Vice Commandant; appointment.”;

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

“50. Vice admirals.”;

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

(D) by striking the item relating to section 52 and inserting the following:

“52. Vice admirals and admirals, continuity of grade.”.

(j) TECHNICAL CORRECTION.—Section 47 of title 14, United States Code, is further amended in the fifth sentence by striking “subsection” and inserting “section”.

## Subtitle B—Marine Safety Administration

### SEC. 721. MARINE SAFETY.

(a) ESTABLISH MARINE SAFETY AS A COAST GUARD FUNCTION.—Chapter 5 of title 14, United States Code, is further amended by adding at the end the following new section:

#### “§ 101. Marine safety

“To protect life, property, and the environment on, under, and over waters subject to the jurisdiction of the United States and on vessels subject to the jurisdiction of the United States, the Commandant shall promote maritime safety as follows:

“(1) By taking actions necessary and in the public interest to protect such life, property, and the environment.

“(2) Based on the following priorities:

“(A) Preventing marine casualties and threats to the environment.

“(B) Minimizing the impacts of marine casualties and environmental threats.

“(C) Maximizing lives and property saved and environment protected in the event of a marine casualty.”.

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

“101. Marine safety.”.

### SEC. 722. MARINE SAFETY STAFF.

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

#### “§ 57. Marine safety workforce

“(a) DESIGNATION OF MARINE SAFETY WORKFORCE.—

“(1) IN GENERAL.—The Secretary, acting through the Commandant, shall designate those positions in the Coast Guard that constitute the marine safety workforce.

“(2) REQUIRED POSITIONS.—In designating positions under paragraph (1), the Secretary shall include, at a minimum, the following marine safety-related positions:

“(A) Program oversight.

“(B) Vessel and facility inspection.

“(C) Casualty investigation.

“(D) Pollution investigation.

“(E) Merchant Mariner licensing, documentation, and registry.

“(F) Marine safety engineering or other technical activities.

“(3) MARINE SAFETY MANAGEMENT HEADQUARTER ACTIVITIES.—The Secretary shall also designate under paragraph (1) those marine safety-related positions

located at Coast Guard headquarters units, including the Marine Safety Center and the National Maritime Center.

“(b) CAREER PATHS.—The Secretary, acting through the Commandant, shall ensure that appropriate career paths for civilian and military Coast Guard personnel who wish to pursue careers in marine safety are identified in terms of the education, training, experience, and assignments necessary for career progression of civilians and members of the Armed Forces to the most senior marine safety positions. The Secretary shall make available published information on such career paths.

“(c) QUALIFICATIONS.—With regard to the marine safety workforce, an officer, member, or civilian employee of the Coast Guard assigned as a—

“(1) marine inspector shall have the training, experience, and qualifications equivalent to that required for a similar position at a classification society recognized by the Secretary under section 3316 of title 46 for the type of vessel, system, or equipment that is inspected;

“(2) marine casualty investigator shall have training, experience, and qualifications in investigation, marine casualty reconstruction, evidence collection and preservation, human factors, and documentation using best investigation practices by Federal and non-Federal entities; or

“(3) marine safety engineer shall have knowledge, skill, and practical experience in—

“(A) the construction and operation of commercial vessels;

“(B) judging the character, strength, stability, and safety qualities of such vessels and their equipment; or

“(C) the qualifications and training of vessel personnel.

“(d) APPRENTICESHIP REQUIREMENT.—Any officer, member, or employee of the Coast Guard in training to become a marine inspector, marine casualty investigator, or a marine safety engineer shall serve a minimum of one-year apprenticeship, unless otherwise directed by the Commandant, under the guidance of a qualified marine inspector, marine casualty investigator, or marine safety engineer. The Commandant may authorize shorter apprenticeship periods for certain qualifications, as appropriate.

“(e) BALANCED WORKFORCE POLICY.—In the development of marine safety workforce policies under this section with respect to any civilian employees or applicants for employment with the Coast Guard, the Secretary shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

“(f) MANAGEMENT INFORMATION SYSTEM.—The Secretary, acting through the Commandant, shall establish a management information system for the marine safety workforce that shall provide, at a minimum, the following standardized information on persons serving in marine safety positions:

“(1) Qualifications, assignment history, and tenure in assignments of persons in the marine safety workforce.

“(2) Promotion rates for military and civilian personnel in the marine safety workforce.

“(g) ASSESSMENT OF ADEQUACY OF MARINE SAFETY WORKFORCE.—

“(1) REPORT.—The Secretary, acting through the Commandant, shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by December 1 of each year on the adequacy of the current marine safety workforce to meet that anticipated workload.

“(2) CONTENTS.—The report shall specify the number of civilian and military Coast Guard personnel currently assigned to marine safety positions and shall identify positions that are understaffed to meet the anticipated marine safety workload.

“(h) SECTOR CHIEF OF MARINE SAFETY.—

“(1) IN GENERAL.—There shall be in each Coast Guard sector a Chief of Marine Safety who shall be at least a Lieutenant Commander or civilian employee within the grade GS-13 of the General Schedule, and who shall be a—

“(A) marine inspector, qualified to inspect vessels, vessel systems, and equipment commonly found in the sector; and

“(B) qualified marine casualty investigator.

“(2) FUNCTIONS.—The Chief of Marine Safety for a sector—

“(A) is responsible for all individuals who, on behalf of the Coast Guard, inspect or examine vessels, conduct marine casualty investigations; and

“(B) if not the Coast Guard officer in command of that sector, is the principal advisor to the Sector Commander regarding marine safety matters in that sector.

“(i) SIGNATORIES OF LETTER OF QUALIFICATION.—Each individual signing a letter of qualification for marine safety personnel must hold a letter of qualification for the type being certified.

**“§ 58. Centers of Expertise for Marine Safety**

“(a) ESTABLISHMENT.—The Commandant of the Coast Guard may establish and operate one or more Centers of Expertise for Marine Safety (in this section referred to as a ‘Center’).

“(b) MISSIONS.—The Centers shall—

“(1) be used to provide and facilitate education, training, and research in marine safety including vessel inspection and causality investigation;

“(2) develop a repository of information on marine safety; and

“(3) perform any other missions as the Commandant may specify.

“(c) JOINT OPERATION WITH EDUCATIONAL INSTITUTION AUTHORIZED.—The Commandant may enter into an agreement with an appropriate official of an institution of higher education to—

“(1) provide for joint operation of a Center; and

“(2) provide necessary administrative services for a Center, including administration and allocation of funds.

“(d) ACCEPTANCE OF DONATIONS.—(1) Except as provided in paragraph (2), the Commandant may accept, on behalf of a Center, donations to be used to defray the costs of the Center or to enhance the operation of the Center. Those donations may be accepted from any State or local government, any foreign government, any foundation or other charitable organization (including any that is organized or operates under the laws of a foreign country), or any individual.

“(2) The Commandant may not accept a donation under paragraph (1) if the acceptance of the donation would compromise or appear to compromise—

“(A) the ability of the Coast Guard or the department in which the Coast Guard is operating, any employee of the Coast Guard or the department, or any member of the Armed Forces to carry out any responsibility or duty in a fair and objective manner; or

“(B) the integrity of any program of the Coast Guard, the department in which the Coast Guard is operating, or of any person involved in such a program.

“(3) The Commandant shall prescribe written guidance setting forth the criteria to be used in determining whether or not the acceptance of a donation from a foreign source would have a result described in paragraph (2).

**“§ 59. Marine industry training program**

“(a) IN GENERAL.—The Commandant shall, by policy, establish a program under which an officer, member, or employee of the Coast Guard may be assigned to a private entity to further the institutional interests of the Coast Guard with regard to marine safety, including for the purpose of providing training to an officer, member, or employee. Policies to carry out the program—

“(1) with regard to an employee of the Coast Guard, shall include provisions, consistent with sections 3702 through 3704 of title 5, as to matters concerning—

“(A) the duration and termination of assignments;

“(B) reimbursements; and

“(C) status, entitlements, benefits, and obligations of program participants; and

“(2) shall require the Commandant, before approving the assignment of an officer, member, or employee of the Coast Guard to a private entity, to determine that the assignment is an effective use of the Coast Guard’s funds, taking into account the best interests of the Coast Guard and the costs and benefits of alternative methods of achieving the same results and objectives.

“(b) ANNUAL REPORT.—Not later than the date of the submission each year of the President’s budget request under section 1105 of title 31, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that describes—

“(1) the number of officers, members, and employees of the Coast Guard assigned to private entities under this section; and

“(2) the specific benefit that accrues to the Coast Guard for each assignment.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is further amended by adding at the end the following new items:

“57. Marine safety workforce.

“58. Centers of Expertise for Marine Safety.  
 “59. Marine industry training program.”.

**SEC. 723. MARINE SAFETY MISSION PRIORITIES AND LONG-TERM GOALS.**

(a) IN GENERAL.—Chapter 21 of title 46, United States Code, is amended by adding at the end the following new section:

**“§ 2116. Marine safety strategy, goals, and performance assessments**

“(a) LONG-TERM STRATEGY AND GOALS.—In conjunction with existing federally required strategic planning efforts, the Secretary shall develop a long-term strategy for improving vessel safety and the safety of individuals on vessels. The strategy shall include the issuance each year of an annual plan and schedule for achieving the following goals:

“(1) Reducing the number and rates of marine casualties.

“(2) Improving the consistency and effectiveness of vessel and operator enforcement and compliance programs.

“(3) Identifying and targeting enforcement efforts at high-risk vessels and operators.

“(4) Improving research efforts to enhance and promote vessel and operator safety and performance.

“(b) CONTENTS OF STRATEGY AND ANNUAL PLANS.—

“(1) MEASURABLE GOALS.—The strategy and annual plans shall include specific numeric or measurable goals designed to achieve the goals set forth in subsection (a). The purposes of the numeric or measurable goals are the following:

“(A) To increase the number of safety examinations on all high-risk vessels.

“(B) To eliminate the backlog of marine safety-related rulemakings.

“(C) To improve the quality and effectiveness of marine safety information databases by ensuring that all Coast Guard personnel accurately and effectively report all safety, casualty, and injury information.

“(D) To provide for a sufficient number of Coast Guard marine safety personnel, and provide adequate facilities and equipment to carry out the functions referred to in section 93(c).

“(2) RESOURCE NEEDS.—The strategy and annual plans shall include estimates of—

“(A) the funds and staff resources needed to accomplish each activity included in the strategy and plans; and

“(B) the staff skills and training needed for timely and effective accomplishment of each goal.

“(c) SUBMISSION WITH THE PRESIDENT’S BUDGET.—Beginning with fiscal year 2011 and each fiscal year thereafter, the Secretary shall submit to Congress the strategy and annual plan not later than 60 days following the transmission of the President’s budget submission under section 1105 of title 31.

“(d) ACHIEVEMENT OF GOALS.—

“(1) PROGRESS ASSESSMENT.—No less frequently than semiannually, the Coast Guard Commandant and the Assistant Commandant for Marine Safety shall jointly assess the progress of the Coast Guard toward achieving the goals set forth in subsection (b). The Commandant and the Assistant Commandant shall jointly convey their assessment to the employees of the Assistant Commandant and shall identify any deficiencies that should be remedied before the next progress assessment.

“(2) REPORT TO CONGRESS.—The Secretary shall report annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

“(A) on the performance of the marine safety program in achieving the goals of the marine safety strategy and annual plan under subsection (a) for the year covered by the report;

“(B) on the program’s mission performance in achieving numerical measurable goals established under subsection (b); and

“(C) recommendations on how to improve performance of the program.”.

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

“2116. Marine safety strategy, goals, and performance assessments.”.

(c) CERTIFICATES OF INSPECTION.—Section 3309 of title 46, United States Code, is amended by adding at the end the following:

“(d) A certificate of inspection issued under this section shall be signed by the senior Coast Guard member or civilian employee who inspected the vessel, in addition to the officer in charge of marine inspection.”.

**SEC. 724. POWERS AND DUTIES.**

Section 93 of title 14, United States Code, is amended by adding at the end the following new subsections:

“(c) **MARINE SAFETY RESPONSIBILITIES.**—In exercising the Commandant’s duties and responsibilities with regard to marine safety, the individual with the highest rank who meets the experience qualifications set forth in section 50(a)(4) shall serve as the principal advisor to the Commandant regarding—

- “(1) the operation, regulation, inspection, identification, manning, and measurement of vessels, including plan approval and the application of load lines;
- “(2) approval of materials, equipment, appliances, and associated equipment;
- “(3) the reporting and investigation of marine casualties and accidents;
- “(4) the licensing, certification, documentation, protection and relief of merchant seamen;
- “(5) suspension and revocation of licenses and certificates;
- “(6) enforcement of manning requirements, citizenship requirements, control of log books;
- “(7) documentation and numbering of vessels;
- “(8) State boating safety programs;
- “(9) commercial instruments and maritime liens;
- “(10) the administration of bridge safety;
- “(11) administration of the navigation rules;
- “(12) the prevention of pollution from vessels;
- “(13) ports and waterways safety;
- “(14) waterways management; including regulation for regattas and marine parades;
- “(15) aids to navigation; and
- “(16) other duties and powers of the Secretary related to marine safety and stewardship.

“(d) **OTHER AUTHORITY NOT AFFECTED.**—Nothing in subsection (c) affects—

- “(1) the authority of Coast Guard officers and members to enforce marine safety regulations using authority under section 89 of this title; or
- “(2) the exercise of authority under section 91 of this title and the provisions of law codified at sections 191 through 195 of title 50 on the date of enactment of this paragraph.”.

**SEC. 725. APPEALS AND WAIVERS.**

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

**“§ 102. Appeals and waivers**

“Except for the Commandant of the Coast Guard, any individual adjudicating an appeal or waiver of a decision regarding marine safety, including inspection or manning and threats to the environment, shall—

- “(1) be a qualified specialist with the training, experience, and qualifications in marine safety to effectively judge the facts and circumstances involved in the appeal and make a judgment regarding the merits of the appeal; or
- “(2) have a senior staff member who—
  - “(A) meets the requirements of paragraph (1);
  - “(B) actively advises the individual adjudicating the appeal; and
  - “(C) concurs in writing on the decision on appeal.”.

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

“102. Appeals and waivers.”.

**SEC. 726. COAST GUARD ACADEMY.**

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

**“§ 200. Marine safety curriculum**

“The Commandant of the Coast Guard shall ensure that professional courses of study in marine safety are provided at the Coast Guard Academy, and during other officer accession programs, to give Coast Guard cadets and other officer candidates a background and understanding of the marine safety program. These courses may include such topics as program history, vessel design and construction, vessel inspection, casualty investigation, and administrative law and regulations.”.

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

“200. Marine safety curriculum.”.

**SEC. 727. REPORT REGARDING CIVILIAN MARINE INSPECTORS.**

Not later than one year after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on Coast Guard's efforts to recruit and retain civilian marine inspectors and investigators and the impact of such recruitment and retention efforts on Coast Guard organizational performance.

**TITLE VIII—MARINE SAFETY****SEC. 801. SHORT TITLE.**

This title may be cited as the "Maritime Safety Act of 2009".

**SEC. 802. VESSEL SIZE LIMITS.**

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

- (1) by inserting "and" after the semicolon at the end of subparagraph (A)(i);
  - (2) by striking "and" at the end of subparagraph (A)(ii);
  - (3) by striking subparagraph (A)(iii);
  - (4) by striking the period at the end of subparagraph (B) and inserting "; or";
- and

(5) by inserting at the end the following:

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

(b) **CONFORMING AMENDMENTS.**—

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

"(g) **VESSEL REBUILDING AND REPLACEMENT.**—

"(1) **IN GENERAL.**—

"(A) **REBUILD OR REPLACE.**—Notwithstanding any limitation to the contrary on replacing, rebuilding, or lengthening vessels or transferring permits or licenses to a replacement vessel contained in sections 679.2 and 679.4 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Maritime Safety Act of 2009 and except as provided in paragraph (4), the owner of a vessel eligible under subsection (a), (b), (c), (d), or (e) (other than paragraph (21)), in order to improve vessel safety and operational efficiencies (including fuel efficiency), may rebuild or replace that vessel (including fuel efficiency) with a vessel documented with a fishery endorsement under section 12113 of title 46, United States Code.

"(B) **SAME REQUIREMENTS.**—The rebuilt or replacement vessel shall be eligible in the same manner and subject to the same restrictions and limitations under such subsection as the vessel being rebuilt or replaced.

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

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

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

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

"(B) **APPLICABILITY.**—A replacement vessel under subparagraph (A) and its owner and mortgagee are subject to the same limitations under section

203(g) or 213(g) that are applicable to the vessel that has been replaced and its owner and mortgagee.

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

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

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

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

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

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

“(6) GULF OF ALASKA LIMITATION.—Notwithstanding paragraph (1), the Secretary shall prohibit from participation in the groundfish fisheries of the Gulf of Alaska any vessel that is rebuilt or replaced under this subsection and that exceeds the maximum length overall specified on the license that authorizes fishing for groundfish pursuant to the license limitation program under part 679 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Maritime Safety Act of 2009.

“(7) AUTHORITY OF PACIFIC COUNCIL.—Nothing in this section shall be construed to diminish or otherwise affect the authority of the Pacific Council to recommend to the Secretary conservation and management measures to protect fisheries under its jurisdiction (including the Pacific whiting fishery) and participants in such fisheries from adverse impacts caused by this Act.”

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

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

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

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

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

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

(B) by adding at the end the following:

“(7) FISHERY COOPERATIVE EXIT PROVISIONS.—

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

“(i) shall be based on the catch history determination for the vessel made pursuant to section 679.62 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Maritime Safety Act of 2009; and

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

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

less such removed vessel is thereafter designated to replace a vessel to be removed pursuant to this paragraph.

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

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

“(ii) to allow the vessels referred to in clause (i) to participate in any fishery under the authority of the Councils referred to in clause (i) in any manner that is not consistent with the fishery management plan for the fishery developed by the Councils under section 303 of the Magnuson-Stevens Act.”.

**SEC. 803. COLD WEATHER SURVIVAL TRAINING.**

The Commandant of the Coast Guard shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the efficacy of cold weather survival training conducted by the Coast Guard in Coast Guard District 17 over the preceding 5 years. The report shall include plans for conducting such training in fiscal years 2010 through 2013.

**SEC. 804. FISHING VESSEL SAFETY.**

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

(1) in subsection (a), by—

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

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

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

(2) in subsection (b)—

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

(B) in paragraph (1)(A), by striking “the Boundary Line” and inserting “3 nautical miles from the baseline from which the territorial sea of the United States is measured or beyond 3 nautical miles from the coastline of the Great Lakes”;

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

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

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

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

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

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

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

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

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

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

(4) by adding at the end the following:

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

“(2) The training program shall—

“(A) be based on professional knowledge and skill obtained through sea service and hands-on training, including training in seamanship, stability, collision

prevention, navigation, fire fighting and prevention, damage control, personal survival, emergency medical care, emergency drills, and weather;

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

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

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

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

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

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

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

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

“(3) the vessel is built after January 1, 2010.

“(i)(1) The Secretary shall establish a Fishing Safety Training Grants Program to provide funding to municipalities, port authorities, other appropriate public entities, not-for-profit organizations, and other qualified persons that provide commercial fishing safety training—

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

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

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

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

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

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

“(4) There is authorized to be appropriated \$3,000,000 for each of fiscal years 2010 through 2014 for grants under this subsection.

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

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

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

“(4) There is authorized to be appropriated \$3,000,000 for each fiscal years 2010 through 2014 for activities under this subsection.”

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

(c) ADVISORY COMMITTEE.—

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

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

“§ 4508. Commercial Fishing Safety Advisory Committee”;

and

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

(2) MEMBERSHIP REQUIREMENTS.—Section 4508(b)(1) of that title is amended—

(A) by striking “seventeen” and inserting “eighteen”;

(B) in subparagraph (A)—

- (i) in the matter preceding clause (i), by striking “from the commercial fishing industry who—” and inserting “who shall represent the commercial fishing industry and who—”; and
- (ii) in clause (ii), by striking “an uninspected” and inserting “a”;
- (C) by striking subparagraph (B) and inserting the following:  
 “(B) three members who shall represent the general public, including, whenever possible—
- “(i) an independent expert or consultant in maritime safety;
- “(ii) a marine surveyor who provides services to vessels to which this chapter applies; and
- “(iii) a person familiar with issues affecting fishing communities and families of fishermen;”;
- (D) in subparagraph (C)—
- (i) in the matter preceding clause (i), by striking “representing each of—” and inserting “each of whom shall represent—”;
- (ii) in clause (i), by striking “or marine surveyors;” and inserting “and marine engineers;”;
- (iii) in clause (iii), by striking “and” after the semicolon at the end;
- (iv) in clause (iv), by striking the period at the end and inserting “; and”;
- (v) by adding at the end the following new clause:  
 “(v) owners of vessels to which this chapter applies.”.
- (3) TERMINATION.—Section 4508(e)(1) of that title is amended by striking “September 30, 2010.” and inserting “September 30, 2020.”.
- (4) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 45 of title 46, United States Code, is amended by striking the item relating to such section and inserting the following:  
 “4508. Commercial Fishing Safety Advisory Committee.”.
- (d) LOADLINES FOR VESSELS 79 FEET OR GREATER IN LENGTH.—Section 5102(b)(3) of title 46, United States Code, is amended by inserting after “vessel” the following “, unless the vessel is built or undergoes a major conversion completed after July 1, 2010”.
- (e) CLASSING OF VESSELS.—
- (1) IN GENERAL.—Section 4503 of title 46, United States Code, is amended—
- (A) by striking the section heading and inserting the following:  
**“§ 4503. Fishing, fish tender, and fish processing vessel certification”;**
- (B) in subsection (a) by striking “fish processing”; and
- (C) by adding at the end the following:  
 “(c) This section applies to a vessel to which section 4502(b) of this title applies that is at least 50 feet overall in length and—
- “(1) is built after July 1, 2010; or
- “(2) undergoes a major conversion completed after that date.
- “(d)(1) After January 1, 2020, a fishing vessel, fish processing vessel, or fish tender vessel to which section 4502(b) of this title applies shall comply with an alternate safety compliance program that is developed in cooperation with the commercial fishing industry and prescribed by the Secretary, if the vessel—
- “(A) is at least 50 feet overall in length;
- “(B) is built before July 1, 2010; and
- “(C) is 25 years of age or older.
- “(2) Alternative safety compliance programs may be developed for purposes of paragraph (1) for specific regions and fisheries.
- “(3) A fishing vessel, fish processing vessel, or fish tender vessel to which section 4502(b) of this title applies that was classed before July 1, 2010, shall—
- “(A) remain subject to the requirements of a classification society approved by the Secretary; and
- “(B) have on board a certificate from that society.”.
- (2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 45 of title 46, United States Code, is amended by striking the item relating to such section and inserting the following:  
 “4503. Fishing, fish tender, and fish processing vessel certification.”.
- (f) ALTERNATIVE SAFETY COMPLIANCE PROGRAM.—No later than January 1, 2017, the Secretary of the department in which the Coast Guard is operating shall prescribe an alternative safety compliance program referred to in section 4503(d) of the title 46, United States Code, as amended by this section.

**SEC. 805. MARINER RECORDS.**

Section 7502 of title 46, United States Code, is amended—

- (1) by inserting “(a)” before “The”;
- (2) by striking “computerized records” and inserting “records, including electronic records,”; and
- (3) by adding at the end the following:

“(b) The Secretary may prescribe regulations requiring a vessel owner or managing operator of a commercial vessel, or the employer of a seaman on that vessel, to maintain records of each individual engaged on the vessel on matters of engagement, discharge, and service for not less than 5 years after the date of the completion of the service of that individual on the vessel. The regulations may require that a vessel owner, managing operator, or employer shall make these records available to the individual and the Coast Guard on request.

“(c) A person violating this section, or a regulation prescribed under this section, is liable to the United States Government for a civil penalty of not more than \$5,000.”.

**SEC. 806. DELETION OF EXEMPTION OF LICENSE REQUIREMENT FOR OPERATORS OF CERTAIN TOWING VESSELS.**

Section 8905 of title 46, United States Code, is amended—

- (1) by striking subsection (b); and
- (2) by redesignating subsection (c) as subsection (b).

**SEC. 807. LOG BOOKS.**

(a) IN GENERAL.—Chapter 113 of title 46, United States Code, is amended by adding at the end the following:

**“§ 11304. Additional logbook and entry requirements**

“(a) A vessel of the United States that is subject to inspection under section 3301 of this title, except a vessel on a voyage from a port in the United States to a port in Canada, shall have an official logbook, which shall be kept available for review by the Secretary on request.

“(b) The log book required by subsection (a) shall include the following entries:

- “(1) The time when each seaman and each officer assumed or relieved the watch.
- “(2) The number of hours in service to the vessels of each seaman and each officer.
- “(3) An account of each accident, illness, and injury that occurs during each watch.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

“11304. Additional logbook and entry requirements.”.

**SEC. 808. SAFE OPERATIONS AND EQUIPMENT STANDARDS.**

(a) IN GENERAL.—Chapter 21 of title 46, United States Code, is further amended by adding at the end the following new sections:

**“§ 2117. Termination for unsafe operation**

“An individual authorized to enforce this title—

- “(1) may remove a certificate required by this title from a vessel that is operating in a condition that does not comply with the provisions of the certificate;
- “(2) may order the individual in charge of a vessel that is operating that does not have on board the certificate required by this title to return the vessel to a mooring and to remain there until the vessel is in compliance with this title; and
- “(3) may direct the individual in charge of a vessel to which this title applies to immediately take reasonable steps necessary for the safety of individuals on board the vessel if the official observes the vessel being operated in an unsafe condition that the official believes creates an especially hazardous condition, including ordering the individual in charge to return the vessel to a mooring and to remain there until the situation creating the hazard is corrected or ended.

**“§ 2118. Establishment of equipment standards**

“(a) In establishing standards for approved equipment required on vessels subject to part B of this title, the Secretary shall establish standards that are—

- “(1) based on performance using the best available technology that is economically achievable; and
- “(2) operationally practical.

“(b) Using the standards established under subsection (a), the Secretary may also certify lifesaving equipment that is not required to be carried on vessels subject to part B of this title to ensure that such equipment is suitable for its intended purpose.

“(c) At least once every 10 years the Secretary shall review and revise the standards established under subsection (a) to ensure that the standards meet the requirements of this section.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is further amended by adding at the end the following:

“2117. Termination for unsafe operation.

“2118. Establishment of equipment standards.”.

**SEC. 809. APPROVAL OF SURVIVAL CRAFT.**

(a) IN GENERAL.—Chapter 31 of title 46, United States Code, is amended by adding at the end the following new section:

**“§ 3104. Survival craft**

“(a) Except as provided in subsection (b), the Secretary may not approve a survival craft as a safety device for purposes of this part, unless the craft ensures that no part of an individual is immersed in water.

“(b) The Secretary may authorize a survival craft that does not provide protection described in subsection (a) to remain in service until not later than January 1, 2015, if—

“(1) it was approved by the Secretary before January 1, 2010; and

“(2) it is in serviceable condition.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

“3104. Survival craft.”.

**SEC. 810. SAFETY MANAGEMENT.**

(a) VESSELS TO WHICH REQUIREMENTS APPLY.—Section 3202 of title 46, United States Code, is amended—

(1) in subsection (a) by striking the heading and inserting “FOREIGN VOYAGES AND FOREIGN VESSELS.—”;

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

(3) by inserting after subsection (a) the following:

“(b) OTHER PASSENGER VESSELS.—This chapter applies to a vessel that is—

“(1) a passenger vessel or small passenger vessel; and

“(2) is transporting more passengers than a number prescribed by the Secretary based on the number of individuals on the vessel that could be killed or injured in a marine casualty.”;

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

(5) in subsection (d)(4), as so redesignated, by inserting “that is not described in subsection (b) of this section” after “waters”.

(b) SAFETY MANAGEMENT SYSTEM.—Section 3203 of title 46, United States Code, is amended by adding at the end the following new subsection:

“(c) In prescribing regulations for passenger vessels and small passenger vessels, the Secretary shall consider—

“(1) the characteristics, methods of operation, and nature of the service of these vessels; and

“(2) with respect to vessels that are ferries, the sizes of the ferry systems within which the vessels operate.”.

**SEC. 811. PROTECTION AGAINST DISCRIMINATION.**

(a) IN GENERAL.—Section 2114 of title 46, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking “or” after the semicolon;

(2) in subsection (a)(1)(B), by striking the period at the end and inserting a semicolon;

(3) by adding at the end of subsection (a)(1) the following new subparagraphs:

“(C) the seaman testified in a proceeding brought to enforce a maritime safety law or regulation prescribed under that law;

“(D) the seaman notified, or attempted to notify, the vessel owner or the Secretary of a work-related personal injury or work-related illness of a seaman;

“(E) the seaman cooperated with a safety investigation by the Secretary or the National Transportation Safety Board;

“(F) the seaman furnished information to the Secretary, the National Transportation Safety Board, or any other public official as to the facts relating to any marine casualty resulting in injury or death to an individual or damage to property occurring in connection with vessel transportation; or

“(G) the seaman accurately reported hours of duty under this part.”; and

(4) by amending subsection (b) to read as follows:

“(b) A seaman alleging discharge or discrimination in violation of subsection (a) of this section, or another person at the seaman’s request, may file a complaint with respect to such allegation in the same manner as a complaint may be filed under subsection (b) of section 31105 of title 49. Such complaint shall be subject to the procedures, requirements, and rights described in that section, including with respect to the right to file an objection, the right of a person to file for a petition for review under subsection (c) of that section, and the requirement to bring a civil action under subsection (d) of that section.”.

(b) EXISTING ACTIONS.—This section shall not affect the application of section 2114(b) of title 46, United States Code, as in effect before the date of enactment of this Act, to an action filed under that section before that date.

**SEC. 812. OIL FUEL TANK PROTECTION.**

Section 3306 of title 46, United States Code, is amended by adding at the end the following new subsection:

“(k)(1) Each vessel of the United States that is constructed under a contract entered into after the date of enactment of the Maritime Safety Act of 2009, or that is delivered after January 1, 2011, with an aggregate capacity of 600 cubic meters or more of oil fuel, shall comply with the requirements of Regulation 12A under Annex I to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, entitled ‘Oil Fuel Tank Protection’.

“(2) The Secretary may prescribe regulations to apply the requirements described in Regulation 12A to vessels described in paragraph (1) that are not otherwise subject to that convention. Any such regulation shall be considered to be an interpretive rule for the purposes of section 553 of title 5.

“(3) In this subsection the term ‘oil fuel’ means any oil used as fuel in connection with the propulsion and auxiliary machinery of the vessel in which such oil is carried.”.

**SEC. 813. OATHS.**

Sections 7105 and 7305 of title 46, United States Code, and the items relating to such sections in the analysis for chapters 71 and 73 of such title, are repealed.

**SEC. 814. DURATION OF CREDENTIALS.**

(a) MERCHANT MARINER’S DOCUMENTS.—Section 7302(f) of title 46, United States Code, is amended to read as follows:

“(f) PERIODS OF VALIDITY AND RENEWAL OF MERCHANT MARINERS’ DOCUMENTS.—

“(1) IN GENERAL.—Except as provided in subsection (g), a merchant mariner’s document issued under this chapter is valid for a 5-year period and may be renewed for additional 5-year periods.

“(2) ADVANCE RENEWALS.—A renewed merchant mariner’s document may be issued under this chapter up to 8 months in advance but is not effective until the date that the previously issued merchant mariner’s document expires or until the completion of any active suspension or revocation of that previously issued merchant mariner’s document, whichever is later.”.

(b) DURATION OF LICENSES.—Section 7106 of such title is amended to read as follows:

**“§ 7106. Duration of licenses**

“(a) IN GENERAL.—A license issued under this part is valid for a 5-year period and may be renewed for additional 5-year periods; except that the validity of a license issued to a radio officer is conditioned on the continuous possession by the holder of a first-class or second-class radiotelegraph operator license issued by the Federal Communications Commission.

“(b) ADVANCE RENEWALS.—A renewed license issued under this part may be issued up to 8 months in advance but is not effective until the date that the previously issued license expires or until the completion of any active suspension or revocation of that previously issued merchant mariner’s document, whichever is later.”.

(c) CERTIFICATES OF REGISTRY.—Section 7107 of such title is amended to read as follows:

**“§ 7107. Duration of certificates of registry**

“(a) IN GENERAL.—A certificate of registry issued under this part is valid for a 5-year period and may be renewed for additional 5-year periods; except that the validity of a certificate issued to a medical doctor or professional nurse is conditioned on the continuous possession by the holder of a license as a medical doctor or registered nurse, respectively, issued by a State.

“(b) ADVANCE RENEWALS.—A renewed certificate of registry issued under this part may be issued up to 8 months in advance but is not effective until the date that the previously issued certificate of registry expires or until the completion of any

active suspension or revocation of that previously issued merchant mariner's document, whichever is later.”

**SEC. 815. FINGERPRINTING.**

(a) MERCHANT MARINER LICENSES AND DOCUMENTS.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

**“§ 7507. Fingerprinting**

“The Secretary of the Department in which the Coast Guard is operating may not require an individual to be fingerprinted for the issuance or renewal of a license, a certificate of registry, or a merchant mariner's document under chapter 71 or 73 if the individual was fingerprinted when the individual applied for a transportation security card under section 70105.”

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

“7507. Fingerprinting.”

**SEC. 816. AUTHORIZATION TO EXTEND THE DURATION OF LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS.**

(a) MERCHANT MARINER LICENSES AND DOCUMENTS.—Chapter 75 of title 46, United States Code, as amended by section 815(a) of this title, is further amended by adding at the end the following:

**“§ 7508. Authority to extend the duration of licenses, certificates of registry, and merchant mariner documents**

“(a) LICENSES AND CERTIFICATES OF REGISTRY.—Notwithstanding sections 7106 and 7107, the Secretary of the department in which the Coast Guard is operating may—

“(1) extend for not more than one year an expiring license or certificate of registry issued for an individual under chapter 71 if the Secretary determines that the extension is required to enable the Coast Guard to eliminate a backlog in processing applications for those licenses or certificates of registry or in response to a national emergency or natural disaster, as deemed necessary by the Secretary; or

“(2) issue for not more than five years an expiring license or certificate of registry issued for an individual under chapter 71 for the exclusive purpose of aligning the expiration date of such license or certificate of registry with the expiration date of a merchant mariner's document.

“(b) MERCHANT MARINER DOCUMENTS.—Notwithstanding section 7302(g), the Secretary may—

“(1) extend for not more than one year an expiring merchant mariner's document issued for an individual under chapter 71 if the Secretary determines that the extension is required to enable the Coast Guard to eliminate a backlog in processing applications for those licenses or certificates of registry or in response to a national emergency or natural disaster, as deemed necessary by the Secretary; or

“(2) issue for not more than five years an expiring merchant mariner's document issued for an individual under chapter 71 for the exclusive purpose of aligning the expiration date of such merchant mariner's document with the expiration date of a merchant mariner's document.

“(c) MANNER OF EXTENSION.—Any extensions granted under this section may be granted to individual seamen or a specifically identified group of seamen.”

(b) CLERICAL AMENDMENT.—The analysis for such chapter, as amended by section 815(b), is further amended by adding at the end the following:

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

**SEC. 817. MERCHANT MARINER DOCUMENTATION.**

(a) INTERIM CLEARANCE PROCESS.—Not later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall develop an interim clearance process for issuance of a merchant mariner document to enable a newly hired seaman to begin working on an offshore supply vessel or towing vessel if the Secretary makes an initial determination that the seaman does not pose a safety and security risk.

(b) CONTENTS OF PROCESS.—The process under subsection (a) shall include a check against the consolidated and integrated terrorist watch list maintained by the Federal Government, review of the seaman's criminal record, and review of the results of testing the seaman for use of a dangerous drug (as defined in section 2101 of title 46, United States Code) in violation of law or Federal regulation.

**SEC. 818. MERCHANT MARINER ASSISTANCE REPORT.**

Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report regarding the feasibility of—

- (1) expanding the streamlined evaluation process program that was affiliated with the Houston Regional Examination Center of the Coast Guard to all processing centers of the Coast Guard nationwide;
- (2) including proposals to simplify the application process for a license as an officer, staff officer, or operator and for a merchant mariner's document to help eliminate errors by merchant mariners when completing the application form (CG-719B), including instructions attached to the application form and a modified application form for renewals with questions pertaining only to the period of time since the previous application;
- (3) providing notice to an applicant of the status of the pending application, including a process to allow the applicant to check on the status of the application by electronic means; and
- (4) ensuring that all information collected with respect to applications for new or renewed licenses, merchant mariner documents, and certificates of registry is retained in a secure electronic format.

**SEC. 819. OFFSHORE SUPPLY VESSELS.**

(a) **DEFINITION.**—Section 2101(19) of title 46, United States Code, is amended by striking “of more than 15 gross tons but less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title”.

(b) **EXEMPTION.**—Section 5209(b)(1) of the Oceans Act of 1992 (Public Law 102-587; 46 U.S.C. 2101 note) is amended by inserting before the period at the end the following: “of less than 500 gross tons as measured under section 14502, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title”.

(c) **REMOVAL OF TONNAGE LIMITS.**—

(1) **ABLE SEAMEN-OFFSHORE SUPPLY VESSELS.**—Section 7310 of title 46, United States Code, is amended by striking “of less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title”.

(2) **SCALE OF EMPLOYMENT: ABLE SEAMEN.**—Section 7312(d) of title 46, United States Code, is amended by striking “of less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title”.

(d) **WATCHES.**—Section 8104 of title 46, United States Code, is amended—

(1) in subsection (g), by inserting after “offshore supply vessel” the following: “of less than 500 gross tons as measured under section 14502 of this title, or less than 6,000 gross tons as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title”;

(2) in subsection (d), by inserting “(1)” after “(d)”, and by adding at the end the following:

“(2) Paragraph (1) does not apply to an offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title if the individuals engaged on the vessel are in compliance with hours of service requirements (including recording and record-keeping of that service) prescribed by the Secretary.”; and

(3) in subsection (e), by striking “subsection (d)” and inserting “subsection (d)(1)”.

(e) **MINIMUM NUMBER OF LICENSED INDIVIDUALS.**—Section 8301(b) of title 46, United States Code, is amended to read as follows:

“(b)(1) An offshore supply vessel of less than 6,000 gross tons, as measured under section 14302 of this title, on a voyage of less than 600 miles shall have at least one licensed mate. Such a vessel on a voyage of 600 miles or more shall have two licensed mates.

“(2) An offshore supply vessel of more than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, may not be operated without a licensed engineer.

“(3) An offshore supply vessel shall have at least one mate. Additional mates on an offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title shall be prescribe in accordance with hours of service require-

ments (including recording and record-keeping of that service) prescribed by the Secretary.”.

(f) REGULATIONS.—

(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall promulgate regulations to implement the amendments enacted by this section and chapter 37 of title 46, United States Code, for offshore supply vessels of at least 6,000 gross tons, before January 1, 2010.

(2) INTERIM FINAL RULE AUTHORITY.—The Secretary shall issue an interim final rule as a temporary regulation implementing this section (including the amendments made by this section), and chapter 37 of title 46, United States Code, for offshore supply vessels of at least 6,000 gross tons, as soon as practicable after the date of enactment of this section, without regard to the provisions of chapter 5 of title 5, United States Code. All regulations prescribed under the authority of this paragraph that are not earlier superseded by final regulations shall expire not later than 1 year after the date of enactment of this Act.

(3) INITIATION OF RULEMAKING.—The Secretary may initiate a rulemaking to implement this section (including the amendments made by this section), and chapter 37 of title 46, United States Code, for offshore supply vessels of at least 6,000 gross tons, as soon as practicable after the date of enactment of this section. The final rule issued pursuant to that rulemaking may supersede the interim final rule promulgated under this subsection.

(4) INTERIM PERIOD.—After the date of enactment of this Act and prior to the effective date of the regulations promulgated to implement the amendments enacted by this section under paragraph (2), and notwithstanding the tonnage limits of applicable regulations promulgated prior to the date of enactment of this Act, the Secretary may—

(A) issue a certificate of inspection under section 3309 of title 46, United States Code, to an offshore supply vessel of at least 500 gross tons as measured under section 14502 of title 46, United States Code, or of at least 6,000 gross tons as measured under section 14302 of title 46, United States Code, if the Secretary determines that such vessel’s arrangements, equipment, classification, and certifications provide for the safe carriage of individuals in addition to the crew and oil and hazardous substances, taking into consideration the characteristics of offshore supply vessels, their methods of operation, and their service in support of exploration, exploitation, or production of offshore mineral or energy resources;

(B) for the purpose of enforcing chapter 37 of title 46, United States Code, use tank vessel standards for offshore supply vessels of at least 6,000 gross tons after considering the characteristics, methods of operation, and nature of the service of the vessel; and

(C) authorize a master, mate, or engineer whom the Secretary decides possesses the experience on an offshore supply vessel under 6,000 gross tons to serve on an offshore supply vessel over at least 6,000 gross tons.

**SEC. 820. ASSOCIATED EQUIPMENT.**

Section 2101(1)(B) of title 46, United States Code, is amended by inserting “with the exception of emergency locator beacons,” before “does”.

**SEC. 821. LIFESAVING DEVICES ON UNINSPECTED VESSELS.**

Section 4102(b) of title 46, United States Code, is amended to read as follows:

“(b) The Secretary shall prescribe regulations requiring the installation, maintenance, and use of life preservers and other lifesaving devices for individuals on board uninspected vessels.”.

**SEC. 822. STUDY OF BLENDED FUELS IN MARINE APPLICATION.**

(a) SURVEY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Commandant of the Coast Guard, shall submit a survey of published data and reports, pertaining to the use, safety, and performance of blended fuels in marine applications, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committees on Commerce, Science, and Transportation of the Senate.

(2) INCLUDED INFORMATION.—To the extent possible, the survey required in subsection (a), shall include data and reports on—

(A) the impact of blended fuel on the operation, durability, and performance of recreational and commercial marine engines, vessels, and marine engine and vessel components and associated equipment;

(B) the safety impacts of blended fuels on consumers that own and operate recreational and commercial marine engines and marine engine components and associated equipment; and

(C) to the extent available, fires and explosions on board vessels propelled by engines using blended fuels.

(b) STUDY.—

(1) IN GENERAL.—Not later than 36 months after the date of enactment of this Act, the Secretary, acting through the Commandant, shall conduct a comprehensive study on the use, safety, and performance of blended fuels in marine applications. The Secretary is authorized to conduct such study in conjunction with—

(A) any other Federal agency;

(B) any State government or agency;

(C) any local government or agency, including local police and fire departments; and

(D) any private entity, including engine and vessel manufacturers.

(2) EVALUATION.—The study shall include an evaluation of—

(A) the impact of blended fuel on the operation, durability and performance of recreational and commercial marine engines, vessels, and marine engine and vessel components and associated equipment;

(B) the safety impacts of blended fuels on consumers that own and operate recreational and commercial marine engines and marine engine components and associated equipment; and

(C) fires and explosions on board vessels propelled by engines using blended fuels.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Homeland Security to carry out the survey and study under this section \$1,000,000.

**SEC. 823. RENEWAL OF ADVISORY COMMITTEES.**

(a) GREAT LAKES PILOTAGE ADVISORY COMMITTEE.—Section 9307(f)(1) of title 46, United States Code, is amended by striking “September 30, 2010.” and inserting “September 30, 2020.”.

(b) NATIONAL BOATING SAFETY ADVISORY COUNCIL.—Section 13110 of title 46, United States Code, is amended—

(1) in subsection (d), by striking the first sentence; and

(2) in subsection (e), by striking “September 30, 2010.” and inserting “September 30, 2020.”.

(c) HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.—Section 18(h) of the Coast Guard Authorization Act of 1991 (Public Law 102–241 as amended by Public Law 104–324) is amended by striking “September 30, 2010.” and inserting “September 30, 2020.”.

(d) LOWER MISSISSIPPI RIVER WATERWAY SAFETY ADVISORY COMMITTEE.—Section 19 of the Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended—

(1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “twenty-four” and inserting “twenty-five”; and

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

“(12) One member representing the Associated Federal Pilots and Docking Masters of Louisiana.”; and

(2) in subsection (g), by striking “September 30, 2010.” and inserting “September 30, 2020.”.

(e) TOWING SAFETY ADVISORY COMMITTEE.—The Act to Establish a Towing Safety Advisory Committee in the Department of Transportation (33 U.S.C. 1231a) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) There is established a Towing Safety Advisory Committee (hereinafter referred to as the ‘Committee’). The Committee shall consist of eighteen members with particular expertise, knowledge, and experience regarding shallow-draft inland and coastal waterway navigation and towing safety as follows:

“(1) Seven members representing the barge and towing industry, reflecting a regional geographic balance.

“(2) One member representing the offshore mineral and oil supply vessel industry.

“(3) One member representing holders of active licensed Masters or Pilots of towing vessels with experience on the Western Rivers and the Gulf Intracoastal Waterway.

“(4) One member representing the holders of active licensed Masters of towing vessels in offshore service.

“(5) One member representing Masters who are active ship-docking or harbor towing vessel.

“(6) One member representing licensed or unlicensed towing vessel engineers with formal training and experience.

“(7) Two members representing each of the following groups:

“(A) Port districts, authorities, or terminal operators.

“(B) Shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge).

“(8) Two members representing the general public.”; and

(2) in subsection (e), by striking “September 30, 2010.” and inserting “September 30, 2020.”.

(f) NAVIGATION SAFETY ADVISORY COUNCIL.—Section 5 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

“(a) ESTABLISHMENT OF COUNCIL.—

“(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall establish a Navigation Safety Advisory Council (hereinafter referred to as the ‘Council’), consisting of not more than 21 members. All members shall have expertise in Inland and International vessel navigation Rules of the Road, aids to maritime navigation, maritime law, vessel safety, port safety, or commercial diving safety. Upon appointment, all non-Federal members shall be designated as representative members to represent the viewpoints and interests of one of the following groups or organizations:

“(A) Commercial vessel owners or operators.

“(B) Professional mariners.

“(C) Recreational boaters.

“(D) The recreational boating industry.

“(E) State agencies responsible for vessel or port safety.

“(F) The Maritime Law Association.

“(2) PANELS.—Additional persons may be appointed to panels of the Council to assist the Council in performance of its functions.

“(3) NOMINATIONS.—The Secretary, through the Coast Guard Commandant, shall not less often than once a year publish a notice in the Federal Register soliciting nominations for membership on the Council.

“(b) FUNCTIONS.—The Council shall advise, consult with, and make recommendations to the Secretary, through the Coast Guard Commandant, on matters relating to maritime collisions, rammings, groundings, Inland Rules of the Road, International Rules of the Road, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems. Any advice and recommendations made by the Council to the Secretary shall reflect the independent judgment of the Council on the matter concerned. The Council shall meet at the call of the Coast Guard Commandant, but in any event not less than twice during each calendar year. All proceedings of the Council shall be public, and a record of the proceedings shall be made available for public inspection.”; and

(2) in subsection (d), by striking “September 30, 2010.” and inserting “September 30, 2020.”.

## TITLE IX—CRUISE VESSEL SAFETY

### SEC. 901. SHORT TITLE.

This title may be cited as the “Cruise Vessel Security and Safety Act of 2009”.

### SEC. 902. FINDINGS.

The Congress makes the following findings:

(1) There are approximately 200 overnight ocean-going cruise vessels worldwide. The average ocean-going cruise vessel carries 2,000 passengers with a crew of 950 people.

(2) In 2007 alone, approximately 12,000,000 passengers were projected to take a cruise worldwide.

(3) Passengers on cruise vessels have an inadequate appreciation of their potential vulnerability to crime while on ocean voyages, and those who may be victimized lack the information they need to understand their legal rights or to know whom to contact for help in the immediate aftermath of the crime.

(4) Sexual violence, the disappearance of passengers from vessels on the high seas, and other serious crimes have occurred during luxury cruises.

(5) Over the last 5 years, sexual assault and physical assaults on cruise vessels were the leading crimes investigated by the Federal Bureau of Investigation with regard to cruise vessel incidents.

(6) These crimes at sea can involve attacks both by passengers and crew members on other passengers and crew members.

(7) Except for United States flagged vessels, or foreign flagged vessels operating in an area subject to the direct jurisdiction of the United States, there are no Federal statutes or regulations that explicitly require cruise lines to report alleged crimes to United States Government officials.

(8) It is not known precisely how often crimes occur on cruise vessels or exactly how many people have disappeared during ocean voyages because cruise line companies do not make comprehensive, crime-related data readily available to the public.

(9) Obtaining reliable crime-related cruise data from governmental sources can be difficult, because multiple countries may be involved when a crime occurs on the high seas, including the flag country for the vessel, the country of citizenship of particular passengers, and any countries having special or maritime jurisdiction.

(10) It can be difficult for professional crime investigators to immediately secure an alleged crime scene on a cruise vessel, recover evidence of an onboard offense, and identify or interview potential witnesses to the alleged crime.

(11) Most cruise vessels that operate into and out of United States ports are registered under the laws of another country, and investigations and prosecutions of crimes against passengers and crew members may involve the laws and authorities of multiple nations.

(12) The Coast Guard has found it necessary to establish 500-yard security zones around cruise vessels to limit the risk of terrorist attack. Recently piracy has dramatically increased throughout the world.

(13) To enhance the safety of cruise passengers, the owners of cruise vessels could upgrade, modernize, and retrofit the safety and security infrastructure on such vessels by installing peep holes in passenger room doors, installing security video cameras in targeted areas, limiting access to passenger rooms to select staff during specific times, and installing acoustic hailing and warning devices capable of communicating over distances.

**SEC. 903. CRUISE VESSEL SECURITY AND SAFETY REQUIREMENTS.**

(a) IN GENERAL.—Chapter 35 of title 46, United States Code, is amended by adding at the end the following:

**“§ 3507. Passenger vessel security and safety requirements**

“(a) VESSEL DESIGN, EQUIPMENT, CONSTRUCTION, AND RETROFITTING REQUIREMENTS.—

“(1) IN GENERAL.—Each vessel to which this subsection applies shall comply with the following design and construction standards:

“(A) The vessel shall be equipped with ship rails that are located not less than 42 inches above the cabin deck.

“(B) Each passenger stateroom and crew cabin shall be equipped with entry doors that include peep holes or other means of visual identification.

“(C) For any vessel the keel of which is laid after the date of enactment of the Cruise Vessel Security and Safety Act of 2009, each passenger stateroom and crew cabin shall be equipped with—

“(i) security latches; and

“(ii) time-sensitive key technology.

“(D) The vessel shall integrate technology that can be used for capturing images of passengers or detecting passengers who have fallen overboard, to the extent that such technology is available.

“(E) The vessel shall be equipped with a sufficient number of operable acoustic hailing or other such warning devices to provide communication capability around the entire vessel when operating in high risk areas (as defined by the United States Coast Guard).

“(2) FIRE SAFETY CODES.—In administering the requirements of paragraph (1)(C), the Secretary shall take into consideration fire safety and other applicable emergency requirements established by the U.S. Coast Guard and under international law, as appropriate.

“(3) EFFECTIVE DATE.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the requirements of paragraph (1) shall take effect 18 months after the date of enactment of the Cruise Vessel Security and Safety Act of 2009.

“(B) LATCH AND KEY REQUIREMENTS.—The requirements of paragraph (1)(C) take effect on the date of enactment of the Cruise Vessel Security and Safety Act of 2009.

“(b) VIDEO RECORDING.—

“(1) REQUIREMENT TO MAINTAIN SURVEILLANCE.—The owner of a vessel to which this section applies shall maintain a video surveillance system to assist in documenting crimes on the vessel and in providing evidence for the prosecution of such crimes, as determined by the Secretary.

“(2) ACCESS TO VIDEO RECORDS.—The owner of a vessel to which this section applies shall provide to any law enforcement official performing official duties in the course and scope of an investigation, upon request, a copy of all records of video surveillance that the official believes may provide evidence of a crime reported to law enforcement officials.

“(c) SAFETY INFORMATION.—The owner of a vessel to which this section applies shall provide in each passenger stateroom, and post in a location readily accessible to all crew and in other places specified by the Secretary, information regarding the locations of the United States embassy and each consulate of the United States for each country the vessel will visit during the course of the voyage.

“(d) SEXUAL ASSAULT.—The owner of a vessel to which this section applies shall—

“(1) maintain on the vessel adequate, in-date supplies of anti-retroviral medications and other medications designed to prevent sexually transmitted diseases after a sexual assault;

“(2) maintain on the vessel equipment and materials for performing a medical examination in sexual assault cases to evaluate the patient for trauma, provide medical care, and preserve relevant medical evidence;

“(3) make available on the vessel at all times medical staff who have undergone a credentialing process to verify that he or she—

“(A) possesses a current physician’s or registered nurse’s license and—

“(i) has at least 3 years of post-graduate or post-registration clinical practice in general and emergency medicine; or

“(ii) holds board certification in emergency medicine, family practice medicine, or internal medicine;

“(B) is able to provide assistance in the event of an alleged sexual assault, has received training in conducting forensic sexual assault examination, and is able to promptly perform such an examination upon request and provide proper medical treatment of a victim, including administration of anti-retroviral medications and other medications that may prevent the transmission of human immunodeficiency virus and other sexually transmitted diseases; and

“(C) meets guidelines established by the American College of Emergency Physicians relating to the treatment and care of victims of sexual assault;

“(4) prepare, provide to the patient, and maintain written documentation of the findings of such examination that is signed by the patient; and

“(5) provide the patient free and immediate access to—

“(A) contact information for local law enforcement, the Federal Bureau of Investigation, the United States Coast Guard, the nearest United States consulate or embassy, and the National Sexual Assault Hotline program or other third party victim advocacy hotline service; and

“(B) a private telephone line and Internet-accessible computer terminal by which the individual may confidentially access law enforcement officials, an attorney, and the information and support services available through the National Sexual Assault Hotline program or other third party victim advocacy hotline service.

“(e) CONFIDENTIALITY OF SEXUAL ASSAULT EXAMINATION AND SUPPORT INFORMATION.—The master or other individual in charge of a vessel to which this section applies shall—

“(1) treat all information concerning an examination under subsection (d) confidential, so that no medical information may be released to the cruise line or other owner of the vessel or any legal representative thereof without the prior knowledge and approval in writing of the patient, or, if the patient is unable to provide written authorization, the patient’s next-of-kin, except that nothing in this paragraph prohibits the release of—

“(A) information, other than medical findings, necessary for the owner or master of the vessel to comply with the provisions of subsection (g) or other applicable incident reporting laws;

“(B) information to secure the safety of passengers or crew on board the vessel; or

“(C) any information to law enforcement officials performing official duties in the course and scope of an investigation; and

- “(2) treat any information derived from, or obtained in connection with, post-assault counseling or other supportive services confidential, so no such information may be released to the cruise line or any legal representative thereof without the prior knowledge and approval in writing of the patient, or, if the patient is unable to provide written authorization, the patient’s next-of-kin.
- “(f) CREW ACCESS TO PASSENGER STATEROOMS.—The owner of a vessel to which this section applies shall—
- “(1) establish and implement procedures and restrictions concerning—
- “(A) which crew members have access to passenger staterooms; and
- “(B) the periods during which they have that access; and
- “(2) ensure that the procedures and restrictions are fully and properly implemented and periodically reviewed.
- “(g) LOG BOOK AND REPORTING REQUIREMENTS.—
- “(1) IN GENERAL.—The owner of a vessel to which this section applies shall—
- “(A) record in a log book, either electronically or otherwise, in a centralized location readily accessible to law enforcement personnel, a report on—
- “(i) all complaints of crimes described in paragraph (3)(A)(i),
- “(ii) all complaints of theft of property valued in excess of \$1,000, and
- “(iii) all complaints of other crimes,
- committed on any voyage that embarks or disembarks passengers in the United States; and
- “(B) make such log book available upon request to any agent of the Federal Bureau of Investigation, any member of the United States Coast Guard, and any law enforcement officer performing official duties in the course and scope of an investigation.
- “(2) DETAILS REQUIRED.—The information recorded under paragraph (1) shall include, at a minimum—
- “(A) the vessel operator;
- “(B) the name of the cruise line;
- “(C) the flag under which the vessel was operating at the time the reported incident occurred;
- “(D) the age and gender of the victim and the accused assailant;
- “(E) the nature of the alleged crime or complaint, as applicable, including whether the alleged perpetrator was a passenger or a crew member;
- “(F) the vessel’s position at the time of the incident, if known, or the position of the vessel at the time of the initial report;
- “(G) the time, date, and method of the initial report and the law enforcement authority to which the initial report was made;
- “(H) the time and date the incident occurred, if known;
- “(I) the total number of passengers and the total number of crew members on the voyage; and
- “(J) the case number or other identifier provided by the law enforcement authority to which the initial report was made.
- “(3) REQUIREMENT TO REPORT CRIMES AND OTHER INFORMATION.—
- “(A) IN GENERAL.—The owner of a vessel to which this section applies (or the owner’s designee)—
- “(i) shall contact the nearest Federal Bureau of Investigation Field Office or Legal Attache by telephone as soon as possible after the occurrence on board the vessel of an incident involving homicide, suspicious death, a missing United States national, kidnapping, assault with serious bodily injury, any offense to which section 2241, 2242, 2243, or 2244 (a) or (c) of title 18 applies, firing or tampering with the vessel, or theft of money or property in excess of \$10,000 to report the incident;
- “(ii) shall furnish a written report of the incident to the Secretary via an Internet based portal;
- “(iii) may report any serious incident that does not meet the reporting requirements of clause (i) and that does not require immediate attention by the Federal Bureau of Investigation via the Internet based portal maintained by the Secretary of Transportation; and
- “(iv) may report any other criminal incident involving passengers or crew members, or both, to the proper State or local government law enforcement authority.
- “(B) INCIDENTS TO WHICH SUBPARAGRAPH (A) APPLIES.—Subparagraph (A) applies to an incident involving criminal activity if—
- “(i) the vessel, regardless of registry, is owned, in whole or in part, by a United States person, regardless of the nationality of the victim or perpetrator, and the incident occurs when the vessel is within the

admiralty and maritime jurisdiction of the United States and outside the jurisdiction of any State;

“(ii) the incident concerns an offense by or against a United States national committed outside the jurisdiction of any nation;

“(iii) the incident occurs in the Territorial Sea of the United States, regardless of the nationality of the vessel, the victim, or the perpetrator; or

“(iv) the incident concerns a victim or perpetrator who is a United States national on a vessel during a voyage that departed from or will arrive at a United States port.

“(4) AVAILABILITY OF INCIDENT DATA VIA INTERNET.—

“(A) WEBSITE.—The Secretary of Transportation shall maintain a statistical compilation of all incidents described in paragraph (3)(A)(i) on an Internet site that provides a numerical accounting of the missing persons and alleged crimes recorded in each report filed under paragraph (3)(A)(i) that are no longer under investigation by the Federal Bureau of Investigation. The data shall be updated no less frequently than quarterly, aggregated by—

“(i) cruise line, with each cruise line identified by name; and

“(ii) whether each crime was committed by a passenger or a crew member.

“(B) ACCESS TO WEBSITE.—Each cruise line taking on or discharging passengers in the United States shall include a link on its Internet website to the website maintained by the Secretary under subparagraph (A).

“(h) ENFORCEMENT.—

“(1) PENALTIES.—

“(A) CIVIL PENALTY.—Any person that violates this section or a regulation under this section shall be liable for a civil penalty of not more than \$25,000 for each day during which the violation continues, except that the maximum penalty for a continuing violation is \$50,000.

“(B) CRIMINAL PENALTY.—Any person that willfully violates this section or a regulation under this section shall be fined not more than \$250,000 or imprisoned not more than 1 year, or both.

“(2) DENIAL OF ENTRY.—The Secretary may deny entry into the United States to a vessel to which this section applies if the owner of the vessel—

“(A) commits an act or omission for which a penalty may be imposed under this subsection; or

“(B) fails to pay a penalty imposed on the owner under this subsection.

“(i) PROCEDURES.—Within 6 months after the date of enactment of the Cruise Vessel Security and Safety Act of 2009, the Secretary shall issue guidelines, training curricula, and inspection and certification procedures necessary to carry out the requirements of this section.

“(j) REGULATIONS.—The Secretary of Transportation and the Commandant shall each issue such regulations as are necessary to implement this section.

“(k) APPLICATION.—

“(1) IN GENERAL.—This section and section 3508 apply to a passenger vessel (as defined in section 2101(22)) that—

“(A) is authorized to carry at least 250 passengers;

“(B) has onboard sleeping facilities for each passenger;

“(C) is on a voyage that embarks or disembarks passengers in the United States; and

“(D) is not engaged on a coastwise voyage.

“(2) FEDERAL AND STATE VESSELS.—This section and section 3508 do not apply to a vessel that is owned and operated by the United States Government or a vessel that is owned and operated by a State.

“(l) OWNER DEFINED.—In this section and section 3508, the term ‘owner’ means the owner, charterer, managing operator, master, or other individual in charge of a vessel.

**“§ 3508. Crime scene preservation training for passenger vessel crew members**

“(a) IN GENERAL.—Within 1 year after the date of enactment of the Cruise Vessel Security and Safety Act of 2009, the Secretary, in consultation with the Director of the Federal Bureau of Investigation and the Maritime Administrator, shall develop training standards and curricula to allow for the certification of passenger vessel security personnel, crew members, and law enforcement officials on the appropriate methods for prevention, detection, evidence preservation, and reporting of criminal activities in the international maritime environment. The Administrator of the Mar-

itime Administration may certify organizations in the United States and abroad that offer the curriculum for training and certification under subsection (c).

“(b) **MINIMUM STANDARDS.**—The standards established by the Secretary under subsection (a) shall include—

“(1) the training and certification of vessel security personnel, crew members, and law enforcement officials in accordance with accepted law enforcement and security guidelines, policies, and procedures, including recommendations for incorporating a background check process for personnel trained and certified in foreign countries;

“(2) the training of students and instructors in all aspects of prevention, detection, evidence preservation, and reporting of criminal activities in the international maritime environment; and

“(3) the provision or recognition of off-site training and certification courses in the United States and foreign countries to develop and provide the required training and certification described in subsection (a) and to enhance security awareness and security practices related to the preservation of evidence in response to crimes on board passenger vessels.

“(c) **CERTIFICATION REQUIREMENT.**—Beginning 2 years after the standards are established under subsection (b), no vessel to which this section applies may enter a United States port on a voyage (or voyage segment) on which a United States citizen is a passenger unless there is at least 1 crew member onboard who is certified as having successfully completed training in the prevention, detection, evidence preservation, and reporting of criminal activities in the international maritime environment on passenger vessels under subsection (a).

“(d) **INTERIM TRAINING REQUIREMENT.**—No vessel to which this section applies may enter a United States port on a voyage (or voyage segment) on which a United States citizen is a passenger unless there is at least 1 crew member onboard who has been properly trained in the prevention, detection, evidence preservation and the reporting requirements of criminal activities in the international maritime environment. The owner of such a vessel shall maintain certification or other documentation, as prescribed by the Secretary, verifying the training of such individual and provide such documentation upon request for inspection in connection with enforcement of the provisions of this section. This subsection shall take effect 1 year after the date of enactment of the Cruise Vessel Safety and Security Act of 2009 and shall remain in effect until superseded by the requirements of subsection (c).

“(e) **CIVIL PENALTY.**—Any person that violates this section or a regulation under this section shall be liable for a civil penalty of not more than \$50,000.

“(f) **DENIAL OF ENTRY.**—The Secretary may deny entry into the United States to a vessel to which this section applies if the owner of the vessel—

“(1) commits an act or omission for which a penalty may be imposed under subsection (e); or

“(2) fails to pay a penalty imposed on the owner under subsection (e).”.

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

“3507. Passenger vessel security and safety requirements.

“3508. Crime scene preservation training for passenger vessel crew members.”.

**SEC. 904. STUDY AND REPORT ON THE SECURITY NEEDS OF PASSENGER VESSELS.**

(a) **IN GENERAL.**—Within 3 months after the date of enactment of this Act, the Secretary of the department in which the United States Coast Guard is operating shall conduct a study of the security needs of passenger vessels depending on number of passengers on the vessels, and report to the Congress findings of the study and recommendations for improving security on those vessels.

(b) **REPORT CONTENTS.**—In recommending appropriate security on those vessels, the report shall take into account typical crew member shifts, working conditions of crew members, and length of voyages.

## **TITLE X—UNITED STATES MARINER PROTECTION**

**SEC. 1001. SHORT TITLE.**

This title may be cited as the “United States Mariner and Vessel Protection Act of 2009”.

**SEC. 1002. USE FORCE AGAINST PIRACY.**

(a) **IN GENERAL.**—Chapter 81 of title 46, United States Code, is amended by adding at the end the following new section:

**“§ 8107. Use of force against piracy**

“An owner, operator, time charterer, master, or mariner who uses force, or authorizes the use of force, to defend a vessel of the United States against an act of piracy shall not be liable for any injury or death caused by such force to any person participating in the act of piracy.”.

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

“8107. Use of force against piracy.”.

**SEC. 1003. AGREEMENTS.**

To carry out the purpose of this title, the Secretary of the department in which the Coast Guard is operating shall work through the International Maritime Organization to establish agreements to promote coordinated action among flag- and port-states to deter, protect against, and rapidly respond to acts of piracy against the vessels of, and in the waters under the jurisdiction of, those nations, and to ensure limitations on liability similar to those established by section 8107 of title 46, United States Code, as amended by this title.

**TITLE XI—PORT SECURITY****SEC. 1101. MARITIME HOMELAND SECURITY PUBLIC AWARENESS PROGRAM.**

The Secretary of Homeland Security shall establish a program to help prevent acts of terrorism and other activities that jeopardize maritime homeland security, by seeking the cooperation of the commercial and recreational boating industries and the public to improve awareness of activity in the maritime domain and report suspicious or unusual activity.

**SEC. 1102. TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL.**

(a) IN GENERAL.—Not later than 120 days after completing the pilot program under section 70105(k)(1) of title 46, United States Code, to test TWIC access control technologies at port facilities and vessels nationwide, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate and to the Comptroller General a report containing an assessment of the results of the pilot. The report shall include—

- (1) the findings of the pilot program with respect to key technical and operational aspects of implementing TWIC technologies in the maritime sector;
- (2) a comprehensive listing of the extent to which established metrics were achieved during the pilot program; and
- (3) an analysis of the viability of those technologies for use in the maritime environment, including any challenges to implementing those technologies and strategies for mitigating identified challenges.

(b) GAO ASSESSMENT.—The Comptroller General shall review the report and submit to the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Homeland Security and Governmental Affairs of the Senate an assessment of the report’s findings and recommendations.

**SEC. 1103. REVIEW OF INTERAGENCY OPERATIONAL CENTERS.**

(a) IN GENERAL.—Within 180 days of enactment of this Act, the Department of Homeland Security Inspector General shall provide a report to the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committees on Homeland Security and Governmental Affairs and Commerce, Science, and Transportation of the Senate concerning the establishment of Interagency Operational Centers for Port Security required by section 108 of the SAFE Port Act (Public Law 109–347).

(b) REPORT.—The report shall include—

- (1) an examination of the Department’s efforts to establish the Interagency Operational Centers;
- (2) a timeline for construction;
- (3) a detailed breakdown, by center, as to the incorporation of those representatives required by section 70107A(b)(3) of title 46, United States Code;
- (4) an analysis of the hurdles faced by the Department in developing these centers;

(5) information on the number of security clearances attained by State, local, and tribal officials participating in the program; and

(6) an examination of the relationship between the Interagency Operational Centers and State, local and regional fusion centers participating in the Department of Homeland Security's State, Local, and Regional Fusion Center Initiative under section 511 of the Implementing the Recommendations of the 9/11 Commission Act of 2007 (Public Law 110-53), with a particular emphasis on—

- (A) how the centers collaborate and coordinate their efforts; and
- (B) the resources allocated by the Coast Guard to both initiatives.

**SEC. 1104. MARITIME SECURITY RESPONSE TEAMS.**

(a) **IN GENERAL.**—Section 70106 of title 46, United States Code, is amended by striking subsection (c) and inserting the following:

“(c) **MARITIME SECURITY RESPONSE TEAMS.**—

“(1) **IN GENERAL.**—In addition to the maritime safety and security teams, the Secretary shall establish no less than two maritime security response teams to act as the Coast Guard's rapidly deployable counterterrorism and law enforcement response units that can apply advanced interdiction skills in response to threats of maritime terrorism.

“(2) **MINIMIZATION OF RESPONSE TIME.**—The maritime security response teams shall be stationed in such a way to minimize, to the extent practicable, the response time to any reported maritime terrorist threat.

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

**SEC. 1105. COAST GUARD DETECTION CANINE TEAM PROGRAM EXPANSION.**

(a) **DEFINITIONS.**—For purposes of this section:

(1) **CANINE DETECTION TEAM.**—The term “detection canine team” means a canine and a canine handler that are trained to detect narcotics or explosives, or other threats as defined by the Secretary.

(2) **SECRETARY.**—The term “Secretary” means the Secretary of Homeland Security.

(b) **DETECTION CANINE TEAMS.**—

(1) **INCREASED CAPACITY.**—Not later than 240 days after the date of enactment of this Act, the Secretary shall—

(A) begin to increase the number of detection canine teams certified by the Coast Guard for the purposes of maritime-related security by no fewer than 10 canine teams annually through fiscal year 2012; and

(B) encourage owners and operators of port facilities, passenger cruise liners, oceangoing cargo vessels, and other vessels identified by the Secretary to strengthen security through the use of highly trained detection canine teams.

(2) **CANINE PROCUREMENT.**—The Secretary, acting through the Commandant of the Coast Guard, shall—

(A) procure detection canine teams as efficiently as possible, including, to the greatest extent possible, through increased domestic breeding, while meeting the performance needs and criteria established by the Commandant;

(B) support expansion and upgrading of existing canine training facilities operated by the department in which the Coast Guard is operating; and

(C) as appropriate, partner with other Federal, State, or local agencies, nonprofit organizations, universities, or the private sector to increase the breeding and training capacity for Coast Guard canine detection teams.

(c) **DEPLOYMENT.**—The Secretary shall prioritize deployment of the additional canine teams to ports based on risk, consistent with the Security and Accountability For Every Port Act of 2006 (Public Law 109-347).

(d) **AUTHORIZATION.**—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section for fiscal years 2008 through 2012.

**SEC. 1106. COAST GUARD PORT ASSISTANCE PROGRAM.**

(a) **IN GENERAL.**—Section 70110 of title 46, United States Code, is amended by adding at the end the following:

“(f) **COAST GUARD ASSISTANCE PROGRAM.**—

“(1) **IN GENERAL.**—The Secretary may lend, lease, donate, or otherwise provide equipment, and provide technical training and support, to the owner or operator of a foreign port or facility—

“(A) to assist in bringing the port or facility into compliance with applicable International Ship and Port Facility Code standards;

“(B) to assist the port or facility in meeting standards established under section 70109A of this chapter; and

“(C) to assist the port or facility in exceeding the standards described in subparagraphs (A) and (B).

“(2) CONDITIONS.—The Secretary—

“(A) shall provide such assistance based upon an assessment of the risks to the security of the United States and the inability of the owner or operator of the port or facility otherwise to bring the port or facility into compliance with those standards and to maintain compliance with them;

“(B) may not provide such assistance unless the port or facility has been subjected to a comprehensive port security assessment by the Coast Guard or a third party entity certified by the Secretary under section 70110A(b) to validate foreign port or facility compliance with International Ship and Port Facility Code standards; and

“(C) may only lend, lease, or otherwise provide equipment that the Secretary has first determined is not required by the Coast Guard for the performance of its missions.”.

(b) SAFETY AND SECURITY ASSISTANCE FOR FOREIGN PORTS.—

(1) IN GENERAL.—Section 70110(e)(1) of title 46, United States Code, is amended by striking the second sentence and inserting the following: “The Secretary shall establish a strategic plan to utilize those assistance programs to assist ports and facilities that are found by the Secretary under subsection (a) not to maintain effective antiterrorism measures in the implementation of port security antiterrorism measures.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 70110 of title 46, United States Code, is amended—

(i) by inserting “**or facilities**” after “**ports**” in the section heading;

(ii) by inserting “or facility” after “port” each place it appears; and

(iii) by striking “PORTS” in the heading for subsection (e) and inserting “PORTS, FACILITIES.”.

(B) The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the item relating to section 70110 and inserting the following:

“70110. Actions and assistance for foreign ports or facilities and United States territories”.

#### SEC. 1107. MARITIME BIOMETRIC IDENTIFICATION.

(a) IN GENERAL.—Within one year after the date of the enactment of this Act, the Secretary of Homeland Security, acting through the Commandant of the Coast Guard, shall conduct, in the maritime environment, a program for the mobile biometric identification of suspected individuals, including terrorists, to enhance border security and for other purposes.

(b) REQUIREMENTS.—The Secretary shall ensure the program required in this section is coordinated with other biometric identification programs within the Department of Homeland Security.

(c) COST ANALYSIS.—Within 90 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Appropriations and Homeland Security of the House of Representatives and the Committees on Appropriations and Homeland Security and Governmental Affairs of the Senate an analysis of the cost of expanding the Coast Guard’s biometric identification capabilities for use by the Coast Guards Deployable Operations Group, cutters, stations, and other deployable maritime teams considered appropriate by the Secretary, and any other appropriate Department of Homeland Security maritime vessels and units. The analysis may include a tiered plan for the deployment of this program that gives priority to vessels and units more likely to encounter individuals suspected of making illegal border crossings through the maritime environment.

(d) DEFINITION.—For the purposes of this section, the term “biometric identification” means use of fingerprint and digital photography images.

#### SEC. 1108. REVIEW OF POTENTIAL THREATS.

Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report analyzing the threat, vulnerability, and consequence of a terrorist attack on gasoline and chemical cargo shipments in port activity areas in the United States.

**SEC. 1109. PORT SECURITY PILOT.**

The Secretary of Homeland Security shall establish a pilot program to test and deploy preventive radiological or nuclear detection equipment on Coast Guard vessels and other locations in select port regions to enhance border security and for other purposes. The pilot program shall leverage existing Federal grant funding to support this program and the procurement of additional equipment.

**SEC. 1110. SEASONAL WORKERS.**

(a) **STUDY.**—The Comptroller General of the United States shall conduct a study on the effects that the Transportation Worker Identification Card (in this section referred to as “TWIC”) required by section 70105 of title 46, United States Code, has on companies that employ seasonal employees.

(b) **REPORT.**—Not later than one year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the results of the study, including—

- (1) costs associated in requiring seasonal employees to obtain TWIC cards on companies;
- (2) whether the Coast Guard and Transportation Security Administration are processing TWIC applications quickly enough for seasonal workers to obtain TWIC certification;
- (3) whether TWIC compliance costs or other factors have led to a reduction in service;
- (3) the impact of TWIC on the recruiting and hiring of seasonal and other temporary employees; and
- (4) an assessment of possible alternatives to TWIC certification that may be used for seasonal employees including any security vulnerabilities created by those alternatives.

**SEC. 1111. COMPARATIVE RISK ASSESSMENT OF VESSEL-BASED AND FACILITY-BASED LIQUEFIED NATURAL GAS REGASIFICATION PROCESSES.**

(a) **IN GENERAL.**—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Commandant of the Coast Guard, shall enter into an arrangement for the performance of an independent study to conduct a comparative risk assessment examining the relative safety and security risk associated with vessel-based and facility-based liquefied natural gas regasification processes conducted within 3 miles from land versus such processes conducted more than 3 miles from land.

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Commandant, shall provide a report on the findings and conclusions of the study required by this section to the Committees on Homeland Security, Transportation and Infrastructure, and Energy and Commerce of the House of Representatives, and the Committees on Homeland Security and Governmental Affairs and Commerce, Science, and Transportation of the Senate.

**SEC. 1112. PILOT PROGRAM FOR FINGERPRINTING OF MARITIME WORKERS.**

(a) **IN GENERAL.**—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish procedures providing for an individual who is required to be fingerprinted for purposes of obtaining a transportation security card under section 70105 of title 46, United States Code, to be fingerprinted at any facility operated by or under contract with an agency of the Department of Homeland Security that fingerprints the public for the Department.

(b) **EXPIRATION.**—This section expires on December 31, 2012.

**SEC. 1113. TRANSPORTATION SECURITY CARDS ON VESSELS.**

Section 70105(b)(2) of title 46, United States Code, is amended—

- (1) in subparagraph (B), by inserting after “title” the following: “allowed unescorted access to a secure area designated in a vessel security plan approved under section 70103 of this title”; and
- (2) in subparagraph (D), by inserting after “tank vessel” the following: “allowed unescorted access to a secure area designated in a vessel security plan approved under section 70103 of this title”.

**SEC. 1114. INTERNATIONAL LABOR STUDY.**

The Comptroller General of the United States shall conduct a study of methods to conduct a background security investigation of an individual who possesses a biometric identification card that complies with International Labor Convention number 185 that are equivalent to the investigation conducted on individuals applying for a visa to enter the United States. The Comptroller General shall submit a report

on the study within 180 days after the date of enactment of this Act to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

**SEC. 1115. MARITIME SECURITY ADVISORY COMMITTEES.**

Section 70112 of title 46, United States Code, is amended—

(1) by amending subsection (b)(5) to read as follows:

“(5)(A) The National Maritime Security Advisory Committee shall be composed of—

- “(i) at least 1 individual who represents the interests of the port authorities;
- “(ii) at least 1 individual who represents the interests of the facilities owners or operators;
- “(iii) at least 1 individual who represents the interests of the terminal owners or operators;
- “(iv) at least 1 individual who represents the interests of the vessel owners or operators;
- “(v) at least 1 individual who represents the interests of the maritime labor organizations;
- “(vi) at least 1 individual who represents the interests of the academic community;
- “(vii) at least 1 individual who represents the interests of State or local governments; and
- “(viii) at least 1 individual who represents the interests of the maritime industry.

“(B) Each Area Maritime Security Advisory Committee shall be composed of individuals who represents the interests of the port industry, terminal operators, port labor organizations, and other users of the port areas.”; and

(2) in subsection (g)—

- (A) in paragraph (1)(A), by striking “2008;” and inserting “2010;”;
- (B) by repealing paragraph (2);
- (C) by striking “(1);” and
- (D) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2).

**SEC. 1116. SEAMEN'S SHORESIDE ACCESS.**

Each facility security plan approved under section 70103(c) of title 46, United States Code, shall provide a system for seamen assigned to a vessel at that facility, pilots, and representatives of seamen’s welfare and labor organizations to board and depart the vessel through the facility in a timely manner at no cost to the individual.

**SEC. 1117. WATERSIDE SECURITY AROUND ESPECIALLY HAZARDOUS MATERIAL TERMINALS AND TANKERS.**

(a) **ENFORCEMENT OF SECURITY ZONES.**—Consistent with other provisions of Federal law, any security zone established by the Coast Guard around a tanker containing an especially hazardous material shall be enforced by the Coast Guard. If the Coast Guard must enforce multiple simultaneous security zones, the Coast Guard shall allocate resources so as to deter to the maximum extent practicable a transportation security incident (as that term is defined in section 70101 of title 46, United States Code).

(b) **LIMITATION ON RELIANCE ON STATE AND LOCAL GOVERNMENT.**—Any security arrangement approved as part of a facility security plan approved after the date of enactment of this Act under section 70103 of title 46, United States Code, to assist in the enforcement of any security zone established by the Coast Guard around a tanker containing an especially hazardous material, or around an especially hazardous material terminal on or adjacent to the navigable waters of the United States and served by tankers carrying especially hazardous materials, may not be based upon the provision of security by a State or local government unless the State or local government has entered into a contract, cooperative agreement, or other arrangement with the terminal operator to provide such services and the Secretary of the department in which the Coast Guard is operating, acting through the Commandant of the Coast Guard, ensures that the waterborne patrols operated as part of that security arrangement by a State or local government have the training, resources, personnel, equipment, and experience necessary to deter to the maximum extent practicable a transportation security incident (as that term is defined in section 70101 of title 46, United States Code).

(c) **DETERMINATION REQUIRED FOR NEW TERMINALS.**—The Secretary of the department in which the Coast Guard is operating, acting through the Commandant of the Coast Guard, may not approve a facility security plan under section 70103 of

title 46, United States Code, for a new especially hazardous material terminal the construction of which is begun after the date of enactment of this Act unless the Secretary determines that the Coast Guard sector in which the terminal is located has available the resources, including State and local government resources in accordance with subsection (b), to carry out the navigation and maritime security risk management measures identified by the Coast Guard pursuant to the Ports and Waterways Safety Act.

(d) **ESPECIALLY HAZARDOUS MATERIAL DEFINED.**—The term “especially hazardous material” means anhydrous ammonia, ammonium nitrate, chlorine, liquefied natural gas, liquefied petroleum gas, and any other substance identified by the Secretary of the department in which the Coast Guard is operating as an especially hazardous material.

**SEC. 1118. REVIEW OF LIQUEFIED NATURAL GAS FACILITIES.**

(a) **NOTICE OF DETERMINATION.**—Consistent with other provisions of law, the Secretary of Homeland Security must notify the Federal Energy Regulatory Commission when a determination is made that the waterway to a proposed waterside liquefied natural gas facility is suitable or unsuitable for the marine traffic associated with such facility.

(b) **FEDERAL ENERGY REGULATORY COMMISSION RESPONSE.**—The Federal Energy Regulatory Commission shall respond to the Secretary’s determination under subsection (a) by informing the Secretary within 90 days of notification or at the conclusion of any available appeal process, whichever is later, of what action the Commission has taken, pursuant to its authorities under the Natural Gas Act, regarding a proposal to construct and operate a waterside liquefied natural gas facility subject to a determination made under subsection (a).

**SEC. 1119. USE OF SECONDARY AUTHENTICATION FOR TRANSPORTATION SECURITY CARDS.**

The Secretary of Homeland Security may use a secondary authentication system for individuals applying for transportation security cards when fingerprints are not able to be taken or read to enhance transportation security.

**SEC. 1120. REPORT ON STATE AND LOCAL LAW ENFORCEMENT AUGMENTATION OF COAST GUARD RESOURCES WITH RESPECT TO SECURITY ZONES AND UNITED STATES PORTS.**

Not later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the Committees on Transportation and Infrastructure and Homeland Security of the House of Representatives and the Committees on Commerce, Science, and Transportation and Homeland Security and Governmental Affairs of the Senate a report on the extent to which State and local law enforcement entities are augmenting Coast Guard resources by enforcing Coast Guard-imposed security zones around vessels transiting to, through, or from United States ports and conducting port security patrols. At a minimum, the report shall specify—

(1) the number of ports in which State and local law enforcement entities are providing any services to enforce Coast Guard-imposed security zones around vessels transiting to, through, or from United States ports or to conduct security patrols in United States ports;

(2) the number of formal agreements entered into between the Coast Guard and State and local law enforcement entities to engage State and local law enforcement entities in the enforcement of Coast Guard-imposed security zones around vessels transiting to, through, or from United States ports or the conduct of port security patrols in United States ports, the duration of those agreements, and the aid that State and local entities are engaged to provided through these agreements;

(3) the extent to which the Coast Guard has set national standards for training, equipment, and resources to ensure that State and local law enforcement entities engaged in enforcing Coast Guard-imposed security zones around vessels transiting to, through, or from United States ports or in conducting port security patrols in United States ports (or both) can deter to the maximum extent practicable a transportation security incident (as that term is defined in section 70101 of title 46, United States Code);

(4) the extent to which the Coast Guard has assessed the ability of State and local law enforcement entities to carry out the security assignments which they have been engaged to perform, including their ability to meet any national standards for training, equipment, and resources that have been established by the Coast Guard in order to ensure that these entities can deter to the maximum extent practicable a transportation security incident (as that term is defined in section 70101 of title 46, United States Code);

(5) the extent to which State and local law enforcement entities are able to meet national standards for training, equipment, and resources established by the Coast Guard to ensure that those entities can deter to the maximum extent practicable a transportation security incident (as that term is defined in section 70101 of title 46, United States Code);

(6) the differences in law enforcement authority, and particularly boarding authority, between the Coast Guard and State and local law enforcement entities, and the impact that these differences have on the ability of State and local law enforcement entities to provide the same level of security that the Coast Guard provides during the enforcement of Coast Guard-imposed security zones and the conduct of security patrols in United States ports; and

(7) the extent of resource, training, and equipment differences between State and local law enforcement entities and the Coast Guard units engaged in enforcing Coast Guard-imposed security zones around vessels transiting to, through, or from United States ports or conducting security patrols in United States ports.

**SEC. 1121. ASSESSMENT OF TRANSPORTATION SECURITY CARD ENROLLMENT SITES.**

(a) **IN GENERAL.**—Not later than 30 days after the date of the enactment of this Act, the Secretary of Homeland Security shall prepare an assessment of the enrollment sites for transportation security cards issued under section 70105 of title 46, United States Code, including—

(1) the feasibility of keeping those enrollment sites open after September 23, 2009; and

(2) the quality of customer service, including the periods of time individuals are kept on hold on the telephone, whether appointments are kept, and processing times for applications.

(b) **TIMELINES AND BENCHMARKS.**—The Secretary shall develop timelines and benchmarks for implementing the findings of the assessment as the Secretary deems necessary.

## **TITLE XII—ALIEN SMUGGLING**

**SEC. 1201. SHORT TITLE.**

This title may be cited as the “Alien Smuggling and Terrorism Prevention Act of 2009”.

**SEC. 1202. FINDINGS.**

The Congress makes the following findings:

(1) Alien smuggling by land, air and sea is a transnational crime that violates the integrity of United States borders, compromises our Nation’s sovereignty, places the country at risk of terrorist activity, and contravenes the rule of law.

(2) Aggressive enforcement activity against alien smuggling is needed to protect our borders and ensure the security of our Nation. The border security and anti-smuggling efforts of the men and women on the Nation’s front line of defense are to be commended. Special recognition is due the Department of Homeland Security through the United States Border Patrol, United States Coast Guard, Customs and Border Protection, and Immigration and Customs Enforcement, and the Department of Justice through the Federal Bureau of Investigation.

(3) The law enforcement community must be given the statutory tools necessary to address this security threat. Only through effective alien smuggling statutes can the Justice Department, through the United States Attorneys’ Offices and the Domestic Security Section of the Criminal Division, prosecute these cases successfully.

(4) Alien smuggling has a destabilizing effect on border communities. State and local law enforcement, medical personnel, social service providers, and the faith community play important roles in combating smuggling and responding to its effects.

(5) Existing penalties for alien smuggling are insufficient to provide appropriate punishment for alien smugglers.

(6) Existing alien smuggling laws often fail to reach the conduct of alien smugglers, transporters, recruiters, guides, and boat captains.

(7) Existing laws concerning failure to heave to are insufficient to appropriately punish boat operators and crew who engage in the reckless transportation of aliens on the high seas and seek to evade capture.

(8) Much of the conduct in alien smuggling rings occurs outside of the United States. Extraterritorial jurisdiction is needed to ensure that smuggling rings

can be brought to justice for recruiting, sending, and facilitating the movement of those who seek to enter the United States without lawful authority.

(9) Alien smuggling can include unsafe or recklessly dangerous conditions that expose individuals to particularly high risk of injury or death.

**SEC. 1203. CHECKS AGAINST TERRORIST WATCHLIST.**

The Secretary of Homeland Security shall, to the extent practicable, check against all available terrorist watchlists those persons suspected of alien smuggling and smuggled individuals who are interdicted at the land, air, and sea borders of the United States.

**SEC. 1204. STRENGTHENING PROSECUTION AND PUNISHMENT OF ALIEN SMUGGLERS.**

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) by amending the subsection heading to read as follows: “BRINGING IN, HARBORING, AND SMUGGLING OF UNLAWFUL AND TERRORIST ALIENS.—”;

(2) by amending paragraphs (1) through (2) to read as follows:

“(1)(A) Whoever, knowing or in reckless disregard of the fact that an individual is an alien who lacks lawful authority to come to, enter, or reside in the United States, knowingly—

“(i) brings that individual to the United States in any manner whatsoever regardless of any future official action which may be taken with respect to such individual;

“(ii) recruits, encourages, or induces that individual to come to, enter, or reside in the United States;

“(iii) transports or moves that individual in the United States, in furtherance of their unlawful presence; or

“(iv) harbors, conceals, or shields from detection the individual in any place in the United States, including any building or any means of transportation;

or attempts or conspires to do so, shall be punished as provided in subparagraph (C).

“(B) Whoever, knowing that an individual is an alien, brings that individual to the United States in any manner whatsoever at a place, other than a designated port of entry or place designated by the Secretary of Homeland Security, regardless of whether such individual has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such individual, or attempts or conspires to do so, shall be punished as provided in subparagraph (C).

“(C) Whoever commits an offense under this paragraph shall, for each individual in respect to whom such a violation occurs—

“(i) if the offense results in the death of any person, be fined under title 18, United States Code, and subject to the penalty of death or imprisonment for any term of years or for life;

“(ii) if the offense involves kidnapping, an attempt to kidnap, the conduct required for aggravated sexual abuse (as defined in section 2241 of title 18, United States Code, without regard to where it takes place), or an attempt to commit such abuse, or an attempt to kill, be fined under title 18, United States Code, or imprisoned for any term of years or life, or both;

“(iii) if the offense involves an individual who the defendant knew was engaged in or intended to engage in terrorist activity (as defined in section 212(a)(3)(B)), be fined under title 18, United States Code, or imprisoned not more than 30 years, or both;

“(iv) if the offense results in serious bodily injury (as defined in section 1365 of title 18, United States Code) or places in jeopardy the life of any person, be fined under title 18, United States Code, or imprisoned not more than 20 years, or both;

“(v) if the offense is a violation of paragraph (1)(A)(i) and was committed for the purpose of profit, commercial advantage, or private financial gain, or if the offense was committed with the intent or reason to believe that the individual unlawfully brought into the United States will commit an offense against the United States or any State that is punishable by imprisonment for more than 1 year, be fined under title 18, United States Code, and imprisoned, in the case of a first or second violation, not less than 3 nor more than 10 years, and for any other violation, not less than 5 nor more than 15 years;

“(vi) if the offense is a violation of paragraphs (1)(A)(ii), (iii), or (iv), or paragraph (1)(B), and was committed for the purpose of profit, commercial advantage, or private financial gain, be fined under title 18, United States Code, or imprisoned not more than 10 years, or both;

“(vii) if the offense involves the transit of the defendant’s spouse, child, sibling, parent, grandparent, or niece or nephew, and the offense is not described

in any of clauses (i) through (vi), be fined under title 18, United States Code, or imprisoned not more than 1 year, or both; and

“(viii) in any other case, be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

“(2)(A) There is extraterritorial jurisdiction over the offenses described in paragraph (1).

“(B) In a prosecution for a violation of, or an attempt or conspiracy to violate, subsection (a)(1)(A)(i), (a)(1)(A)(ii), or (a)(1)(B), that occurs on the high seas, no defense based on necessity can be raised unless the defendant—

“(i) as soon as practicable, reported to the Coast Guard the circumstances of the necessity, and if a rescue is claimed, the name, description, registry number, and location of the vessel engaging in the rescue; and

“(ii) did not bring, attempt to bring, or in any manner intentionally facilitate the entry of any alien into the land territory of the United States without lawful authority, unless exigent circumstances existed that placed the life of that alien in danger, in which case the reporting requirement set forth in clause (i) is satisfied by notifying the Coast Guard as soon as practicable after delivering the alien to emergency medical or law enforcement personnel ashore.

“(C) It is not a violation of, or an attempt or conspiracy to violate, clause (iii) or (iv) of paragraph (1)(A), or paragraph (1)(A)(ii) (except if a person recruits, encourages, or induces an alien to come to or enter the United States), for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officer of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year.

“(D) For purposes of this paragraph and paragraph (1)—

“(i) the term ‘United States’ means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States; and

“(ii) the term ‘lawful authority’ means permission, authorization, or waiver that is expressly provided for in the immigration laws of the United States or the regulations prescribed under those laws and does not include any such authority secured by fraud or otherwise obtained in violation of law or authority that has been sought but not approved.”.

#### SEC. 1205. MARITIME LAW ENFORCEMENT.

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

“(b) Whoever intentionally violates this section shall—

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

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

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

“(4) in any other case, be fined under this title or imprisoned for not more than 5 years, or both.”.

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

(1) by inserting “(1)” after “(c)”; and

(2) by adding at the end the following:

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

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

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

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

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

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

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

(3) by adding at the end the following:

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

**SEC. 1206. AMENDMENT TO THE SENTENCING GUIDELINES.**

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

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

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

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

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

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

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

(E) involve the facilitation of terrorist activity; and

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

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

## TITLE XIII—MISCELLANEOUS PROVISIONS

**SEC. 1301. CERTIFICATE OF DOCUMENTATION FOR GALLANT LADY.**

Section 1120(c) of the Coast Guard Authorization Act of 1996 (110 Stat. 3977) is amended—

(1) in paragraph (1)—

(A) by striking “of Transportation” and inserting “of the department in which the Coast Guard is operating”; and

(B) by striking subparagraph (A) and inserting the following:

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

(2) by striking paragraphs (3) and (4) and redesignating paragraph (5) as paragraph (3); and

(3) in paragraph (3) (as so redesignated) by striking all after “shall expire” and inserting “on the date of the sale of the vessel by the owner.”.

**SEC. 1302. WAIVERS.**

Notwithstanding section 12112 and chapter 551 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with a coastwise endorsement for the following vessels:

- (1) OCEAN VERITAS (IMO Number 7366805).
- (2) MAYA (United States official number 11073).
- (3) ZIPPER (State of New York regulation number NY3205EB).
- (4) GULF DIVER IV (United States official number 553457).
- (5) M/V GEYSIR (United States official number 622178).

**SEC. 1303. GREAT LAKES MARITIME RESEARCH INSTITUTE.**

Section 605 of the Coast Guard and Maritime Transportation Act of 2004 (118 Stat. 1052) is amended—

- (1) in subsection (b)(1)—
  - (A) by striking “The Secretary of Transportation shall conduct a study that” and inserting “The Institute shall conduct maritime transportation studies of the Great Lakes region, including studies that”;
  - (B) in subparagraphs (A), (B), (C), (E), (F), (H), (I), and (J) by striking “evaluates” and inserting “evaluate”;
  - (C) in subparagraphs (D) and (G) by striking “analyzes” and inserting “analyze”;
  - (D) by striking “and” at the end of subparagraph (I);
  - (E) by striking the period at the end of subparagraph (J) and inserting a semicolon;
  - (F) by adding at the end the following:
    - “(K) identify ways to improve the integration of the Great Lakes marine transportation system into the national transportation system;
    - “(L) examine the potential of expanded operations on the Great Lakes marine transportation system;
    - “(M) identify ways to include intelligent transportation applications into the Great Lakes marine transportation system;
    - “(N) analyze the effects and impacts of aging infrastructure and port corrosion on the Great Lakes marine transportation system;
    - “(O) establish and maintain a model Great Lakes marine transportation system database; and
    - “(P) identify market opportunities for, and impediments to, the use of United States-flag vessels in trade with Canada on the Great Lakes.”;
- (2) by striking subsection (b)(4) and inserting the following:
  - “(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out paragraph (1)—
    - “(A) \$2,400,000 for fiscal year 2010;
    - “(B) \$2,500,000 for fiscal year 2011;
    - “(C) \$2,600,000 for fiscal year 2012; and
    - “(D) \$2,700,000 for fiscal year 2013.”.

**SEC. 1304. CONVEYANCE OF COAST GUARD BOAT HOUSE, NANTUCKET, MASSACHUSETTS.**

(a) STATION BRANT POINT BOAT HOUSE.—

(1) REQUIREMENT.—The Secretary of the department in which the Coast Guard is operating shall convey to the town of Nantucket, Massachusetts, all right, title, and interest of the United States in and to the buildings known as the Station Brant Point Boat House located at Coast Guard Station Brant Point, Nantucket, Massachusetts, for use for a public purpose.

(2) TERMS OF CONVEYANCE.—A conveyance of the building under paragraph

- (1) shall be made—
  - (A) without the payment of consideration; and
  - (B) subject to appropriate terms and conditions the Secretary considers necessary.
- (3) REVERSIONARY INTEREST.—All right, title, and interest in property conveyed under this subsection shall revert to the United States if any portion of the property is used other than for a public purpose.

(b) LEASE.—

(1) REQUIREMENT.—The Secretary of the department in which the Coast Guard is operating shall enter into a lease with the town of Nantucket that authorizes the town of Nantucket to occupy the land on which the buildings conveyed under subsection (a) are located, subject to appropriate terms and conditions the Secretary considers necessary.

(2) LEASE TERM.—A lease under this subsection shall not expire before January 31, 2033.

(3) TERMINATION OF LEASE.—If the Secretary determines that the property leased under paragraph (1) is necessary for purposes of the Coast Guard, the Secretary—

- (A) may terminate the lease without payment of compensation; and

(B) shall provide the town of Nantucket not less than 12 months notice of the requirement to vacate the site and move the buildings conveyed under subsection (a) to another location.

**SEC. 1305. CREW WAGES ON PASSENGER VESSELS.**

(a) FOREIGN AND INTERCOASTAL VOYAGES.—

(1) CAP ON PENALTY WAGES.—Section 10313(g) of title 46, United States Code, is amended—

(A) by striking “When” and inserting “(1) Subject to paragraph (2), when”;

and

(B) by adding at the end the following:

“(2) The total amount required to be paid under paragraph (1) with respect to all claims in a class action suit by seamen on a passenger vessel capable of carrying more than 500 passengers for wages under this section against a vessel master, owner, or operator or the employer of the seamen shall not exceed ten times the unpaid wages that are the subject of the claims.

“(3) A class action suit for wages under this subsection must be commenced within three years after the later of—

“(A) the date of the end of the last voyage for which the wages are claimed;

or

“(B) the receipt, by a seaman who is a claimant in the suit, of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.”.

(2) DEPOSITS.—Section 10315 of such title is amended by adding at the end the following:

“(f) DEPOSITS IN SEAMAN ACCOUNT.—By written request signed by the seaman, a seaman employed on a passenger vessel capable of carrying more than 500 passengers may authorize the master, owner, or operator of the vessel, or the employer of the seaman, to make deposits of wages of the seaman into a checking, savings, investment, or retirement account, or other account to secure a payroll or debit card for the seaman if—

“(1) the wages designated by the seaman for such deposit are deposited in a United States or international financial institution designated by the seaman;

“(2) such deposits in the financial institution are fully guaranteed under commonly accepted international standards by the government of the country in which the financial institution is licensed;

“(3) a written wage statement or pay stub, including an accounting of any direct deposit, is delivered to the seaman no less often than monthly; and

“(4) while on board the vessel on which the seaman is employed, the seaman is able to arrange for withdrawal of all funds on deposit in the account in which the wages are deposited.”.

(b) COASTWISE VOYAGES.—

(1) CAP ON PENALTY WAGES.—Section 10504(c) of such title is amended—

(A) by striking “When” and inserting “(1) Subject to subsection (d), and except as provided in paragraph (2), when”;

(B) by inserting at the end the following:

“(2) The total amount required to be paid under paragraph (1) with respect to all claims in a class action suit by seamen on a passenger vessel capable of carrying more than 500 passengers for wages under this section against a vessel master, owner, or operator or the employer of the seamen shall not exceed ten times the unpaid wages that are the subject of the claims.

“(3) A class action suit for wages under this subsection must be commenced within three years after the later of—

“(A) the date of the end of the last voyage for which the wages are claimed;

or

“(B) the receipt, by a seaman who is a claimant in the suit, of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.”.

(2) DEPOSITS.—Section 10504 of such title is amended by adding at the end the following:

“(f) DEPOSITS IN SEAMAN ACCOUNT.—On written request signed by the seaman, a seaman employed on a passenger vessel capable of carrying more than 500 passengers may authorize, the master, owner, or operator of the vessel, or the employer of the seaman, to make deposits of wages of the seaman into a checking, savings, investment, or retirement account, or other account to secure a payroll or debit card for the seaman if—

“(1) the wages designated by the seaman for such deposit are deposited in a United States or international financial institution designated by the seaman;

“(2) such deposits in the financial institution are fully guaranteed under commonly accepted international standards by the government of the country in which the financial institution is licensed;

“(3) a written wage statement or pay stub, including an accounting of any direct deposit, is delivered to the seaman no less often than monthly; and

“(4) while on board the vessel on which the seaman is employed, the seaman is able to arrange for withdrawal of all funds on deposit in the account in which the wages are deposited.”.

**SEC. 1306. TECHNICAL CORRECTIONS.**

(a) COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2006.—Effective with enactment of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109–241), such Act is amended—

(1) in section 311(b) (120 Stat. 530) by inserting “paragraphs (1) and (2) of” before “section 8104(o)”;

(2) in section 603(a)(2) (120 Stat. 554) by striking “33 U.S.C. 2794(a)(2)” and inserting “33 U.S.C. 2704(a)(2)”;

(3) in section 901(r)(2) (120 Stat. 566) by striking “the” the second place it appears;

(4) in section 902(c) (120 Stat. 566) by inserting “of the United States” after “Revised Statutes”;

(5) in section 902(e) (120 Stat. 567) is amended—

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

(B) by striking “and” at the end of paragraph (2)(A); and

(C) by redesignating paragraphs (3) and (4) as subparagraphs (C) and (D) of paragraph (2), respectively, and aligning the left margin of such subparagraphs with the left margin of subparagraph (A) of paragraph (2);

(6) in section 902(e)(2)(C) (as so redesignated) by striking “this section” and inserting “this paragraph”;

(7) in section 902(e)(2)(D) (as so redesignated) by striking “this section” and inserting “this paragraph”;

(8) in section 902(h)(1) (120 Stat. 567)—

(A) by striking “Bisti/De-Na-Zin” and all that follows through “Protection” and inserting “Omnibus Parks and Public Lands Management”; and

(B) by inserting a period after “Commandant of the Coast Guard”; and

(9) in section 902(k) (120 Stat. 568) is amended—

(A) by inserting “the Act of March 23, 1906, commonly known as” before “the General Bridge”;

(B) by striking “491” and inserting “494.”; and

(C) by inserting “each place it appears” before “and inserting”.

(b) TITLE 14.—

(1) The analysis for chapter 7 of title 14, United States Code, is amended by adding a period at the end of the item relating to section 149.

(2) The analysis for chapter 17 of title 14, United States Code, is amended by adding a period at the end of the item relating to section 677.

(3) The analysis for chapter 9 of title 14, United States Code, is amended by adding a period at the end of the item relating to section 198.

(c) TITLE 46.—

(1) The analysis for chapter 81 of title 46, United States Code, is amended by adding a period at the end of the item relating to section 8106.

(2) Section 70105(c)(3)(C) of such title is amended by striking “National Intelligence Director” and inserting “Director of National Intelligence”.

(d) DEEPWATER PORT ACT OF 1974.—Section 5(c)(2) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(c)(2)) is amended by aligning the left margin of subparagraph (K) with the left margin of subparagraph (L).

(e) OIL POLLUTION ACT OF 1990.—

(1) Section 1004(a)(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(2)) is amended by striking the first comma following “\$800,000”.

(2) The table of sections in section 2 of such Act is amended by inserting a period at the end of the item relating to section 7002.

(f) COAST GUARD AUTHORIZATION ACT OF 1996.—The table of sections in section 2 of the Coast Guard Authorization Act of 1996 is amended in the item relating to section 103 by striking “reports” and inserting “report”.

**SEC. 1307. CONVEYANCE OF DECOMMISSIONED COAST GUARD CUTTER STORIS.**

(a) IN GENERAL.—Upon the scheduled decommissioning of the Coast Guard Cutter STORIS, the Commandant of the Coast Guard shall convey, without consideration, all right, title, and interest of the United States in and to that vessel to the USCG Cutter STORIS Museum and Maritime Education Center, LLC, located in the State of Alaska if the recipient—

- (1) agrees—
- (A) to use the vessel for purposes of a museum and historical display;
  - (B) not to use the vessel for commercial transportation purposes;
  - (C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and
  - (D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising from the use by the Government under subparagraph (C);
- (2) has funds available that will be committed to operate and maintain in good working condition the vessel conveyed, in the form of cash, liquid assets, or a written loan commitment and in an amount of at least \$700,000; and
- (3) agrees to any other conditions the Commandant considers appropriate.
- (b) MAINTENANCE AND DELIVERY OF VESSEL.—
- (1) MAINTENANCE.—Before conveyance of the vessel under this section, the Commandant shall make, to the extent practical and subject to other Coast Guard mission requirements, every effort to maintain the integrity of the vessel and its equipment until the time of delivery.
  - (2) DELIVERY.—If a conveyance is made under this section, the Commandant shall deliver the vessel to a suitable mooring in the local area in its present condition.
  - (3) TREATMENT OF CONVEYANCE.—The conveyance of the vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94-469 (15 U.S.C. 2605(e)).
- (c) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient of a conveyance under subsection (a) any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the operability and function of the vessel conveyed under subsection (a) for purposes of a museum and historical display.

**SEC. 1308. CONVEYANCE OF COAST GUARD HU-25 FALCON JET AIRCRAFT.**

- (a) AUTHORITY TO CONVEY.—Notwithstanding any other law, the Commandant of the Coast Guard may convey to the Elizabeth City State University (in this section referred to as the “University”), a public university located in the State of North Carolina, without consideration all right, title, and interest of the United States in an HU-25 Falcon Jet aircraft under the administrative jurisdiction of the Coast Guard that the Commandant determines—
- (1) is appropriate for use by the University; and
  - (2) is excess to the needs of the Coast Guard.
- (b) CONDITIONS.—
- (1) IN GENERAL.—As a condition of conveying an aircraft to the University under subsection (a), the Commandant shall enter into an agreement with the University under which the University agrees—
    - (A) to utilize the aircraft for educational purposes or other public purposes as jointly agreed upon by the Commandant and the University before conveyance; and
    - (B) to hold the United States harmless for any claim arising with respect to the aircraft after conveyance of the aircraft.
  - (2) REVERSIONARY INTEREST.—If the Commandant determines that the recipient violated subparagraph (A) or (B) of paragraph (1), then—
    - (A) all right, title, and interest in the aircraft shall revert to the United States;
    - (B) the United States shall have the right to immediate possession of the aircraft; and
    - (C) the recipient shall pay the United States for its costs incurred in recovering the aircraft for such violation.
- (c) LIMITATION ON FUTURE TRANSFERS.—
- (1) IN GENERAL.—The Commandant shall include in the instruments for the conveyance a requirement that any further conveyance of an interest in the aircraft may not be made without the approval in advance of the Commandant.
  - (2) REVERSIONARY INTEREST.—If the Commandant determines that an interest in the aircraft was conveyed without such approval, then—
    - (A) all right, title, and interest in the aircraft shall revert to the United States;
    - (B) the United States shall have the right to immediate possession of the aircraft; and
    - (C) the recipient shall pay the United States for its costs incurred in recovering the aircraft for such a violation.

(d) **DELIVERY OF AIRCRAFT.**—The Commandant shall deliver the aircraft conveyed under subsection (a)—

- (1) at the place where the aircraft is located on the date of the conveyance;
- (2) in its condition on the date of conveyance; and
- (3) without cost to the United States.

(e) **ADDITIONAL TERMS AND CONDITIONS.**—The Commandant may require such additional terms and conditions in connection with the conveyance required by subsection (a) as the Commandant considers appropriate to protect the interests of the United States.

**SEC. 1309. DECOMMISSIONED COAST GUARD VESSELS FOR HAITI.**

(a) **IN GENERAL.**—Notwithstanding any other law, upon the scheduled decommissioning of any Coast Guard 41-foot patrol boat, the Commandant of the Coast Guard shall give the Government of Haiti a right-of-first-refusal for conveyance of that vessel to the Government of Haiti, if that Government of Haiti agrees—

- (1) to use the vessel for the Coast Guard of Haiti;
- (2) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or national emergency;
- (3) to hold the United States Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising from the use by the United States Government under paragraph (2); and
- (4) to any other conditions the Commandant considers appropriate.

(b) **LIMITATION.**—The Commandant may not convey more than 10 vessels to the Government of Haiti pursuant to this section.

(c) **MAINTENANCE AND DELIVERY OF VESSEL.**—

(1) **MAINTENANCE.**—Before conveyance of a vessel under this section, the Commandant shall make, to the extent practical and subject to other Coast Guard mission requirements, every effort to maintain the integrity of the vessel and its equipment until the time of delivery.

(2) **DELIVERY.**—If a conveyance is made under this section, the Commandant shall deliver a vessel to a suitable mooring in the local area in its present condition.

(3) **TREATMENT OF CONVEYANCE.**—The conveyance of a vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94–469 (15 U.S.C. 2605(e)).

**SEC. 1310. PHASEOUT OF VESSELS SUPPORTING OIL AND GAS DEVELOPMENT.**

(a) **IN GENERAL.**—Notwithstanding section 12111(d) of title 46, United States Code, foreign-flag vessels may be chartered by, or on behalf of, a lessee to be employed for the setting, relocation, or recovery of anchors or other mooring equipment of a mobile offshore drilling unit that is located over the Outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)) for operations in support of exploration, or flow-testing and stimulation of wells, for offshore mineral or energy resources in the Beaufort Sea or the Chukchi Sea adjacent to Alaska—

(1) for a 1-year period from the date the lessee gives the Secretary of Transportation written notice of the commencement of such exploration drilling if the Secretary determines, after publishing notice in the Federal Register, that insufficient vessels documented under section 12111(d) of title 46, United States Code, are reasonably available and suitable for these support operations and all such reasonably available and suitable vessels are employed in support of such operations; and

(2) for an additional period until such vessels are available if the Secretary of Transportation determines—

(A) that, by April 30 of the year following the commencement of exploration drilling, the lessee has entered into a binding agreement to employ a suitable vessel or vessels to be documented under section 12111(d) of title 46, United States Code, in sufficient numbers and with sufficient suitability to replace any foreign-flag vessel or vessels operating under this section; and

(B) after publishing notice in the Federal Register, that insufficient vessels documented under section 12111(d) of title 46, United States Code, are reasonably available and suitable for these support operations and all such reasonably available and suitable vessels are employed in support of such operations.

(b) **EXPIRATION.**—Irrespective of the year in which the commitment referred to in subsection (a)(2)(A) occurs, foreign-flag anchor handling vessels may not be employed for the setting, relocation, or recovery of anchors or other mooring equipment of a mobile offshore drilling unit after December 31, 2017.

(c) **LESSEE DEFINED.**—In this section, the term “lessee” means the holder of a lease (as defined in section 1331(c) of title 43, United States Code), who, prior to giving the written notice in subsection (a)(1), has entered into a binding agreement to employ a suitable vessel documented or to be documented under section 12111(d) of title 46, United States Code.

(d) **SAVINGS PROVISION.**—Nothing in subsection (a) may be construed to authorize the employment in the coastwise trade of a vessel that does not meet the requirements of section 12112 of title 46, United States Code.

**SEC. 1311. VESSEL TRAFFIC RISK ASSESSMENT.**

(a) **REQUIREMENT.**—The Commandant of the Coast Guard, acting through the appropriate Area Committee established under section 311(j)(4) of the Federal Water Pollution Control Act, shall prepare a vessel traffic risk assessment for Cook Inlet, Alaska, within one year after the date of enactment of this Act.

(b) **CONTENTS.**—The assessment shall describe, for the region covered by the assessment—

(1) the amount and character of present and estimated future shipping traffic in the region; and

(2) the current and projected use and effectiveness in reducing risk, of—

(A) traffic separation schemes and routing measures;

(B) long-range vessel tracking systems developed under section 70115 of title 46, United States Code;

(C) towing, response, or escort tugs;

(D) vessel traffic services;

(E) emergency towing packages on vessels;

(F) increased spill response equipment including equipment appropriate for severe weather and sea conditions;

(G) the Automatic Identification System developed under section 70114 of title 46, United States Code;

(H) particularly sensitive sea areas, areas to be avoided, and other traffic exclusion zones;

(I) aids to navigation; and

(J) vessel response plans.

(c) **RECOMMENDATIONS.**—

(1) **IN GENERAL.**—The assessment shall include any appropriate recommendations to enhance the safety, or lessen potential adverse environmental impacts, of marine shipping.

(2) **CONSULTATION.**—Before making any recommendations under paragraph (1) for a region, the Area Committee shall consult with affected local, State, and Federal government agencies, representatives of the fishing industry, Alaska Natives from the region, the conservation community, and the merchant shipping and oil transportation industries.

(d) **PROVISION TO CONGRESS.**—The Commandant shall provide a copy of the assessment to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Commandant \$1,000,000 for fiscal year 2010 to the conduct the assessment.

**SEC. 1312. STUDY OF RELOCATION OF COAST GUARD SECTOR BUFFALO FACILITIES.**

(a) **PURPOSES.**—The purposes of this section are—

(1) to authorize a project study to evaluate the feasibility of consolidating and relocating Coast Guard facilities at Coast Guard Sector Buffalo within the study area;

(2) to obtain a preliminary plan for the design, engineering, and construction for the consolidation of Coast Guard facilities at Sector Buffalo; and

(3) to distinguish what Federal lands, if any, shall be identified as excess after the consolidation.

(b) **DEFINITIONS.**—In this section:

(1) **COMMANDANT.**—The term “Commandant” means the Commandant of the Coast Guard.

(2) **SECTOR BUFFALO.**—The term “Sector Buffalo” means Coast Guard Sector Buffalo of the Ninth Coast Guard District.

(3) **STUDY AREA.**—The term “study area” means the area consisting of approximately 31 acres of real property and any improvements thereon that are commonly identified as Coast Guard Sector Buffalo, located at 1 Fuhrmann Boulevard, Buffalo, New York, and under the administrative control of the Coast Guard.

(c) **STUDY.**—

(1) **IN GENERAL.**—Within 12 months after the date on which funds are first made available to carry out this section, the Commandant shall conduct a project proposal report of the study area and shall submit such report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) **REQUIREMENTS.**—The project proposal report shall—

(A) evaluate the most cost-effective method for providing shore facilities to meet the operational requirements of Sector Buffalo;

(B) determine the feasibility of consolidating and relocating shore facilities on a portion of the existing site, while—

(i) meeting the operational requirements of Sector Buffalo; and

(ii) allowing the expansion of operational requirements of Sector Buffalo; and

(C) contain a preliminary plan for the design, engineering, and construction of the proposed project, including—

(i) the estimated cost of the design, engineering, and construction of the proposed project;

(ii) an anticipated timeline of the proposed project; and

(iii) a description of what Federal lands, if any, shall be considered excess to Coast Guard needs.

(d) **LIMITATION.**—Nothing in this section shall affect the current administration and management of the study area.

**SEC. 1313. CONVEYANCE OF COAST GUARD VESSELS TO MISSISSIPPI.**

(a) **AUTHORITY TO CONVEY.**—Notwithstanding the Federal Property and Administrative Services Act of 1949, the Commandant of the Coast Guard may convey to each recipient described in subsection (b) (in this section referred to as the “Sheriff’s Department”), without consideration all right, title, and interest of the United States in and to a Coast Guard trailerable boat, ranging from 17 feet to 30 feet in size, that the Commandant determines—

(1) is appropriate for use by the Sheriff’s Department; and

(2) is excess to the needs of the Coast Guard and the Department of Homeland Security.

(b) **RECIPIENTS.**—The recipients referred to in subsection (a) are the following:

(1) The Sheriff’s Department of Coahoma County, Mississippi.

(2) The Sheriff’s Department of Warren County, Mississippi.

(3) The Sheriff’s Department of Washington County, Mississippi.

(c) **CONDITION.**—As a condition of conveying a vessel under the authority provided in subsection (a), the Commandant shall enter into an agreement with the Sheriff’s Department under which the Sheriff’s Department agrees—

(1) to utilize the vessel for homeland security and other appropriate purposes as jointly agreed upon by the Commandant and the Sheriff’s Department before conveyance; and

(2) to take the vessel “as is” and to hold the United States harmless for any claim arising with respect to that vessel after conveyance of the vessel, including any claims arising from the condition of the vessel and its equipment or exposure to hazardous materials.

(d) **DELIVERY OF VESSEL.**—The Commandant shall deliver the vessel conveyed under the authority provided in subsection (a)—

(1) at the place where the vessel is located on the date of the conveyance;

(2) in its condition on the date of conveyance; and

(3) without cost to the United States.

(e) **OTHER EXCESS EQUIPMENT.**—The Commandant may further convey any excess equipment or parts from other Coast Guard vessels, which are excess to the needs of the Coast Guard and the Department of Homeland Security, to the Sheriff’s Department for use to enhance the operability of the vessel conveyed under the authority provided in subsection (a).

(f) **ADDITIONAL TERMS AND CONDITIONS.**—The Commandant may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) as the Commandant considers appropriate to protect the interests of the United States.

**SEC. 1314. COAST GUARD ASSETS FOR UNITED STATES VIRGIN ISLANDS.**

(a) **IN GENERAL.**—The Secretary of Homeland Security may station additional Coast Guard assets in the United States Virgin Islands for port security and other associated purposes.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary for fiscal year 2010 such sums as are necessary to carry out this section.

**SEC. 1315. OFFICER REQUIREMENTS FOR DISTANT WATER TUNA VESSELS.**

Section 8103 of title 46, United States Code, is amended by adding at the end the following new subsection:

**“(1) OFFICER REQUIREMENTS FOR DISTANT WATER TUNA VESSELS.—**

“(1) **CITIZENSHIP.**—Notwithstanding subsection (a), a purse seine tuna fishing vessel documented under chapter 121 fishing exclusively for highly migratory species under a fishing license issued pursuant to the 1987 Treaty on Fisheries Between the Governments of Certain Pacific Islands States and the Government of the United States of America in the treaty area (as that term is used in that treaty), or transiting to or from the treaty area exclusively for such purpose, may engage an individual who is not a citizen of the United States to fill a vacancy in a position referred to in subsection (a) (except for the master) if, after timely public notice of the vacancy, no United States citizens are readily available to fill the vacancy.

**“(2) RESTRICTIONS.—**

“(A) **IN GENERAL.**—An individual may not be engaged under paragraph (1) unless the individual holds a valid license or certificate issued—

“(i) in accordance with the standards established by the 1995 amendments to the Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 95); and

“(ii) by an authority that the Secretary of the department in which the Coast Guard is operating recognizes as imposing competency and training standards equivalent to or exceeding those required for a issued under chapter 71.

“(B) **LIMITATION ON APPLICATION.**—Paragraph (1) applies only to engagement of an individual on a vessel that—

“(i) is homeported in American Samoa, Guam, or the Northern Mariana Islands; and

“(ii) has passed an annual commercial fishing vessel safety exam administered by a individual authorized to enforce this title.

“(3) **TREATMENT OF EQUIVALENT LICENSE.**—The Secretary of the department in which the Coast Guard is operating shall treat a license held by an individual engaged under paragraph (1) that was issued by a foreign government as meeting the requirements of section 8304 with respect to that engagement, if the Secretary determines that the standards for issuing that license are equivalent to the standards that apply under that section.”.

**SEC. 1316. ASSESSMENT OF NEEDS FOR ADDITIONAL COAST GUARD PRESENCE IN HIGH LATITUDE REGIONS.**

Within 270 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives assessing the need for additional Coast Guard prevention and response capability in the high latitude regions. The assessment shall address needs for all Coast Guard mission areas, including search and rescue, marine pollution response and prevention, fisheries enforcement, and maritime commerce. The Secretary shall include in the report—

(1) an assessment of the high latitude operating capabilities of all current Coast Guard assets, including assets acquired under the Deepwater program;

(2) an assessment of projected needs for Coast Guard forward operating bases in the high latitude regions;

(3) an assessment of shore infrastructure, personnel, logistics, communications, and resources requirements to support Coast Guard forward operating bases in the high latitude regions;

(4) an assessment of the need for high latitude icebreaking capability and the capability of the current high latitude icebreaking assets of the Coast Guard, including—

(A) whether the Coast Guard’s high latitude icebreaking fleet is meeting current mission performance goals;

(B) whether the fleet is capable of meeting projected mission performance goals; and

(C) an assessment of the material condition, safety, and working conditions aboard high latitude icebreaking assets, including the effect of those conditions on mission performance;

(5) a detailed estimate of acquisition costs for each of the assets (including shore infrastructure) necessary for additional prevention and response capability in high latitude regions for all Coast Guard mission areas, and an estimate of operations and maintenance costs for such assets for the initial 10-year period of operations; and

(6) detailed cost estimates (including operating and maintenance for a period of 10 years) for high latitude icebreaking capability to ensure current and projected future mission performance goals are met, including estimates of the costs to—

(A) renovate and modernize the Coast Guard's existing high latitude icebreaking fleet; and

(B) replace the Coast Guard's existing high latitude icebreaking fleet.

**SEC. 1317. STUDY OF REGIONAL RESPONSE VESSEL AND SALVAGE CAPABILITY FOR OLYMPIC PENINSULA COAST, WASHINGTON.**

No later than 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall study through the National Academy of Sciences the need for regional response vessel and salvage capability for the State of Washington Olympic Peninsula coast. In conducting the study, the National Academy of Sciences shall consult with Federal, State, and tribal officials and other relevant stakeholders. The study shall—

(1) identify the capabilities, equipment, and facilities necessary for a response vessel in the entry to the Strait of Juan de Fuca at Neah Bay in order to optimize oil spill protection on Washington's Olympic Peninsula coast and provide rescue towing services, oil spill response, and salvage and firefighting capabilities;

(2) analyze the multimission capabilities necessary for a rescue vessel and the need for that vessel to utilize cached salvage, oil spill response, and oil storage equipment while responding to a spill or a vessel in distress, and make recommendations as to the placement of such equipment;

(3) address scenarios that consider all vessel types and weather conditions and compare current Neah Bay rescue vessel capabilities, costs, and benefits with other United States industry-funded response vessels, including those currently operating in Alaska's Prince William Sound;

(4) determine whether the current level of protection afforded by the Neah Bay response vessel and associated response equipment is comparable to protection in other locations where response vessels operate, including Prince William Sound, Alaska, and if it is not comparable, make recommendations regarding how capabilities, equipment, and facilities should be modified to achieve optimum protection; and

(5) consider pending firefighting and salvage regulations developed pursuant to the Oil Pollution Act of 1990.

**SEC. 1318. STUDY OF BRIDGES OVER NAVIGABLE WATERS.**

The Secretary of Transportation shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a comprehensive study on the proposed construction or alteration of any bridge, drawbridge, or causeway over navigable waters with a channel depth of 25 feet or greater of the United States that may impede or obstruct future navigation to or from port facilities.

**SEC. 1319. LIMITATION ON JURISDICTION OF STATES TO TAX CERTAIN SEAMEN.**

Section 11108(b)(2)(B) of title 46, United States Code, is amended to read as follows:

“(B) who performs regularly assigned duties while engaged as a master, officer, or crewman on a vessel operating on navigable waters in 2 or more States.”.

**SEC. 1320. DECOMMISSIONED COAST GUARD VESSELS FOR BERMUDA.**

(a) **IN GENERAL.**—Notwithstanding any other law, upon the scheduled decommissioning of any Coast Guard 41-foot patrol boat and after the Government of Haiti has exercised all of their options under section 1309, the Commandant of the Coast Guard shall give the Government of Bermuda a right-of-first-refusal for conveyance of that vessel to the Government of Bermuda, if that Government of Bermuda agrees—

(1) to use the vessel for the Coast Guard of Bermuda;

(2) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or national emergency;

(3) to hold the United States Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, after conveyance of the vessel, except for claims arising from the use by the United States Government under paragraph (2); and

(4) to any other conditions the Commandant considers appropriate.

(b) **LIMITATION.**—The Commandant may not convey more than 3 vessels to the Government of Bermuda pursuant to this section.

(c) **MAINTENANCE AND DELIVERY OF VESSEL.**—

(1) MAINTENANCE.—Before conveyance of a vessel under this section, the Commandant shall make, to the extent practical and subject to other Coast Guard mission requirements, every effort to maintain the integrity of the vessel and its equipment until the time of delivery.

(2) DELIVERY.—If a conveyance is made under this section, the Commandant shall deliver a vessel to a suitable mooring in the local area in its present condition.

(3) TREATMENT OF CONVEYANCE.—The conveyance of a vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94–469 (15 U.S.C. 2605(e)).

**SEC. 1321. CONVEYANCE OF COAST GUARD VESSELS TO NASSAU COUNTY, NEW YORK.**

(a) AUTHORITY TO CONVEY.—Notwithstanding the Federal Property and Administrative Services Act of 1949, the Commandant of the Coast Guard may convey to the Police Department of Nassau County, New York (in this section referred to as the “Police Department”), without consideration all right, title, and interest of the United States in and to two Coast Guard 41-foot patrol boats that the Commandant determines—

- (1) is appropriate for use by the Police Department; and
- (2) is excess to the needs of the Coast Guard and the Department of Homeland Security.

(b) CONDITION.—As a condition of conveying a vessel under the authority provided in subsection (a), the Commandant shall enter into an agreement with the Police Department under which the Police Department agrees—

- (1) to utilize the vessel for homeland security and other appropriate purposes as jointly agreed upon by the Commandant and the Police Department before conveyance; and
- (2) to take the vessel “as is” and to hold the United States harmless for any claim arising with respect to that vessel after conveyance of the vessel, including any claims arising from the condition of the vessel and its equipment or exposure to hazardous materials.

(c) DELIVERY OF VESSEL.—The Commandant shall deliver a vessel conveyed under the authority provided in subsection (a)—

- (1) at the place where the vessel is located on the date of the conveyance;
- (2) in its condition on the date of conveyance; and
- (3) without cost to the United States.

(d) OTHER EXCESS EQUIPMENT.—The Commandant may further convey any excess equipment or parts from other Coast Guard vessels, which are excess to the needs of the Coast Guard and the Department of Homeland Security, to the Police Department for use to enhance the operability of a vessel conveyed under the authority provided in subsection (a).

(e) ADDITIONAL TERMS AND CONDITIONS.—The Commandant may require such additional terms and conditions in connection with a conveyance authorized by subsection (a) as the Commandant considers appropriate to protect the interests of the United States.

**SEC. 1322. NEWTOWN CREEK, NEW YORK CITY, NEW YORK.**

(a) STUDY.—The Administrator of the Environmental Protection Agency shall conduct a study on the public health, safety, and environmental concerns related to the underground petroleum spill on the Brooklyn shoreline of Newtown Creek, New York City, New York, in Greenpoint, Brooklyn, New York.

(b) FULL-SITE CHARACTERIZATION AND COLLECTION OF NEW FIELD EVIDENCE.—In carrying out the study under this section, the Administrator shall conduct a full-site characterization of the underground petroleum spill, including the investigation, collection, and analysis of new and updated data and field evidence on the extent of the petroleum spill, including any portion of the spill that has been diluted into surrounding waters, and any surrounding soil contamination or soil vapor contamination.

(c) REPORT.—Not later than one year after the date of enactment of this Act, the Administrator shall submit a report containing the results of the study to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section \$5,000,000.

**SEC. 1323. LAND CONVEYANCE, COAST GUARD PROPERTY IN MARQUETTE COUNTY, MICHIGAN, TO THE CITY OF MARQUETTE, MICHIGAN.**

(a) CONVEYANCE AUTHORIZED.—(1) The Commandant of the Coast Guard may convey as surplus property, under section 550 of title 40, United States Code, and

other relevant Federal laws governing the disposal of Federal surplus property, to the City of Marquette, Michigan (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, located in Marquette County, Michigan, that is under the administrative control of the Coast Guard, consisting of approximately 5.5 acres of real property, as depicted on the Van Neste survey (#204072), dated September 7, 2006, together with the land between the intermediate traverse line as shown on such survey and the ordinary high water mark, the total comprising 9 acres, more or less, and commonly identified as Coast Guard Station Marquette and Lighthouse Point.

(2) Except as provided in paragraph (3), any cost associated with the conveyance shall be borne by the City, including, but not limited to, closing costs, attorney fees, and the cost of surveys, inspections, title examinations, and deed preparation.

(3)(A) Except as provided in subparagraph (B), prior to the conveyance of the property, the Coast Guard shall perform and bear the cost of environmental remediation required under Federal law. Nothing in this section shall be construed to compel the Coast Guard to complete such remediation before 10 years from the date of enactment of this section.

(B) The City may assume the Coast Guard's responsibility to perform and bear the cost of the environmental remediation, provided that—

(i) the City provides written notice that it will assume responsibility for the performance of such remediation and the cost thereof; and

(ii) the City and the Coast Guard enter into a written agreement thereon.

(b) RETENTION OF CERTAIN EASEMENTS.—In conveying the property under subsection (a), the Commandant of the Coast Guard may retain such easements over the property as the Commandant considers appropriate for access to aids to navigation.

(c) LIMITATIONS.—The property to be conveyed under subsection (a) may not be conveyed under that subsection until—

(1) the Coast Guard has relocated Coast Guard Station Marquette to a newly constructed station;

(2) any environmental remediation required under Federal law with respect to the property has been completed; and

(3) the Commandant of the Coast Guard determines that retention of the property by the United States is not required to carry out Coast Guard missions or functions.

(d) CONDITIONS OF TRANSFER.—All conditions placed within the deed of title of the property to be conveyed under subsection (a) shall be construed as covenants running with the land.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Commandant of the Coast Guard.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Commandant of the Coast Guard may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) as the Commandant considers appropriate to protect the interests of the United States.

**SEC. 1324. MISSION REQUIREMENT ANALYSIS FOR NAVIGABLE PORTIONS OF THE RIO GRANDE RIVER, TEXAS, INTERNATIONAL WATER BOUNDARY.**

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 prepare a mission requirement analysis for the navigable portions of the Rio Grande River, Texas, international water boundary. The analysis shall take into account the Coast Guard's involvement on the Rio Grande River by assessing Coast Guard missions, assets, and personnel assigned along the Rio Grande River. The analysis shall also identify what would be needed for the Coast Guard to increase search and rescue operations, migrant interdiction operations, and drug interdiction operations.

**SEC. 1325. CONVEYANCE OF COAST GUARD PROPERTY IN CHEBOYGAN, MICHIGAN.**

(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law, the Commandant of the Coast Guard is authorized to convey, at fair market value, all right, title, and interest of the United States in and to a parcel of real property, consisting of approximately 3 acres, more or less, that is under the administrative control of the Coast Guard and located at 900 S. Western Avenue in Cheboygan, Michigan.

(b) RIGHT OF FIRST REFUSAL.—The Cornerstone Christian Academy, located in Cheboygan, MI, shall have the right of first refusal to purchase, at fair market value, all or a portion of the real property described in subsection (a).

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Commandant of the Coast Guard.

(d) FAIR MARKET VALUE.—The fair market value of the property shall be—

(1) determined by appraisal, in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice; and

(2) subject to the approval of the Commandant.

(e) COSTS OF CONVEYANCE.—Any cost associated with the conveyance shall be borne by the purchaser, including, but not limited to—

(1) closing costs, attorney fees, and the cost of surveys, inspections, title examinations, and deed preparation; and

(2) environmental analyses, assessments, clearances, and, if required under Federal law, environmental remediation.

(f) ENVIRONMENTAL REMEDIATION.—Before conveyance of the real property described in paragraph (a), purchaser shall perform any environmental remediation of the property that is required under Federal law.

(g) CREDIT OF FUNDS.—Notwithstanding any other provision of law, the net proceeds of a conveyance, authorized under subsection (a), shall—

(1) be credited to the Coast Guard Environmental Compliance and Restoration appropriations account current at the time collection is made;

(2) be made available, subject to appropriation, for environmental compliance and restoration purposes in conjunction with any disposal of any property under the administrative control of the Coast Guard; and

(3) remain available for such purposes until expended.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Commandant of the Coast Guard may require such additional terms and conditions in connection with the conveyance under subsection (a) as is considered appropriate to protect the interests of the United States.

#### PURPOSE OF THE LEGISLATION

H.R. 3619, the “Coast Guard Authorization of 2010”, as amended, is the annual authorization for the U.S. Coast Guard. Specifically, the bill authorizes fiscal year 2010 appropriations for the Service and authorizes the end-of-year strength for military personnel; it also incorporates other provisions addressing marine safety, Coast Guard management structure, acquisition reform, workforce development, and cruise vessel safety.

#### BACKGROUND AND NEED FOR LEGISLATION

##### *Title I—Authorization*

Title I of H.R. 3619 authorizes approximately \$10 billion in fiscal year 2010 for the Coast Guard (\$280 million above the President’s budget), and increases the authorized end-strength for military personnel by 1,500 members to 47,000 total personnel.

##### *Title II—Coast Guard*

Title II of H.R. 3619 makes administrative changes to the Coast Guard, including creating the position of District Ombudsman in each Coast Guard district to serve as a liaison between the Coast Guard and the maritime community. It also authorizes the reimbursement of medical-related travel for Coast Guard personnel who live in remote locations, and grants access to the Armed Forces Retirement Home system to Coast Guard veterans.

The Subcommittee on Coast Guard and Maritime Transportation (Subcommittee) has held three hearings to examine diversity in the Coast Guard. During the 110th Congress, the Subcommittee convened on September 10, 2008, to examine “Diversity in the Coast Guard, including Recruitment, Promotion, and Retention of Minority Personnel.” On April 1, 2009, the Subcommittee held a hearing

entitled “Civil Rights Services and Diversity Initiatives in the Coast Guard” to examine the findings of a report on the Coast Guard’s Equal Employment Opportunity (EEO) and Equal Opportunity (EO) programs issued early in 2009, and to continue its examination of the Coast Guard’s diversity initiatives. On June 19, 2009, the Subcommittee met to continue its examination of the Coast Guard’s EEO and EO programs, as well as of the service’s efforts to expand diversity, particularly at the Coast Guard Academy.

Data provided by the Coast Guard show that approximately 15 percent of the incoming Class of 2013 was comprised of minority students. The U.S. Naval Academy’s Dean of Admissions, Stephen Latta, testified before the Subcommittee during the June 19 hearing and stated that the Naval Academy’s Class of 2013 was the most diverse class in that institution’s history, with 35 percent of the incoming class of midshipmen being minorities.

The Coast Guard has developed a strategic plan specifically for the Coast Guard Academy that has as one of its goals to “further diversify the Corps of Cadets, Faculty, Staff and Curriculum” at the Academy, including achieving a critical mass of between 25 percent and 30 percent of under-represented minority cadets at the Academy by 2015.

To ensure that Members of Congress can contribute to the success of this effort, H.R. 3619 creates a process by which Members of Congress may nominate individuals to attend the Coast Guard Academy, similar to the process used at the other service academies.

In addition, H.R. 3619 creates a number of new initiatives to increase the recruitment of minority individuals into the Coast Guard’s officer corps, aviation corps, and civil service. Specifically, H.R. 3619 creates an internship program at Coast Guard headquarters and regional offices for college sophomores, juniors and seniors. H.R. 3619 also requires the establishment of cooperative technology programs at minority-serving institutions, and the expansion to minority-serving institutions of the College Student Pre-Commissioning Initiative, through which students receive college scholarships in return for a service commitment as an officer in the Coast Guard.

#### *Title III—Shipping and navigation*

Title III of H.R. 3619 contains provisions that create a civil penalty for the possession of controlled substances on vessels. It also authorizes the Secretary of the department in which the Coast Guard is operating to establish a limit of liability under the Oil Pollution Act of 1990 for pollution incidents in deepwater ports used only in connection with the transportation of natural gas. Further, H.R. 3619 requires a study on exhaust pollution released by cruise ships, and requires a study on arctic marine transportation.

#### *Title IV—Great Lakes icebreaker*

Title IV of H.R. 3619 authorizes \$153 million for the design and construction of a new replacement icebreaker for the Great Lakes.

Five of the Coast Guard’s icebreakers on the Great Lakes are nearing the end of their useful lives and two additional buoy tenders that the Coast Guard uses to break ice cannot handle

heavy ice conditions. As a result, in the spring of 2008, U.S.-flag ships on the Lakes sustained \$1.3 million in damage to their hulls.

Manufacturing and power industries cannot stockpile their inventories for the winter and the mines do not have the capacity to produce extra materials during the summer to last these industries through the winter. Therefore, they depend on the icebreaking capacity of the Coast Guard to keep shipping lanes open during these winter months just as snow plows keep highways open for surface transportation.

The Coast Guard also uses icebreakers on the Great Lakes to assist the U.S. Army Corps of Engineers in clearing ice from rivers and harbors to prevent storm and flood damage from ice that forms dams leading to flooding in local communities.

In 2006, the Coast Guard accepted delivery of the Coast Guard icebreaker *Mackinaw*. This icebreaker has proven extremely capable of breaking ice on the Lakes during the past two winters. The Coast Guard could use this design to build a sister ship that could set and maintain buoys during the spring, summer, and fall, and then break ice to keep shipping channels open for commercial vessels during the winter months.

#### *Title V—Acquisition reform*

Congress appropriates funds for Coast Guard capital expenditures to the Coast Guard’s Acquisition, Construction, and Improvement (AC&I) account, which funds expenses related to “acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto; and maintenance, rehabilitation, lease and operation of facilities and equipment.”<sup>1</sup>

The largest single acquisition program funded through the AC&I budget is the Deepwater acquisition program. According to the most recent acquisition program baseline (APB) for the Deepwater program—APB 1.1, adopted May 15, 2007—the Deepwater acquisitions are projected to cost a total of \$24 billion and to require 25 years to complete.

The Deepwater acquisition program is the largest single acquisition effort that the Coast Guard has ever undertaken and is intended to upgrade or modernize nearly all of its air and surface assets. The acquisition program was formulated by the Coast Guard in the early 1990s. At that time, after assessing its mission needs and measuring these against the obsolescence of its existing technology, the service decided that rather than simply buy single new assets to replace its existing assets, it would pursue a system-of-systems acquisition approach, through which it would acquire an integrated suite of assets that together could provide the “functional capabilities” required to fulfill its mission needs.

Given the complexity of the acquisition effort to be undertaken, the Coast Guard decided that it would follow the example of Department of Defense agencies by engaging a private firm to serve as the lead systems integrator (LSI). The Deepwater LSI was to exercise primary responsibility for managing the development of the system-of-systems—including selecting the individual assets to be

<sup>1</sup>Consolidated Security, Disaster Assistance, and Continuing Appropriations Act, 2009 (P.L. 110–329).

included in the system and managing their integration around a common operating picture (real-time displays of operational views that could be shared by all assets and stations). The Coast Guard also decided it would manage the Deepwater acquisitions outside the service's existing acquisition management structure—a decision which ultimately served to limit the oversight the service was prepared to exercise over the program in its early years.

In June 2002, the Integrated Coast Guard Systems (ICGS) team, comprised of Lockheed Martin and Northrop Grumman, was awarded a \$17 billion, Indefinite Delivery/Indefinite Quantity (IDIQ) contract to serve as the LSI and implement the Deepwater acquisitions; this initial contract extended for five years and included five additional five-year options.

The requirements for the Deepwater acquisitions that were developed to inform the award of the initial IDIQ in June 2002 had been formulated prior to the terror attacks of September 11, 2001. In 2003, the Coast Guard was moved to the Department of Homeland Security (DHS) and began to perform significant new homeland security missions (such as port security) in addition to its traditional missions (such as search and rescue). As the asset needs that arose from its new homeland security missions became clearer, the Coast Guard began to alter the overall mission requirements that assets to be produced under the Deepwater IDIQ were to be expected to meet; these alterations were generally made after the IDIQ had already been awarded.

Almost from the signing of the Deepwater contract, the Coast Guard encountered challenges in managing the LSI. These challenges were enumerated in multiple reports issued by the Government Accountability Office (GAO) and the DHS Office of the Inspector General (DHS IG).

Several of the individual acquisition efforts undertaken in the early years of Deepwater failed or proved too impractical to pursue. Perhaps the most highly publicized failure was the effort to lengthen the Coast Guard's existing 110-foot patrol boats to 123 feet and install new, upgraded information technology suites into the boats.

Other procurement efforts initiated in the early years of the Deepwater contract, including the first effort to procure a vertical unmanned aerial vehicle and the first effort to develop a Fast Response Cutter (FRC), were never built after failing to pass design or prototype testing. These failures wasted well in excess of \$100 million.

In April 2007, the Coast Guard announced a series of major changes in its management of Deepwater—changes that would also affect its management of all its acquisition efforts. Specifically, the Commandant of the Coast Guard, Admiral Thad W. Allen, announced that the service would:

- Assume the role as LSI for all Deepwater assets and other major acquisitions as appropriate;
- Assume responsibility for life-cycle logistics functions for Deepwater assets;
- Expand the role of the American Bureau of Shipping and other third-parties as appropriate to ensure assets meet design and construction standards;
- Work with the ICGS team to resolve outstanding contract issues pertaining to the National Security Cutter;

- Consider procuring assets directly from prime vendors when this was in the best interests of the government; and,
- Convene regular meetings between the Commandant and the ICGS team to adjudicate and resolve Deepwater contracting issues.

At the same time, the Coast Guard began reorganizing its acquisition management processes.

The Coast Guard has issued a “Blueprint for Acquisition Reform” to guide the implementation of the new policies and procedures it is implementing to strengthen the management of Coast Guard acquisition initiatives and to guide the organization of the Acquisition Directorate. The first version was issued on July 9, 2007; the document is to be updated in July of each year. The “Blueprint” lays out the Coast Guard’s plans for organizational alignment and leadership, the development of new policies and procedures, human capital management and development, and information management and stewardship.

The release of the Blueprint and the concomitant creation of the Acquisition Directorate are intended to ensure the standardization of acquisition procedures within the Coast Guard. The Blueprint and Acquisition Directorate are also intended to ensure that the service is equipped to control procurement-related costs and that acquisition efforts adhere to set schedules; further, they are intended to empower program managers to effectively manage acquisition efforts. Previously, program managers were at best “partners” to LSI personnel.

As of December 2008, the Coast Guard indicated that it had assigned a Level III-certified program manager (Level III certification is the highest certification available to a program manager) to each of its 14 Level I acquisitions (under DHS Acquisition Directive 102–01, acquisition efforts are classed as Level I, II, or III depending on their total life-cycle costs—with Level I acquisitions having life-cycle costs at or above \$1 billion). Seven of the Level III-certified program managers assigned to Level I acquisitions were military officers and five program managers were members of the civil service (two program managers were each managing two separate Level I acquisitions). As of February 2009, the Coast Guard had 27 military officers who had achieved a Level III program manager certification, including three Admirals, 12 Captains, 11 Commanders, and four Lieutenant Commanders.

In 2008, the Coast Guard assigned the Admiral currently serving as the Assistant Commandant for Acquisition (who is a Level III-certified program manager) to be the commander of District 13 (headquartered in Seattle); this assignment was made as part of the Coast Guard’s regular process for rotating its personnel. The Program Executive Officer for the Deepwater acquisition effort, also a Level-III certified program manager, was assigned to be the Assistant Commandant for Acquisition. A Captain recently selected for promotion to Rear Admiral who lacked a Level III program manager certification at the time of his selection was named to be the Program Executive Officer for Deepwater. These assignments took effect in mid-2009.

The Coast Guard created a new Acquisition Directorate (known as CG–9) on July 13, 2007. The Acquisition Directorate re-integrates the Coast Guard’s acquisition-related functions into a single

unit employing standard processes for managing acquisition efforts. The Deepwater program is now managed directly by the Acquisition Directorate; the Program Executive Officer for the Deepwater acquisition effort, who simultaneously serves as the Director of Acquisition Programs, is located within the Directorate and reports to the Assistant Commandant for Acquisition.

Currently, the Assistant Commandant for Acquisition reports directly to the Chief of Staff, who reports to the Vice Commandant, who then reports to the Commandant. On January 22, 2009, DHS requested that the Coast Guard nominate a Component Acquisition Executive (CAE) for oversight of certain acquisition programs. On March 2, the Coast Guard nominated the Vice Commandant to be the CAE; this appointment was confirmed by DHS on August 10, 2009.

While the Coast Guard has made significant improvements in strengthening its acquisition workforce and implementing policies and procedures that should enable it to more effectively manage acquisition efforts, challenges remain. In a June 2008 study on the Deepwater procurements, entitled “Coast Guard: Change in Course Improves Deepwater Management and Oversight, but Outcome Still Uncertain”, the GAO found that the changes in the Deepwater management processes and the creation of the Acquisition Directorate have “increased accountability” because “Coast Guard project managers and technical experts now hold the greater balance of management responsibility and accountability for program outcomes.”<sup>2</sup> Nonetheless, the GAO found that the Coast Guard still “faces challenges in building a capable government workforce to manage this large acquisition.”<sup>3</sup>

In the report, the GAO indicates that as the Coast Guard assumes responsibility for individual assets, there are some system-level aspects of the program that the service is “not fully positioned to manage.”<sup>4</sup> Additionally, the GAO noted that the Coast Guard confronts an on-going shortage of civilian acquisition staff members (which is a problem throughout the Federal Government), the service lacks an acquisition career path for military personnel, and it continues to rely on contractors for specific types of technical and programmatic expertise.

In the 110th Congress, the Subcommittee held three hearings on the Coast Guard’s Deepwater acquisition program. On January 30, 2007, the Subcommittee met to receive a status update on the Deepwater acquisitions. On March 8, 2007, the Subcommittee met to consider the Bush administration’s fiscal year 2008 budget request for the U.S. Coast Guard, and also received testimony from the Coast Guard, the DHS IG, and the GAO on the Deepwater acquisition program. On June 12, 2007, the Subcommittee met to receive an initial update from the Coast Guard Commandant on the service’s implementation of the changes the Commandant had announced to the management of the Deepwater contract.

On April 18, 2007, the Committee on Transportation and Infrastructure convened a hearing to review the results of an investigation of the Deepwater program conducted by Committee investiga-

<sup>2</sup>GAO, *Coast Guard: Change in Course Improves Deepwater Management and Oversight, but Outcome Still Uncertain* 3 (June 2008).

<sup>3</sup>*Id.*

<sup>4</sup>*Id.* at 4.

tive staff. This investigation closely examined the multiple factors that contributed to the failure of the effort to lengthen the 110-foot patrol boats to 123 feet, including limited oversight exercised by Coast Guard acquisition management officials, rigid adherence to schedule, and contractor self-certification.

In the 111th Congress, on March 23, 2009, Subcommittee Chairman Elijah E. Cummings introduced H.R. 1665, the “Coast Guard Acquisition Reform Act of 2009”, which is incorporated into Title V. On March 24, 2009, the Subcommittee held a hearing to review the changes the Service had implemented in its acquisition management processes since 2007, and to examine H.R. 1665.

Title V responds directly to the issues that the Committee on Transportation and Infrastructure and the Subcommittee have examined in five hearings conducted during the 110th and 111th Congresses. It also requires the implementation of acquisition-related policies and procedures and personnel standards that will build on the acquisition reform efforts the service has already undertaken.

#### *Title VI—Maritime workforce development*

Title VI of H.R. 3619 amends title 46, United States Code, to direct the Secretary of Transportation to establish a maritime career recruitment, training, and loan program.

According to statistics released by the Maritime Administration in 2007, 95 percent of U.S. foreign trade is moved by ship—and foreign trade has comprised an increasing share of our national Gross Domestic Product (GDP) in recent years. Thus, while foreign trade (including all imports and exports) comprised 13 percent of GDP in 1990, it comprised nearly 22 percent of national GDP in 2006 and is projected to potentially comprise as much as 35 percent of national GDP by 2020. In 2007, the Maritime Administration reported that the U.S. marine transportation system “supports 13 million jobs.”<sup>5</sup>

While the ongoing global economic downturn has had an impact on world and U.S. shipping volumes, these declines are expected to be temporary and volumes are expected to rebound after economic growth resumes. Additionally, the newly expanded Panama Canal will open in 2014 allowing significantly larger vessels to call on East Coast ports, provided that port infrastructure is upgraded to accommodate such vessels.

When the U.S. water transportation sector resumes its growth, the industry may face a labor shortage—particularly in on-the-water jobs—that could leave the United States without the labor the nation needs to meet the demands that renewed growth in the maritime industry will create. In October 2007, the Coast Guard indicated at a hearing convened by the Subcommittee to examine trends in the maritime workforce that there were more than 130,000 unlicensed mariners with merchant mariner documents and more than 212,500 licensed mariners in the United States. The average age of a merchant mariner with a Master’s license was 51, and the average age of a Chief Engineer was 50. At that time,

<sup>5</sup> Maritime Administration, *The Maritime Administration and the U.S. Marine Transportation System: a Vision for the 21st Century*, 5 (November 2007).

more than 28 percent of inland pilots and captains were over the age of 55 and would be eligible to retire in the next five years.

Additionally, the 1995 Amendments to the Convention on the Standards of Training, Certification, and Watchkeeping have imposed significant new standards for training and continuing education on mariners around the world, including in the United States. The 1995 Amendments entered into force on February 1, 1997, and all mariners were required to comply with the 1995 Amendments by February 1, 2003. U.S. mariners are subject to the 1995 Amendments if they sail beyond the U.S. boundary line (the boundary line separates the bays, harbors, and other inland waters from the ocean) on commercial vessels, even if the vessel is not on a voyage to a foreign country. Mariners are exempt from the requirements if they sail on vessels less than 200 gross tons on domestic voyages that begin and end in a U.S. port.

The 1995 Amendments were adopted to improve safety in the maritime industry by ensuring that mariners are adequately trained for the positions they fill and, thus, that human factors will be reduced as the cause of maritime accidents. However, these requirements have also had the effect of imposing expensive and time-consuming training requirements on mariners, particularly on those who are looking to upgrade a document or license to move up the career ladder. In essence, the 1995 Amendments created unfunded training and certification mandates for unlicensed mariners who had traditionally progressed to licensed officer positions through on-the-job training. The new standards raised the bar for new workers seeking to advance in a maritime career, and have caused a significant number of older workers to retire early.

The costs of obtaining a Master's or Mate's license can be as much \$26,000, with specialized training and certifications, due to the training requirements mandated by the 1995 Amendments. Employers in the maritime industry have traditionally provided little or no funding to help employees cover the costs of training, and there is growing concern within the maritime industry that the cost and complexity of meeting 1995 Amendment requirements for license renewals and/or upgrades is reducing the pool of potential seafarers.

Importantly, maritime training programs are unique, and are unlike typical two- or four-year educational programs. Maritime training programs courses can be multi-week or multi-month programs and mariners take such classes on a frequent basis to obtain certification in a specific new qualification. Due to the short course length and the frequency of enrollment in new courses, the costs of these programs are not easily served by existing student loan programs.

In the 110th Congress, the Subcommittee held a hearing to consider trends in the maritime workforce on October 17, 2007. The Subcommittee received testimony on trends and innovations in mariner education and assessed how growing workforce shortages will affect the maritime industry and U.S. trade. The hearing also considered the possible impact of various factors on workforce shortages, including wage levels; lifestyle challenges associated with employment in the maritime industry; and training requirements imposed by the Standards of Training, Certification, and Watchkeeping Convention.

*Title VII—Coast Guard modernization*

Title VII of H.R. 3619 implements a reorganization of the Coast Guard's senior leadership as proposed by the Coast Guard's Commandant, Admiral Thad W. Allen. It also requires the Coast Guard to modernize its management of its marine safety program and to establish marine safety as a core mission with rigorous qualifications for marine safety personnel.

Specifically, H.R. 3619 elevates the Vice Commandant to a full four-star Admiral, eliminates the Atlantic and Pacific Area Commands, and establishes four, three-star Admiral positions to lead the operational and policy divisions of the Coast Guard. The four positions created include: Deputy Commandant for Mission Support; Deputy Commandant for Operations and Policy; Commander, Force Readiness Command; and Commander, Operations Command.

The Coast Guard has argued that reorganization of the senior leadership will create a modernized command structure that will support the service's ongoing efforts to create and implement uniform policies and procedures at all levels.

H.R. 3619 also establishes marine safety as a core mission of the Coast Guard. Further, it establishes qualifications for the Assistant Commandant for Marine Safety, and sets minimum qualifications for marine safety staff. In addition, the bill authorizes the creation of Centers of Expertise for marine inspection and investigation, as well as a marine industry training program, which will facilitate industry training through an exchange of Coast Guard and industry personnel. H.R. 3619 requires the development of a long-term strategy for improving vessel safety, the establishment of measurable goals, and the submission of a progress assessment and report to Congress. The bill also ensures that those handling waivers and appeals of marine safety issues are qualified marine safety staff.

Since the transfer of the U.S. Coast Guard to DHS, the Coast Guard has focused a great deal of its effort and resources on maritime security. Unfortunately, other important core missions, particularly its marine safety responsibilities, have not received the attention or resources needed to ensure the safety of the public. The Coast Guard acknowledged the shortcomings in a report by former Vice Admiral Card entitled "Marine Safety Analysis: An Independent Assessment and Suggestions for Improvement", and the service subsequently published the "Marine Safety Performance Plan" in November 2008 that outlines steps that the Coast Guard intends to take to improve the marine safety program.

The problems with the Marine Safety Mission have also been examined in a number of hearings held by the Subcommittee, including a hearing convened on April 10, 2008, entitled "*Cosco Busan* and Marine Casualty Investigation Program." During that hearing, the Subcommittee met to receive a report from the DHS IG, entitled "Allision of the M/V *Cosco Busan* with the San Francisco-Oakland Bay Bridge." This report was completed pursuant to a December 4, 2007 request of Speaker of the House Nancy Pelosi and Subcommittee Chairman Elijah E. Cummings.

The DHS IG was very critical of the Coast Guard's investigation of this marine casualty. The DHS IG found that five of the six individuals assigned to marine casualty investigator billets were not qualified for those positions; all three of the individuals who re-

sponded to the *Cosco Busan* were not qualified as marine casualty investigators. Likely as a result of inadequate training and experience, and the use of inadequate manuals, the investigators who responded to the *Cosco Busan* failed to identify, collect, and secure perishable evidence related to this casualty. Additionally, the Coast Guard incorrectly classified the investigation of the *Cosco Busan* casualty as an informal investigation rather than a formal investigation.

On May 20, 2008, the Subcommittee met to receive a report from the DHS IG, entitled “United States Coast Guard’s Management of the Marine Casualty Investigation Program”.<sup>6</sup> The Subcommittee also received testimony from the National Transportation Safety Board (NTSB) and the Coast Guard regarding which agency should exercise primacy in the conduct of marine casualty investigations.

The DHS IG testified that its examination of the Coast Guard’s marine safety program had found that there were significant deficiencies in the operations of the program. Specifically, the IG stated that the Coast Guard’s marine casualty investigation program is “hindered by unqualified personnel”, by “investigations conducted at inappropriate levels”, and by “ineffective management of a substantial backlog of investigations needing review and closure.”

It is the expectation of the Committee that the measures set forth in Title VII and Title VIII will establish a firm foundation for a robust marine safety program staff by Coast Guard officers and members along with civilians who have the expertise to carry out the program and the continuity of service that provides the public with safe transportation on the water.

#### *Title VIII—Marine safety*

Title VIII of H.R. 3619 contains a variety of provisions intended to strengthen the Coast Guard’s implementation of its marine safety functions. These provisions will ensure that the Coast Guard maintains a marine safety program that prevents casualties from occurring, minimizes the effect of the casualty, and maximizes lives saved, if a vessel must be abandoned.

On April 25, 2007, the Subcommittee met to examine the safety of U.S. commercial fishing vessels and the extent to which the provisions of the Commercial Fishing Industry Vessel Safety Act of 1988 (P.L. 100–424) have led to improved safety in the industry.

Commercial fishing is the most hazardous occupation in the United States according to the Department of Labor’s Bureau of Labor Statistics, which has found that the rate of death among commercial fishermen is 118 per 100,000 workers. A study published by the Coast Guard in 2006 found that between 1994 and 2004, even as commercial fishing levels declined, 1,398 commercial fishing vessels were lost, resulting in 641 deaths. One of the reasons for such a high casualty rate is because fishing vessels, unlike other commercial vessels, are not required to be built to standards specified by the Coast Guard, crewmembers are generally not required to be licensed or documented by the Coast Guard or to complete specific professional training courses, and compliance with existing regulations regarding life-saving equipment required to be

<sup>6</sup>DHS IG, *United States Coast Guard’s Management of the Marine Casualty Investigation Program* (May 2008).

carried on board a commercial fishing vessel and the conduct of required safety drills is not universal. This hearing examined whether safety standards applying to other commercial vessels operating in hazardous waters should be applied to commercial fishing vessels.

H.R. 3619 establishes equipment standards for all commercial fishing, fish tender, and fish processing vessels operating beyond three nautical miles of the coast, and clarifies equipment requirements for these vessels. The bill also authorizes the Secretary of Homeland Security to require vessel owners or managing operators of commercial vessels to maintain employment records of seamen for a period of not less than five years after the completion of employment, and to make the records available to the individual or the Coast Guard upon request.

H.R. 3619 also gives the Coast Guard new authority to terminate, for “unsafe operation”, all vessels subject to title 46, and authorizes the Coast Guard to establish standards for required marine safety equipment based on performance, best available technology, and operational practicality.

*Title IX—Cruise vessel safety*

Title IX of H.R. 3619 contains a number of provisions that will enhance the safety and security of passengers on board cruise vessels.

As on land, crimes do occur on cruise vessels. Statistics suggest that the rate of reported incidents on board cruise vessels is low; however, prosecutions for reported incidents are also very rare. Additionally, except for U.S.-flagged vessels or foreign-flagged vessels operating in an area subject to the direct jurisdiction of the United States, there are no Federal statutes or regulations that explicitly require cruise lines to report alleged crimes to U.S. government officials.

American citizens who travel on cruise ships are subject to the laws of the vessel’s flag state, which may not afford to them the same rights and protections in the event of a crime that would be afforded under U.S. law.

The Subcommittee held two hearings in 2007 to examine the extent of crimes on cruise ships as well as the effectiveness of current measures in preventing crimes on cruise ships and in ensuring the prosecution of individuals who commit crimes against Americans on cruises. Many of the individuals that testified before the Subcommittee had been the victims or the families of victims of crimes aboard cruise ships. They recounted practices, procedures, and responses that did not support the effective investigation or prosecution of their cases or, in some instances, did not even ensure that they received sensitive and supportive care in moments of great vulnerability and need.

Cruise ships with foreign registries are required by law to report alleged crimes occurring on board their vessels to U.S. authorities when they occur within U.S. territorial waters (see 33 C.F.R. § 120.220). Under current regulations, cruise ships have not been required to report crimes to U.S. authorities that occur outside U.S. territorial waters under any circumstances (and even if U.S. nationals are involved).

However, title 18, United States Code, identifies specific crimes over which the United States may assert criminal jurisdiction under what is known as the Special Maritime and Territorial Jurisdiction. Such jurisdiction applies if:

- the ship on which the crime occurs—even if is not registered in the United States—is owned in whole or in part by U.S. entities and the ship is in the admiralty and maritime jurisdiction of the United States and out of the jurisdiction of any particular state;
- the alleged offense is committed by or against a U.S. national and is committed outside the jurisdiction of any nation;
- the crime occurs in U.S. territorial waters, regardless of the registration of the vessel or the nationality of the victim or perpetrator; or,
- the victim or perpetrator is a U.S. national on board a vessel during a voyage that departed from or will arrive in a U.S. port.

If committed under any of the circumstances described above, the crimes over which the United States may assert jurisdiction include arson, assault, maiming, embezzlement or theft, receipt of stolen property, murder, manslaughter, attempt to commit murder or manslaughter, kidnapping, malicious mischief, robbery and burglary, stowaway, aggravated sexual abuse, sexual abuse, abusive contact of a minor or ward, abusive sexual contact, terrorism, and transportation for illegal sexual activity.

H.R. 3619 requires that, beginning 18 months after the date of enactment of the Act, each vessel to which the section applies must comply with specific design and construction standards. The vessels must have rails located not less than 42 inches above the cabin deck, and must have passenger staterooms and crew cabins equipped with peep holes or other means of visual identification. To the extent that technology is available, the vessels must integrate technology that can detect when passengers have fallen overboard. The vessel must also be equipped with operable acoustic hailing or warning devices to provide communication capability around the entire vessel when it is operating in high risk waters, as defined by the Coast Guard. Beginning on the date of enactment of the Act, any vessel the keel of which is laid after the date of enactment of the Act must equip passenger staterooms and cabins with security latches and time-sensitive key technologies.

To help combat crimes aboard cruise vessels, H.R. 3619 also requires that the owner of a vessel maintain a video surveillance system to assist in documenting crimes on the vessel and to provide evidence for the prosecution of such crimes. In addition, the bill requires owners of vessels to employ physicians meeting certain professional qualifications and to maintain on the vessel adequate, in-date supplies of anti-retroviral medications and other medications designed to prevent the transmission of sexually transmitted diseases after a sexual assault, as well as equipment and materials for performing medical examinations in sexual assault cases. H.R. 3619 also requires the owner of a vessel to record in a log book, either electronically or otherwise, reports on specified complaints.

In addition, the bill requires the owner of a vessel or the owner's designee to contact the nearest Federal Bureau of Investigation (FBI) Field Office of Legal Attach by telephone as soon as possible

after the occurrence on board the vessel of an incident involving homicide, suspicious death, a missing U.S. national, kidnapping, assault with serious bodily injury, any offense to which 18 U.S.C. §§ 2241, 2242, 2243, or 2244(a), or (c) applies, firing or tampering with the vessel or theft of money or property in excess of \$10,000 to report the incident.

These reporting requirements apply to an incident involving criminal activity if:

- the vessel, regardless of registry, is owned, in whole or in part, by a U.S. person, regardless of the nationality of the victim or perpetrator and the incident occurs when the vessel is within the admiralty and maritime jurisdiction of the United States and outside the jurisdiction of any State;
- the incident concerns an offense by or against a U.S. national committed outside the jurisdiction of any nation;
- the incident occurs in the Territorial Sea of the United States, regardless of the nationality of the vessel, the victim, or the perpetrator; or
- the incident concerns a victim or perpetrator who is a U.S. national on a vessel that departed from or will arrive at a U.S. port.

The Secretary of Transportation is required to maintain a statistical compilation of certain incidents on an Internet site that provides a numerical accounting of the missing persons and alleged crimes recorded in each report that are no longer under investigation. The data shall be updated no less frequently than quarterly and aggregated by cruise line (and each cruise line shall be identified by name), and by whether the crime was committed by a passenger or a crew member. Each cruise line taking on or discharging passengers in the United States shall include a link on its Internet website to the website maintained by the Secretary of Transportation.

#### *Title X—United States mariner protection*

Title X of H.R. 3619 amends title 46 to guarantee to U.S. mariners the traditional use of self defense to enable them to protect themselves and their vessels against piracy.

On February 4, 2009, the Subcommittee held a hearing to receive testimony regarding international piracy. The purpose of this hearing was to gather information on the causes and extent of piracy and to understand its effect on international shipping. As of that date, no U.S.-flagged vessels had been attacked or seized by pirates. However, the expansion of international piracy—particularly in the Horn of Africa region—threatened to raise the costs of transporting goods through that highly traveled region at a time of significant distress in the world economy. On May 20, 2009, the Subcommittee held a follow-up hearing to receive testimony regarding recent acts of piracy against U.S.-flagged vessels and the lessons to be learned from these attacks.

In July 2009, the International Maritime Bureau Piracy Reporting Centre reported the number of worldwide piracy attacks doubled to 240 attacks in the first six months of 2009 compared to 114 for the entire year of 2008. Piracy activity off in the Gulf of Aden contributed significantly to this upward trend. Worldwide, 78 vessels were boarded, 75 vessels were fired upon, and 31 vessels were

hijacked. Approximately 561 crewmembers were taken hostage, 19 were injured, seven were kidnapped, six were killed, and eight are missing. The report also stated that in the majority of the incidents the attackers were heavily armed and that violence against the crewmembers continues to rise.

On April 8, 2009, the U.S.-flagged container ship *MV Maersk Alabama* was attacked and seized by pirates approximately 250 nautical miles southeast of the Somalia coastline. The vessel, manned by 20 U.S. crewmembers, was carrying U.S. government food aid to the Kenyan port of Mombasa when it was attacked. The ship's captain was subsequently taken hostage by the pirates. Special Forces sharpshooters stationed on the USS *Bainbridge* killed the captain's captors, thus securing his release.

On April 14, 2009, the U.S.-flagged vessel, *MV Liberty Sun*, with 20 U.S. crewmembers, was attacked by pirates approximately 285 miles southeast of the Somali capital of Mogadishu as it was on its way to deliver U.S. government food aid to destinations along the east coast of Africa. The vessel had unloaded part of its food aid cargo in Port Sudan and was en route to Mombasa, Kenya, at the time of the attack. Pirates fired on the vessel with rocket propelled grenades and AK-47s. The crewmembers successfully thwarted the attack, and the *Liberty Sun* continued on its voyage to Kenya.

H.R. 3619 provides that if an owner, operator, master, mariner, or time charterer uses or authorizes the use of force to defend a U.S.-flagged vessel against an act of piracy, that individual will not be liable for the injury or death caused by that use of force to any person that participated in the act of piracy. In addition, H.R. 3619 provides that the Secretary of the department in which the Coast Guard is operating shall work through the International Maritime Organization to establish agreements with flag and port States that will promote a coordinated action to protect against, deter, and rapidly respond to acts of piracy against the vessels of those States and in the waters under the jurisdictions.

#### *Title XI—Port security*

Title XI of H.R. 3619 makes a number of improvements to port security, including requiring the Secretary of Homeland Security to provide a report about its pilot program to test access control technologies of TWIC at port facilities and vessels in the United States, 120 days after the program is completed. Title XI also requires the Commandant of the Coast Guard to conduct a program for mobile biometric identification in the maritime environment for suspected individuals, including terrorists, to enhance border security. Title XI further requires the Secretary of Homeland Security to submit a report analyzing the threat, vulnerability, and consequences of a terrorist attack on gasoline and chemical cargo shipments in port activity areas in the United States.

On April 23, 2007, the Subcommittee conducted a field hearing in Baltimore, Maryland, to examine the safety and security of Liquefied Natural Gas (LNG) terminals and their impact on port operations. This hearing also examined the proposed AES Sparrows Point LNG terminal at Sparrows Point in the Port of Baltimore.

The authority to approve or deny the proposed siting of an on-shore LNG terminal rests with the Federal Energy Regulatory Commission (FERC); however, the Coast Guard assists FERC in

evaluating proposed sitings by issuing a waterway suitability report, which assesses the potential impact of a proposed terminal on maritime operations in the vicinity of the proposed terminal as well as the security needs and security impacts of proposed terminals. The Coast Guard also imposes security zones and specific security requirements around the tanker ships that service LNG terminals.

Testimony presented at this hearing indicated that at the Cove Point LNG facility in Calvert County, Maryland, the Coast Guard had turned some responsibilities for providing waterside security around the terminal and tankers over to the terminal operator, which had, in turn, contracted with the local sheriff's department for security services. The Coast Guard indicated this was done to ease the demands placed by LNG operations on the Coast Guard's limited resources.

On May 7, 2007, the Subcommittee convened a field hearing in Farmingville, New York, to continue its examination of the safety and security of LNG terminals and their impact on port operations. The hearing also examined the proposed Broadwater floating LNG terminal in Long Island Sound.

In its Waterway Suitability Report for the proposed Broadwater terminal, the Coast Guard indicated that based on its current levels of mission activity, Sector Long Island alone did not currently have adequate resources to implement the measures it considered necessary to manage the risks to navigation safety and maritime security associated with the proposed terminal; however, the Report noted that some of the required resources could be provided by adequately qualified State and local authorities. The Chief of Ports and Facilities Activities of the Coast Guard testified that given the costs associated with conducting waterway assessments for each of the approximately 40 proposed terminal projects going through some stage of the regulatory process as well as the Coast Guard's challenges in identifying resources to provide security around proposed terminals it would make sense from the Coast Guard's perspective for the United States to have a national LNG terminal siting policy, which takes into account the energy needs of the country and the Coast Guard's ability to provide appropriate security.

Responding to these findings, H.R. 3619 requires the Coast Guard to enforce the security zones imposed around tankers containing especially hazardous materials. The bill allows State and local law enforcement to be engaged in providing waterside security for such terminals through contractual or other legal agreements, but requires that if these entities are engaged in security activities, they must have the training, resources, personnel, equipment, and experience necessary to deter a transportation security incident.

To ensure that the Coast Guard can adequately carry out its homeland security responsibilities, H.R. 3619 also authorizes the Coast Guard additional maritime security response teams and canine detection teams to assist in detecting explosives and interdicting drugs.

H.R. 3619 requires DHS to provide a report on the development of the Interagency Operational Centers for Port Security required by section 108 of the SAFE Port Act (P.L. 109-347). These Centers are anticipated to combine representatives from the Coast Guard and other federal law enforcement entities—including the FBI and

Customs and Border Patrol—as well as State and local law enforcement entities to increase maritime domain awareness and facilitate the sharing of intelligence.

The Subcommittee has heard from a number of mariners, and from the organizations that provide support services to mariners, that individuals or vessels may be charged hundreds of dollars just to be escorted through a port facility when they board or depart a vessel. H.R. 3619 addresses this growing problem by requiring each facility security plan approved under 46 U.S.C. 70103(c), to provide a system for seamen, pilots, ministers, and labor organizations to pass through secure facilities to board and depart vessels in a timely manner and at no cost to the individual.

*Title XII—Alien smuggling*

H.R. 3619, as amended, finds that alien smuggling by land, air, and sea is a global crime that violates the integrity of the United States borders, compromises our Nation’s sovereignty and places the country at risk of terrorist activity. H.R. 3619 incorporates the text of H.R. 1029, the “Alien Smuggling and Terrorism Prevention Act of 2009”, which passed the House by a voice vote on March 31, 2009. The bill ensures that the United States takes a comprehensive approach to combating smuggling both on land and at sea by authorizing punishment for persons who bring, recruit, encourage, transport or harbor an alien knowing or in reckless disregard of the fact that the individual is without the authority to come to, enter or reside in the United States.

*Title XIII—Miscellaneous provisions*

Title XIII of H.R. 3619 includes provisions that authorize a variety of conveyances. H.R. 3619 also requires an assessment of the needs associated with the Coast Guard’s presence in high latitudes, including icebreaking needs. Finally, H.R. 3619 places a cap on seaman’s penalty wages.

SUMMARY OF THE LEGISLATION

*Section 1. Short title*

Section 1 states that the legislation may be cited as the “Coast Guard Authorization Act of 2010”.

TITLE I—AUTHORIZATION

Title I authorizes funding levels and end-of-year military strength levels and military training student loads for fiscal year 2010.

*Sec. 101. Authorization of appropriations*

Subsection (1) authorizes approximately \$10 billion in funding for the necessary expenses of the Coast Guard in fiscal year 2010. Of this amount, \$6.8 billion is for the Coast Guard’s Operating Expenses Account. This section requires the Coast Guard to provide \$1.1 billion for search and rescue programs; \$802 million for marine safety programs; and \$2.27 billion for paying for ports, waterways and coastal security.

Subsection (2) authorizes \$1.6 billion for the Coast Guard’s ACI account including approximately \$1.2 billion for the Integrated

Deepwater Systems program for the acquisition and construction of new vessels, aircraft, facilities, and support systems. This section also authorizes \$45 million for shore facilities and aids-to-navigation.

Subsection (3) authorizes \$29.7 million for the Coast Guard's program to research and develop technologies, measures, and procedures to enhance the Coast Guard's capabilities to carry out the Service's many missions. The Committee strongly believes that this funding should remain under the Coast Guard's direct control and that no portion of this funding should be transferred to any other entity within DHS. The Coast Guard's unique character as a military service with a wide scope of regulatory functions requires that this funding be available to support missions including: defense readiness; search and rescue; marine environmental protection; providing aids-to-navigation; fishing safety research; and protecting America's maritime homeland security.

Subsection (4) authorizes \$1.36 billion for retired pay, a mandatory expenditure.

Subsection (5) authorizes \$16 million for the Federal share of costs associated with alteration or removal of bridges that have been identified by the Coast Guard as obstructions to navigation.

Subsection (6) authorizes \$13 million for environmental compliance and restoration at Coast Guard facilities.

Subsection (7) authorizes \$133.6 million for the Coast Guard Reserve program.

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

Section 102 authorizes a Coast Guard end-of-year strength of 47,000 active duty military personnel for fiscal year 2010.

## TITLE II—COAST GUARD

Title II amends title 14, United States Code, and authorizes activities and functions of the Coast Guard.

*Sec. 201. Appointment of civilian Coast Guard judges*

Section 201 authorizes the Coast Guard to appoint civilian judges to the Coast Guard Appellate Court, which hears appeals from courts-martial, as vacancies occur. Civilian judges were previously permitted to be appointed to this court by the Secretary of Transportation, and this provision provides the Secretary of the department in which the Coast Guard is operating with the same statutory authority.

*Sec. 202. Industrial activities*

Section 202 authorizes Coast Guard industrial activities facilities, such as the Coast Guard Yard in Baltimore, Maryland, and the Aircraft Repair and Supply Center in Elizabeth City, North Carolina, to enter into reimbursable agreements to perform work for agencies in the Department of Defense.

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

Section 203 authorizes reimbursement of travel-related expenses to Coast Guard personnel and covered beneficiaries under 10 U.S.C. § 1072(5) who are stationed on an island in the 48 contiguous States when a family member is referred to a specialty care

provider off-island that is less than 100 miles from the location where the beneficiary resides. Currently, there is only authorization for such a reimbursement when the specialty care provider is located more than 100 miles from the beneficiary's residence. Coast Guard families stationed on islands do not have the option of driving off-island and, as a result, often have to pay expensive flight or ferry costs.

*Sec. 204. Commissioned officers*

Section 204 will make permanent the temporary increase in the Coast Guard's allowable number of officers from 6,200 to 6,700, as authorized for fiscal years 2004 through 2006. This increase was previously granted as a result of the Service's increased homeland security role following the events of September 11, 2001.

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

Section 205 authorizes Coast Guard veterans to have the same access to the AFRH system as retirees from the other military services.

*Sec. 206. Grants to international maritime organizations*

Section 206 amends 14 U.S.C. § 149 to authorize the Coast Guard to provide funds to international maritime authorities and organizations that collect and maintain international databases. In exchange, the Coast Guard would have access to information on foreign vessels and ports regarding their global safety and security compliance history. This additional information will allow the Coast Guard to make more accurate threat assessments.

*Sec. 207. Emergency leave retention authority*

Section 207 provides that Coast Guard personnel who work in support of a declaration of a major disaster or emergency by the President may retain up to a total of 90 days of accrued leave. Currently, personnel can only retain up to 60 days of accrued leave at the end of the fiscal year.

*Sec. 208. Enforcement Authority*

Section 208 makes a technical correction to transfer from title 46 to title 14, United States Code, a provision regarding the Coast Guard's law enforcement authorities at onshore facilities.

*Sec. 209. Repeal*

Section 209 repeals 14 U.S.C. § 216, which pertains to the ranking of warrant officers; this provision is obsolete.

*Sec. 210. Merchant Mariner Medical Advisory Committee*

Section 210 authorizes the Secretary of the department in which the Coast Guard is operating to appoint a Merchant Mariner Medical Advisory Committee to advise the Secretary regarding issues relating to the medical certification of merchant mariners, including physical qualifications for operators of commercial vessels. Ten members of the 14 member committee shall be health care professionals with expertise regarding the medical examination of merchant mariners or occupational medicine, and four shall be profes-

sional mariners with experience in mariner occupational requirements.

*Sec. 211. Reserve commissioned warrant officer to lieutenant program*

Section 211 authorizes the President to promote a commissioned Coast Guard warrant officer in regular and reserve service to the grade of lieutenant on a temporary basis in accordance with the needs of the Service.

*Sec. 212. Enhanced status quo officer promotion system*

Section 212 provides the Coast Guard with the authority to retain and promote officers that have specialized skills to meet the needs of the Coast Guard. The current Coast Guard promotion system provides the Coast Guard with generalists, and does not readily allow for officer specialties. The 2002–2003 Officer Corps Management System study found that there is an increasing need in the officer corps for specialists. The Committee recommends that the Coast Guard use this authority to significantly increase the number of individuals with specialized experience and knowledge in Coast Guard mission areas.

*Sec. 213. Laser training system*

Section 213 requires the Coast Guard to test an integrated laser system for training Coast Guard personnel on the use of automatic weapons and M–16 rifles on small Coast Guard vessels on the Great Lakes. The Secretary of the department in which the Coast Guard is operating is also required to submit a report to Congress on the costs and benefits of using a laser training system for Coast Guard personnel both on the Great Lakes and nationally.

*Sec. 214. Coast Guard vessels and aircraft*

Section 214 expands 14 U.S.C. § 637(c), to include, within the definition of an authorized vessel or aircraft, any other vessel or aircraft on government noncommercial service when the vessel or aircraft is under the tactical control of the Coast Guard, and at least one member of the Coast Guard is on the vessel or aircraft conducting a Coast Guard mission.

*Sec. 215. Coast Guard District ombudsmen*

Section 215 requires the appointment of a Coast Guard District Ombudsman in each Coast Guard district. Those individuals appointed as District Ombudsmen must have experience in port and transportation systems, and maritime commerce. The purpose of the District Ombudsmen will be to resolve disputes between the Coast Guard and ports, labor, shipowners, and terminal operators regarding requirements imposed or services provided by the Coast Guard. The District Ombudsmen shall develop guidelines regarding the types of disputes with respect to which the ombudsman can provide assistance; priority shall be given to petitioners who believe they will suffer a significant hardship as the result of implementing a Coast Guard requirement or being denied a Coast Guard service. The District Ombudsman is empowered to consult with Coast Guard personnel, and review any document that will aid an

investigation. Complaints are to be addressed within four months of being submitted to the District Ombudsman.

*Sec. 216. Coast Guard commissioned officers: compulsory retirement*

Section 216 requires any regular commissioned officer, except a commissioned warrant officer, who serves in a grade below rear admiral (lower half) to be retired on the first day of the following month when the officer becomes 62 years of age.

This section requires regular commissioned officers with the grade of rear admiral (lower half) and above to be retired on the first day of the following month when the officer becomes 64 years of age.

Notwithstanding this requirement, section 216 allows for the retirement of an officer under paragraph (1) to be deferred: by the President, if the date does not extend past the first day of the following month when the officer becomes 68 years of age; or by the Secretary of the department in which the Coast Guard is operating if the deferment does not extend past the first day of the following month when the officer becomes 66 years of age.

*Sec. 217. Enforcement of coastwise trade laws*

Section 217 authorizes Coast Guard officers and members to enforce coastwise trade laws (the “Jones Act”), particularly with regard to vessels that support the exploration, development, and production of oil, gas and mineral resources in the Gulf of Mexico.

*Sec. 218. Academy nominations*

Section 218 amends 14 U.S.C. §182(a) to establish a Congressional nominations process for the Coast Guard Academy. This section also requires the Secretary of the department in which the Coast Guard is operating to establish a minority recruiting program at the Coast Guard Academy for prospective candidates.

*Sec. 219. Report on sexual assaults in the Coast Guard*

Section 219 requires the Commandant of the Coast Guard (Commandant) to submit an annual report to the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science and Transportation on sexual assaults involving members of the Coast Guard.

*Sec. 220. Home port of Coast Guard vessels in Guam*

Section 220 amends 14 U.S.C. §96 to extend requirements that vessels home-ported in any state of the United States be repaired in U.S. shipyards to such vessels home-ported in Guam. This section also includes Guam as a geographic location where Coast Guard vessels can be overhauled, repaired, or maintained in a shipyard.

*Sec. 221. Minority serving institutions*

Section 221 requires the Coast Guard to establish a management internship program at Coast Guard headquarters or regional offices for students from Minority Serving Institutions (MSI), and authorizes the appropriation of \$2 million to support the program.

This section requires the Commandant to create a component of the College Student Pre-Commissioning Program, through which

students receive a scholarship for part of their college expenses in return for a service commitment as an officer in the Coast Guard, at MSIs. Section 221 requires the establishment of an MSI Aviation Officer Corps Initiative to increase the diversity of the Coast Guard's Aviation Officer Corps; \$3 million is authorized to carry out this section.

Section 221 also requires the Commandant to establish a Coast Guard Laboratory of Excellence—MSI Cooperative Technology Program at three MSIs, and authorizes the heads of the laboratories established under this section to establish partnerships with the private sector, including small and disadvantaged businesses. H.R. 3619 authorizes \$2.5 million to carry out this program.

In addition, section 221 defines the term “minority serving institution” as a historically Black college or university, a Hispanic-serving institution, a Tribal College or University, a Predominantly Black institution, or a Native American-serving non-tribal institution.

### TITLE III—SHIPPING AND NAVIGATION

Title III amends statutes relating to shipping and navigation in U.S. waters.

#### *Sec. 301. Goods and Services*

Section 301 clarifies that non-Federal sales taxes on goods and services may be levied upon, or collected from, vessels when the vessel is operating on any navigable water subject to the authority of the United States.

#### *Sec. 302. Seaward extension of anchorage grounds jurisdiction*

Section 302 extends the Coast Guard's authority to establish anchorage grounds for vessels from three nautical miles to 12 nautical miles, and also increases the civil penalty fines imposed for a violation of rules concerning the anchorage grounds from \$100 to up to \$10,000, with each day of a continuing violation constituting a separate violation. The amount of the penalty was last adjusted in 1915.

#### *Sec. 303. Maritime Drug Law Enforcement Act amendment—simple possession*

Section 303 establishes a civil penalty offense for simple possession of a controlled substance on a vessel subject to the jurisdiction of the United States. The civil penalty shall be up to \$10,000 for each violation.

#### *Sec. 304. Technical amendments to tonnage measurement law*

Section 304 makes technical amendments to laws regarding the tonnage measurement of vessels.

#### *Sec. 305. Adjustment of liability limits for natural gas deepwater ports*

Section 305 authorizes the Secretary to establish a limit of liability of not less than \$12 million for LNG deepwater ports.

*Sec. 306. Period limitations for claims against oil spill liability trust fund*

Section 306 reduces the period that claims for removal costs can be filed against the Oil Spill Liability Trust Fund from six years to three years.

*Sec. 307. Merchant mariner document standards*

Section 308 requires the Secretary of the department in which the Coast Guard is operating to report, not later than 270 days after the date of enactment, to the appropriate committees of the House and Senate regarding: a plan for processing TWIC by mail; the feasibility of redesigning merchant mariner documents to comply with 46 U.S.C. § 70105, including a biometric identifier, and all relevant international conventions, including International Labor Organization Convention 185 concerning seafarer identity; and whether such a consolidated document would eliminate the need for separate credentials, background screening, and application processes that are associated with multiple documents.

*Sec. 308. Report on Coast Guard determinations*

Section 308 requires the Secretary of Homeland Security to provide a report on: the loss of shipyard jobs and industrial base expertise resulting from rebuild, conversion, and double-hull work on U.S.-flag Jones Act vessels that has been performed in foreign shipyards; the enforcement of Coast Guard's rebuilding determination regulations; and recommendations for improving the transparency in the Coast Guard's foreign rebuild determination process.

*Sec. 309. Ship emission reduction technology demonstration project*

Section 309 requires the Commandant to study and report on the methods and best practices for reducing exhaust emissions from cargo and passenger ships that operate in U.S. waters, and identify Federal, State and local laws, regulations or other requirements that affect the ability of any entity to effectively demonstrate on-board technology for reduction of contaminated exhaust emissions.

*Sec. 310. Phaseout of vessels supporting oil and gas development*

Section 310 authorizes foreign flag vessels to be chartered for a limited period to set, relocate, or recover anchors or other mooring equipment of a mobile offshore drilling unit that is located over the outer Continental Shelf for operations to support the exploration, or flow testing and stimulation of wells for offshore mineral or energy resources in the Beaufort Sea or the Chukchi Sea adjacent to Alaska.

*Sec. 311. Arctic marine shipping assessment implementation*

Section 311 requires the Secretary of the department in which the Coast Guard is operating to work through the International Maritime Organization to establish agreements to promote coordinated action between the United States, Russia, Canada, Iceland, Norway, and Denmark and other seafaring and Arctic nations to ensure, in the Arctic: that aids-to-navigation are placed and maintained; there are appropriate icebreaking escort, tug, and salvage capabilities and oil spill prevention and response capability; mari-

time domain awareness is maintained, including long-range vessel tracking; and search and rescue capability is available.

Section 311 authorizes \$5 million for each of fiscal years 2011 through 2015 for seasonal operations in the Arctic; \$10 million for each of fiscal years 2012 through 2015 to carry out cooperative agreements, contracts, or other agreements with, or make grants to, individuals and governments; and \$5 million for each of fiscal years 2011 through 2015 to conduct demonstration projects to reduce emissions or discharges from vessels operating in the Arctic.

Section 311 also requires the Commandant to conduct a comparative cost-benefit analysis of rebuilding, renovating, or improving the existing fleet of icebreakers or constructing new icebreakers for operation by the Coast Guard. The cost-benefit analysis should also include the Coast Guard's ability to maintain a presence in the Arctic regions through 2020 if constructing new or improving the existing ice breakers is not fully funded.

The Commandant is also to submit a report containing the results of the High Latitude Study assessing Arctic ice-breaking mission requirements 90 days after the date of enactment of this Act or the date on which the study is completed, whichever occurs later.

The term "Arctic" is to have the same meaning as in section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. § 4111).

*Sec. 312. Supplemental positioning system*

Section 312 requires the Secretary of the department in which the Coast Guard is operating to establish enhanced LORAN (eLORAN) as the supplemental navigation system for the United States. The Secretary must also submit a plan and timeline for modernizing the remaining LORAN-C stations, and a cost estimate for modernizing LORAN-C infrastructure to meet eLORAN specifications. The section prohibits the Secretary from terminating or decommissioning the LORAN-C program until 30 days after the Secretary certifies that the eLORAN system is operational to the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science and Transportation.

*Sec. 313. Dual escort vessels for double hulled tankers in Prince William Sound, Alaska*

Section 313 amends section 4116(c) of the Oil Pollution Act of 1990 (46 U.S.C. § 3703 note; P.L. 101-380) to require double-hulled tankers to be escorted by at least two towing vessels or other vessels considered to be appropriate by the Secretary of the department in which the Coast Guard is operating. The amendment will take effect 90 days after the date of enactment of this Act. The Committee believes that the protections established under the Oil Pollution Control Act for Prince William Sound should be extended to double-hulled tankers.

#### TITLE IV—GREAT LAKES ICEBREAKER

*Sec. 401. Short title*

Section 401 states that the title may be cited as the "Great Lakes Icebreaker Replacement Act".

*Sec. 402. Findings*

Section 402 finds that five of the Coast Guard's Great Lakes icebreaking assets are nearing the end of their useful lives, and two other buoy tenders have experienced difficulty in heavy ice conditions. The section also notes that U.S.-flagged vessels operating on the Great Lakes during the spring of 2008 suffered more than \$1.3 million in hull damages because the Coast Guard could not adequately respond to heavy icing conditions that occurred that year. This section also finds that during the 2006–2007 ice season on the Great Lakes, shipments of iron ore, coal and limestone exceeded 20 million tons; the transportation of iron ore supported 100,000 jobs at steel mills and 300,000 jobs at supplier industries; and 6.4 million tons of coal kept the Great Lakes region supplied with electricity.

*Sec. 403. Authorization for appropriations*

Section 403 authorizes \$153 million for the design and construction of a new replacement icebreaker for the Great Lakes.

## TITLE V—ACQUISITION REFORM

*Sec. 501. Short title*

*Section 501 states that the title may be cited as the “Coast Guard Acquisition Reform Act of 2009”.*

*Sec. 502. Definitions*

Section 502 defines the following terms: appropriate congressional committees; commandant; Level 1 acquisition; Level 2 acquisition; and life-cycle costs.

*Sec. 511. Procurement structure*

Section 511 prohibits the use of an LSI beginning 180 days after the date of enactment of the Act. This section allows the Coast Guard to continue to use an LSI after the date that is 180 days after the date of enactment of the Act for the completion of National Security Cutters 2 and 3, and the National Distress and Response System Modernization Program (known as Rescue 21), which are on-going acquisitions. The Coast Guard is also permitted to use a LSI after the date that is 180 days after the date of enactment of the Act for certain other on-going acquisition efforts.

However, all exemptions for the use of a lead systems integrator except for National Security Cutters 2 and 3 and the Rescue 21 program expire on September 30, 2011; after that date, no private sector LSI can be used. The prohibition on the use of a private sector LSI could take effect earlier if the Commandant certifies to the appropriate congressional committees that the Coast Guard has available the personnel and expertise within the service or through the use of contracts with private sector entities or agreements with other Federal agencies to enable it to perform the lead systems integration function itself.

This section also requires full and open competition for contracts issued by the Coast Guard and any lead systems integrator employed by the Coast Guard.

*Sec. 521. Operational requirements*

Section 521 requires the Coast Guard to establish specific operational requirements for a new acquisition before awarding a production contract for the acquisition. The Coast Guard must also enable a full assessment of the trade-offs among performance, cost, and schedule to be made.

*Sec. 522. Required contract terms*

Section 522 requires the Commandant to put certain terms in all contracts for acquisitions with costs equal to or exceeding \$10 million. Under this provision, all certifications regarding contractor performance shall be made by the Coast Guard or an independent third-party; self-certification of compliance with performance requirements is not allowed. In addition, all contracts must designate the Coast Guard as the final technical authority for all requirements and shall measure the performance of contractors and subcontractors on the status of actual work performed, including the extent to which the work met cost and schedule requirements. TEMPEST<sup>7</sup> standards for an asset shall be those in use by the Navy for the type of asset for which the TEMPEST test is required. Moreover, for contracts for an Offshore Patrol Cutter (a large cutter—but slightly smaller than the National Security Cutters), the contracts shall specify the service life, hull fatigue life, and days underway under specific sea conditions the ship will be built to meet.

*Sec. 523. Life-cycle cost estimates*

Section 523 requires the Coast Guard to develop life-cycle cost estimates for projects that are expected to equal or exceed \$10 million and to have an expected service life of 10 years.

The section also requires the Coast Guard to develop independent life-cycle cost estimates for acquisitions that have total acquisition costs exceeding \$100 million, or total life-cycle costs exceeding \$300 million. These life-cycle costs estimates must be updated as the acquisition prepares to cross each acquisition milestone.

*Sec. 524. Test and evaluation*

Section 524 requires the Coast Guard to develop and approve a formal Test and Evaluation Master Plan (TEMP), which will guide all developmental and operational testing on acquisitions with total acquisition costs exceeding \$100 million, or total life-cycle costs exceeding \$300 million.

As part of the TEMP, the service is required to identify and resolve any safety concerns with new assets. A safety concern is defined as any hazard that is likely to cause serious bodily injury or death to a Coast Guard member or that could cause major damage to the asset. If such problems are found before a contract for the production of an asset is issued, they must be resolved before a contract is issued or, if a contract for any level of production is

<sup>7</sup>TEMPEST (not an acronym—it is a formerly classified DOD code word from the 1950s) is the short name referring to investigation, study, and control of compromising emanations from telecommunications and Automated Information Systems equipment. TEMPEST testing is comprised of visual and instrumented inspections to ensure compliance with emission security requirements.

issued before they are resolved, the safety concerns must be reported to Congress along with an explanation of why the service is proceeding with a contract for any level of production of the asset before the issue is resolved, together with an explanation of how it will be resolved. If a safety concern is found in an asset already in some level of production, the service shall communicate the concern to Congress and explain how it will be resolved.

*Sec. 525. Capability standards*

Section 525 imposes requirements on specific asset types. First, the section requires that all new vessels, other than the National Security Cutter (which is already under construction), be classified by the American Bureau of Shipping. In addition, it requires that TEMPEST testing be performed by an authorized independent third party. Before a contract is signed to resolve the hull fatigue issues with National Security Cutters 1 and 2, the Coast Guard must provide to Congress a description of the measures that will be performed and conduct a cost-benefit analysis of the measures. It also requires that aircraft be assessed by a third party for airworthiness.

*Sec. 526. Acquisition program reports*

Section 526 requires the Coast Guard to report to Congress on any acquisition with total acquisition costs exceeding \$100 million, or total life-cycle costs exceeding \$300 million. The report must contain: key performance parameters the asset will be built to achieve; systems with which the asset will be interoperable; anticipated unit cost for the asset; and a detailed schedule for the asset's acquisition process showing when the asset will be completed and when it will be fully deployed.

*Sec. 527. Undefined contractual actions*

Section 527 prohibits the Coast Guard from entering into an undefinitized contractual action unless it is approved by the Head of Contracting Activity of the Coast Guard. Undefinitized contractual actions are procurements for which the contractual terms, specifications, or price are not agreed upon before the performance of the contract is begun.

If an undefinitized contractual action is approved, this section sets specific conditions on such actions, including how much money can be paid to a contractor before the contract is definitized. Exceptions are provided for contracting actions relating to contingency operations, operations in response to emergency situations, and operations in response to disasters designated by the President under the Stafford Act.

*Sec. 528. Guidance on excess pass-through charges*

Section 528 requires the Commandant to issue guidance to ensure that excessive pass-through charges are not paid by the Coast Guard to an LSI for work performed by subcontractors. Excessive pass-through charges are defined as charges to the Government by a contractor or subcontractor that are overhead or profit on work performed by a lower-tier subcontractor, other than reasonable charges for the direct costs of managing the lower-tier subcontractors.

*Sec. 529. Acquisition of major capabilities: alternatives analysis*

Section 529 requires that, before the Coast Guard acquires an asset that is experimental or technically immature, or that has total acquisition costs exceeding \$100 million or total life-cycle costs exceeding \$300 million, the service must commission, from a third-party, an alternatives analysis of the asset to be acquired.

The section specifies what the alternatives analysis must cover, including: an assessment of the technical maturity of the asset; whether different quantities or combinations of assets could meet the service's mission needs; the safety record of the asset; and the full life-cycle costs of the asset.

*Sec. 530. Cost overruns and delays*

Section 530 specifies that for any acquisition with total acquisition costs exceeding \$100 million, or total life-cycle costs exceeding \$300 million, the Coast Guard must report to Congress when a cost overrun of greater than 10 percent is likely to occur, a delay of more than 180 days is likely to occur, or a failure for a new asset or class of assets is anticipated. The report must include a description of the cause of the reportable event, and a plan for fixing the issue.

If an acquisition with total acquisition costs exceeding \$100 million, or total life-cycle costs exceeding \$300 million, is likely to experience a cost breach of more than 20 percent or a delay of more than 12 months, the Coast Guard must certify that: the asset is essential to the service; there are no alternatives to the asset; new cost or schedule estimates are reasonable; and the management structure for the asset is adequate.

*Sec. 531. Report on former Coast Guard officials employed by contractors to the agency*

This section requires GAO to report annually on those Flag-level officers and Members of the Senior Executive Service who have left the Coast Guard within the past five years, and are now receiving compensation for employment with a Coast Guard contractor.

A Coast Guard contractor is defined as any person receiving at least \$10 million in contractor awards from the Coast Guard.

*Sec. 532. Department of Defense consultation*

Section 532 requires the Commandant to make arrangements, as appropriate, for assistance in contracting and acquisition programming with the Secretary of Defense.

*Sec. 541. Chief Acquisition Officer*

Section 541 establishes the Chief Acquisition Officer position within the Coast Guard. The section requires that the person appointed to the position be either a Rear Admiral or a civilian member of the Senior Executive Service. It requires that the person appointed to the position have a program manager Level III certification and 10 years of acquisition experience, of which at least four shall have been spent managing a program with total acquisition costs exceeding \$100 million, or total life-cycle costs exceeding \$300 million. Further, this section requires that all Flag-level officers serving in the Acquisition Directorate meet these same standards. The section lists those types of positions (such as program execu-

tive officer, program manager, and deputy program manager) that constitute qualifying experience. These requirements become effective beginning October 1, 2011 (which is the same date as when the use of an LSI is fully prohibited).

This section also requires that design and related acquisition issues elevated to the Chief Acquisition Officer for resolution be reported to Congress within 45 days of the elevation.

*Sec. 542. Improvements in Coast Guard acquisition management*

Section 542 makes a number of changes in the Coast Guard's management of its acquisition personnel and policies, including:

It requires that anyone assigned to be the program manager of a program with total acquisition costs exceeding \$100 million or total life-cycle costs exceeding \$300 million be a Level III certified program manager. In addition, the Commandant must maintain all technical authorities for projects with total acquisition costs exceeding \$100 million or total life-cycle costs exceeding \$300 million. It requires the Commandant to designate a sufficient number of positions in the acquisition workforce and ensure that individuals assigned to these positions have the expertise to carry them out. It also requires the Coast Guard to report annually on the adequacy of its acquisition workforce to meet anticipated acquisition workloads in the coming year. Further, this section states that no preference for military personnel shall be shown in appointments to the acquisition workforce, and this section requires the Commandant to ensure that appropriate career paths are available for military and civilian personnel in the acquisition workforce. The section requires the Coast Guard to take into account the need to maintain a balanced workforce in the acquisition field, so that women and members of racial and ethnic minorities are appropriately represented. Finally, this section requires the Coast Guard to issue guidance for major systems acquisition programs on the qualifications, responsibilities, tenure, and accountability of program managers, and to develop a comprehensive strategy to enhance the role of program managers.

*Sec. 543. Recognition of Coast Guard personnel for excellence in the acquisition*

Section 543 requires the Commandant to implement a program to recognize excellent performance by individuals and teams that have contributed to the long-term success of a Coast Guard acquisition effort.

*Sec. 544. Coast Guard acquisition workforce expedited hiring authority*

Section 544 allows the Commandant to designate acquisition positions as "shortage category positions" and to use the authorities in 5 U.S.C. §§ 3304, 5333, and 5753 to recruit and appoint highly qualified people directly to these positions. This provision sunsets on September 30, 2012.

## TITLE VI—MARITIME WORKFORCE DEVELOPMENT

*Sec. 601. Short title*

Section 601 states that the title may be cited as the “Maritime Workforce Development Act”.

*Sec. 602. Maritime education loan program*

Subsections (a) through (d) amend title 46 by adding a new section 51705, which establishes a program that would make loans available to eligible students to fund their training in the maritime industry. The Secretary of Transportation is required to carry out the program established by this section, acting through the Administrator of the Maritime Administration. The Secretary is also directed to develop an application process and allocate loans based on a student’s needs.

Subsection (e) authorizes the Secretary of Transportation to designate Federal, State, commercial training institutions, and non-profit training organizations as institutions eligible to participate in the maritime loan program; however, undergraduate students at the U.S. Merchant Marine Academy are not eligible for loans. In designating eligible institutions, the Secretary of Transportation is required to consider geographic diversity and the scope of classes offered by institutions and to ensure that eligible institutions have the ability to administer the loan program and meet all requirements to provide Coast Guard approved-training. The Secretary may also exclude maritime training institutions from participating in the loan program if they had severe performance deficiencies, including deficiencies demonstrated by audits or program reviews conducted within the five previous years. In addition, those maritime training institutions with delinquent or outstanding debts to the United States are excluded from participation in the loan program. Further, the Secretary may exclude those institutions that have failed to comply with quality standards established by the Department of Labor, the Coast Guard or a State, and those institutions that fail to meet other criteria established by the Secretary to protect the financial interest of the United States.

Subsection (f) allows the Secretary of Transportation to obligate up to 50 percent of funds appropriated during a fiscal year to the loan program to provide loans to undergraduate students at State maritime academies. Students receiving loans must maintain a cumulative C or equivalent average or academic standing consistent with the graduation requirements of the academy they are attending.

Subsection (g) limits loans to an individual student to \$15,000 per calendar year, or \$60,000 in the aggregate. This subsection further specifies that loans may only be used at designated training institutions for postsecondary expenses including books, tuition, required fees, travel to and from the institution, and room and board.

Subsection (h) establishes eligibility requirements for students seeking a loan under the program. To be eligible for a loan, students must be able to hold a license or merchant mariner document issued by the Coast Guard; meet the enrollment criteria of a designated maritime training institution; and sign an agreement requiring the student to complete his/her course of study and subsequently maintain a license or document and serve as an officer or

unlicensed mariner in the merchant marine on a documented vessel or vessel owned and operated by the United States for at least 18 months of sea service, including service on ocean-going vessels, on the inland and coastal waterways, on the Great Lakes, or in a maritime industry position requiring a license or document—following the date of graduation. Students must also provide such information as the Secretary may require from the student.

Subsection (i) requires that loans be evidenced by a written agreement between the student borrower and the Secretary of Transportation. This written agreement must provide for the repayment of the loan principal and any origination fees in equal installments payable quarterly, bimonthly, or monthly at the student's option over a period beginning nine months from the date on which the student completes or discontinues the course of study for which the student received the loan; repayments shall be completed within 10 years. The written agreement must also provide for acceleration of repayment at the option of the student; provide the loan without security; provide that the liability to repay the loan shall be cancelled upon the death of the student borrower; contain a notice of the system through which information about default on the loan shall be provided to credit bureaus; and include provisions for the deferral of repayment as determined by the Secretary.

This subsection also details the rates of interest that will be assessed on loans (these rates will vary depending on when the first disbursement of funds is made) and written disclosures that must be made to a loan recipient.

This subsection authorizes the Secretary of Transportation to require any student borrower in default on a loan to pay reasonable collection costs, and to repay the loan pursuant to an income contingent repayment plan. The Secretary is also authorized to prescribe regulations reducing interest rates or origination fees as appropriate to encourage on-time loan repayment; such reductions may be offered only if they are cost neutral, and in the best financial interest of the United States.

This subsection requires the Secretary to exercise due diligence in collecting loan repayments, including garnishing a loan recipient's wages if necessary. The subsection authorizes the Secretary to enter into a contract or other arrangement with a State or non-profit agency and, on a competitive basis, with collection agencies to ensure the servicing and collection of loans.

Subsection (j) requires the Secretary to establish a revolving loan fund that shall consist of loan and interest repayments received from borrowers and other monies paid by, or on the behalf of, individuals under the loan program. The funds available in the revolving loan fund are to be available without further appropriation to cover the administrative costs of the loan program, and to make loans under the program.

Subsection (k) requires the Secretary to submit an annual report that details the number of students who received loans in the previous year, the total amount of loans dispersed in the previous year, and the total amount of loans that are in default.

Subsection (l) authorizes the appropriation of \$10 million in each of fiscal years 2010 through 2015 to pay for loans under the loan program, and of \$1 million to cover the administrative expenses of this program.

Section 602 also adds section 51706, Maritime recruitment, training, and retention grant program, to title 46.

Subsection (a) requires that not later than one year after the date of enactment of this Act, and at least once every three years thereafter, the Maritime Administration shall publish a plan that describes the demonstration, research, and multistate project priorities of the Department of Transportation concerning merchant mariner recruitment, training, and retention for the three-year period following the date of the publication of the plan. The plan shall contain strategies and identify potential projects to address merchant mariner recruitment, training, and retention issues in the United States.

In developing this plan, the Secretary of Transportation shall consult with representatives of the maritime industry, labor organizations, other governmental entities and parties with an interest in the maritime industry. The plan shall consider, among other things, the results of existing research on these topics as well as the benefits of economies of scale and the efficiency of potential projects.

Subsection (b) authorizes the Secretary to award grants to a maritime training institution to support demonstration projects that will implement the priorities identified in the Maritime Administration's plan on mariner recruitment, training, and retention. The Secretary shall establish guidelines and requirements to govern the award of grants on a competitive basis.

Maritime training institutions wishing to apply for grants under this program must submit a grant proposal that includes, at a minimum, information demonstrating the estimated effectiveness of the proposed project as well as a method by which the effectiveness of the project can be evaluated.

Projects eligible to receive grant funding may include: the establishment of maritime technology skills centers to meet the unmet skills needs of the maritime industry; projects that provide training to maritime workers, promote the use of distance learning among maritime workers using the internet or other technologies, and that provide services to support the recruitment to the maritime industry of youth residing in targeted high poverty areas within empowerment zones and enterprise communities; the establishment of partnerships with national and regional organizations that have special expertise in developing, organizing, and administering merchant mariner recruitment and training services, and with maritime training programs that foster technical skills and operational productivity in communities with economies related to or dependent on the maritime industry.

Subsection (c) authorizes the Secretary to award grants to support projects that will: design, develop and test a variety of ways of providing services to recruit, retain, or train people in one or more targeted populations; test various training approaches to determine effective practices; or develop and replicate service delivery strategies throughout the maritime industry as a whole. Research projects and multistate or regional projects are eligible to receive grants. The Secretary shall establish guidelines and requirements and award grants on a competitive basis.

Subsection (d) authorizes the appropriation of \$10 million in each of fiscal years 2010 through 2015 to support the award of grants and of \$1 million to cover the costs of administering this program.

## TITLE VII—COAST GUARD MODERNIZATION

### *Sec. 701. Short title*

Section 701 states that this title may be cited as the “Coast Guard Modernization Act of 2009”.

### Subtitle A—Coast Guard Leadership

#### *Sec. 711. Admirals and Vice-Admirals*

Section 711 implements a reorganization of the Coast Guard’s Senior Leadership, as proposed by the Coast Guard Commandant, Admiral Thad W. Allen. H.R. 3619 elevates the Vice Commandant to a full four-star Admiral, eliminates the Atlantic and Pacific Area Commands, and establishes four, three-star Admiral positions to lead the operational and policy divisions of the Coast Guard. These four positions include: a Deputy Commandant for Mission Support; a Deputy Commandant for Operations and Policy; a Commander, Force Readiness Command; and a Commander, Operations Command.

In addition, section 711 requires that either the Deputy Commandant for Operations and Policy or the Assistant Commandant for Marine Safety, Security and Stewardship have a minimum of 10 years of experience in vessel inspection, casualty investigation, mariner licensing or equivalent technical expertise, and at least four years of experience at a leadership level at a marine safety unit.

### Subtitle B—Marine Safety Administration

#### *Sec. 721. Marine safety*

Section 721 adds a new section to chapter 5 of title 14 specifically establishing marine safety as a core mission of the Coast Guard.

#### *Sec. 722. Marine safety staff*

Section 722 adds three new sections to chapter 3 of title 14 that establish positions and qualifications for the marine safety workforce; authorize the establishment of “centers of expertise for marine safety;” and establish an industry training program for marine safety personnel.

#### *Sec. 723. Marine safety mission priorities and long-term goals*

Section 723 requires the Secretary of the department in which the Coast Guard is operating to develop a long-term strategy to improve vessel safety and the safety of individuals on vessels, and to submit annually a plan and schedule to achieve specific goals, including reducing the number of marine casualties and identifying and targeting enforcement efforts on high-risk vessels and operators. The section outlines specific goals to be included in the strategic plan.

*Sec. 724. Powers and duties*

Section 724 establishes the powers and duties of the senior marine safety officer, who acts as an advisor to the Commandant. These powers and duties include: regulating, inspecting, measuring, and overseeing the manning of vessels; approving the material, equipment, appliances and associated equipment on vessels; investigating marine casualties; licensing and documenting merchant mariners; overseeing State boating safety programs; administering navigation rules; preventing pollution; overseeing ports and waterways safety; overseeing the management of waterways and of aids-to-navigation; and other duties as assigned.

*Sec. 725. Appeals and waivers*

Section 725 requires that the individual, whether a Coast Guard officer or a civilian, adjudicating an appeal of a decision regarding marine safety shall be a qualified specialist, with training and experience in marine safety sufficient to judge the facts and circumstances of the appeal. If the individual does not have such expertise, the individual must have a senior staff member who possesses the required expertise advise on and concur, in writing, with the decision.

*Sec. 726. Coast Guard Academy*

Section 726 requires the Coast Guard to establish as part of the Coast Guard Academy curriculum professional courses of study in marine safety that cover the program's history, vessel design and construction, vessel inspection, casualty investigation, administrative laws and regulations.

*Sec. 727. Report regarding civilian marine inspectors*

Section 727 requires the Commandant to report to Congress on the Coast Guard's efforts to recruit and retain civilian marine inspectors and investigators, and the impact of such recruitment on Coast Guard organizational performance.

## TITLE VIII—MARINE SAFETY

*Sec. 801. Short title*

Section 801 states that the title may be cited as the "Maritime Safety Act of 2009".

*Sec. 802. Vessel size limits*

Section 802 allows fishing vessels in the rationalized Bering Sea/Aleutian Islands pollock fishery to be documented with a fishery endorsement, if the vessel is a rebuilt or a replacement vessel of a vessel that is authorized to hold a Federal fishery permit under the American Fisheries Act, notwithstanding current limits on length, tonnage, and horsepower. This section does not alter the fishery quotas established through the Federal fisheries management process.

*Sec. 803. Cold weather survival training*

Section 803 requires the Coast Guard to report on the efficacy of cold water survival training in Coast Guard District 17 (Alaska)

during the preceding five years. The report shall include plans for conducting such training in fiscal years 2010 through 2013.

*Sec. 804. Fishing vessel safety*

Section 804 establishes safety equipment standards for all commercial fishing, fish tender, and fish processing fishing vessels operating beyond three nautical miles of the coast, and clarifies the equipment requirements for these vessels. In addition, section 804 establishes design and construction standards for all new vessels. New fishing and fish tender vessels, and fishing or fish tender vessels that undergo a “major conversion” as defined in 46 U.S.C. § 2101(14a), operating beyond three nautical miles of the coast and over 50 feet in length, will need to be “classed” by the American Bureau of Shipping or an equivalent classification society. “Classification” provides evidence that a vessel is mechanically and structurally fit for the intended service. New fishing and fish tender vessels, operating beyond three nautical miles of the coast, less than 50 feet in length, are required under this section to meet the standards required of recreational vessels under 46 U.S.C. § 4302, that provide an equivalent level of safety. New fishing vessels over 79 feet in length would be required to have a “load line”. The Secretary is authorized to examine vessels that operate beyond three nautical miles of the coast to ensure compliance with safety regulations.

Existing fishing vessels that do not undergo a major conversion after the date of enactment of this Act are not required to meet any classification requirement. However, beginning January 1, 2020, fishing vessels that are at least 50 feet in length, built before 2010, and 25 years old or older will be required to meet an alternate compliance program established by the Secretary of Homeland Security. The Secretary is required to prescribe the alternate compliance program standards by January 1, 2017.

This section also authorizes and requires a training program for the operators of fishing vessels that operate beyond three miles off the coast. The program is to be based on professional knowledge, hands-on training, and will give credit for recent past experience. Individuals who successfully complete the program will receive a certificate, and will need to complete refresher training at least once every five years to keep the certificate current. Individuals who hold a mariner license and can demonstrate equivalent training, while encouraged to obtain the training described, should not be required to do so.

The requirements developed by the Coast Guard for the approval of the structured, shore-side training course must include specific elements listed in this section, and a suitable rigorous test covering each of these enumerated elements should be administered. The student must pass an examination for each of the items addressed as well as a final test and skill demonstration at the course end covering the elements of each of the areas specified. Upon successful completion of the Coast Guard approved training program, the training provider will issue a certificate of completion in the format prescribed in the Coast Guard course approval regulations or associated guidance documents. The training program developed by the Coast Guard should include an oversight and audit program to as-

sure that the courses delivered by the approved training providers meet the stated approval requirements.

While section 804 does not address fishermen's physical condition or drug and alcohol testing, physical fitness for work and drug and alcohol testing are critical to a safe working environment, and the Committee believes that responsible vessel operators should make such considerations part of their normal business practices. The protocols for drug/alcohol testing programs are well-established and successful in the other commercial maritime shipping communities. Similarly, the prevention of workplace injury and operational accidents from slips, falls, and man-overboard accidents should be addressed in an operator's safety program.

Section 804 also establishes two grants programs. This section authorizes the Secretary of the department in which the Coast Guard is operating to establish Fishing Vessel Safety Grants, to fund training of operators and crew of commercial fishing vessels. It is the intent of the Committee that these grants be available to programs and individuals who provide training for both operators and crewmembers of commercial fishing vessels. The grants are to be awarded on a competitive basis to organizations or individuals that are approved by the Secretary and that provide hands-on, skills-based training. This section further authorizes the Secretary to establish Fishing Safety Research Grants, to provide funding for research on methods to improve the safety of commercial fishing, specifically including investigation of enhanced vessel monitoring systems. Additional funding for this program is added to the Coast Guard's Research and Development authorization in section 101(3) of this Act.

*Sec. 805. Mariner records*

Section 805 authorizes the Secretary to require vessel owners or managing operators of commercial vessels to maintain employment records of seamen for a period of not less than five years after the completion of employment, and to make the records available to the individual or the Coast Guard on request.

*Sec. 806. Deletion of exemption of license requirement for operators of certain towing vessels*

Section 806 strikes an exemption for licensing of operators of vessels engaged in the offshore mineral and oil industry when the vessel has offshore mineral and oil industry sites or equipment as its ultimate destination or place of departure. Section 8905(b) of title 46 currently exempts operators of certain vessels from U.S. Coast Guard licensing requirements. This exemption creates a potential serious threat to navigational safety.

*Sec. 807. Log books*

Section 807 requires log books on all manned inspected vessels; currently, they are required for vessels on foreign or coastwise voyages. This section also identifies new circumstances when information must be added to the log book.

*Sec. 808. Safe operations and equipment standards*

Section 808 adds two new sections to chapter 21 of title 46. New section 2116 authorizes the Coast Guard to "terminate for unsafe

operation” all vessels subject to title 46. Currently, there are similar provisions for “recreational vessels” and “uninspected commercial fishing industry vessels”. This new provision would permit those authorized to enforce title 46 to terminate a voyage when a vessel is not in compliance with an issued certificate, or is being operated in an unsafe way or manner that creates an especially hazardous condition.

New section 2117 authorizes the Coast Guard to establish standards for required marine safety equipment based on performance, best available technology, and operational practicality. The section also authorizes the Coast Guard to establish similar standards for safety equipment that is not required to be carried, and requires that the Coast Guard review and revise the standards every 10 years.

*Sec. 809. Approval of survival craft*

Section 809 prohibits the Secretary of the department in which the Coast Guard is operating from approving as a “survival craft” a device that does not support the individuals it is certified to carry when those individuals are out of the water. For instance, a six-person device must be able to support six persons out of the water, while a 25-person device must be able to support 25 persons out of the water.

This section does not stipulate the vessels that must carry survival craft, and does not require that all survival craft be inflatable, since designs may be developed in the future for rigid survival craft that are capable of supporting individuals out of the water. Moreover, this section allows the use of existing approved survival craft that do not provide out-of-the-water protection for up to five years provided the equipment is in good and serviceable condition.

*Sec. 810. Safety management*

Section 810 authorizes the Secretary of the department in which the Coast Guard is operating to require “Safety Management Systems” on passenger vessels and small passenger vessels based on the number of passengers that could be killed or injured in a marine casualty. A “Safety Management System” requires vessel owners to document operational policy, chain of authority, and operational and emergency procedures that specify responsibilities of the owner or operator, managers, and masters. Such Systems must also outline procedures for management review, internal audits, and the correction of identified problems. This section does not require the Coast Guard to apply the International Safety Management System to these vessels. Instead, the Coast Guard is required to consider the characteristics, methods of operation, and nature of the service of these vessels when prescribing the safety management regulations.

*Sec. 811. Protection against discrimination*

Section 811 allows maritime workers who lose their jobs or are discriminated against because they report safety violations to the Coast Guard to use the same Department of Labor complaint process that is currently available to commercial drivers, railroad workers, and aviation workers. The section also clarifies the whistleblower protections provided in the Coast Guard Authorization Act

of 2002. This section expands these protections to cover a broader scope of work related issues, such as cooperating with a safety investigation conducted by the NTSB.

*Sec. 812. Oil fuel tank protection*

Section 812 requires that new U.S. flag vessels built after the date of enactment be constructed with double hulls surrounding the fuel oil tanks, in accordance with international standards.

*Sec. 813. Oaths*

Section 813 repeals 46 U.S.C. §§ 7105 and 7305, which require the applicant to appear in person to take an oath.

*Sec. 814. Duration of credentials*

Section 814 permits the holder of a merchant mariner document or license to renew the document in advance of the expiration of an existing document, but delays the effective date until the previous document expires.

*Sec. 815. Fingerprinting*

Section 815 eliminates duplicate fingerprinting requirements for merchant mariners who have already been fingerprinted in connection with obtaining a TWIC.

*Sec. 816. Authorization to extend the duration of licenses, certificates of registry, and merchant mariners' documents*

Section 816 permits the Secretary of the department in which the Coast Guard is operating to extend for up to one year, a license, certificate of registry or a merchant mariner's document, if the Secretary determines that the extension would eliminate a backlog in processing applications.

*Sec. 817. Merchant mariner documentation*

Section 817 requires the Secretary of the department in which the Coast Guard is operating to develop an interim clearance procedure that will allow the issuance of a merchant mariner document to a new-hire on an off-shore supply or towing vessel, provided the Secretary makes a preliminary determination that the individual does not pose a safety and security risk.

*Sec. 818. Merchant mariner assistance report*

Section 818 requires the Coast Guard to report to the appropriate committees of the House and Senate, not later than 180 days after the date of enactment of this Act, on plans to: (1) expand the streamlined evaluation that was implemented at Houston Regional Exam Center; (2) simplify the application process of seamen and merchant mariner documents; (3) provide notice to an applicant of the status of a pending application; and (4) ensure that information collected from applicants is retained in a secure electronic format.

*Sec. 819. Offshore supply vessels*

Section 819 eliminates the tonnage cap that currently applies to Offshore Supply Vessels (i.e., vessels that support offshore oil and gas exploration and production), thus allowing an increase in the size of these vessels to meet the needs of the industry as these op-

erations move farther offshore and into harsher environments. This section also establishes an hours-of-service watch system for large offshore supply vessels, and requires a minimum of one mate on all offshore supply vessels.

*Sec. 820. Associated equipment*

Section 820 amends the definition of “associated equipment”, which excludes all radio equipment, and authorizes the Coast Guard to require that recreational vessels be equipped with emergency locator beacons.

*Sec. 821. Lifesaving devices on uninspected vessels*

Section 821 amends the existing requirements for lifesaving devices on uninspected vessels by authorizing the Coast Guard to require lifesaving devices on all uninspected vessels. The current statute applies only to uninspected vessels propelled by machinery; as a result, under current law, barges, dredges and similar vessels are exempt from any lifesaving equipment requirement.

*Sec. 822. Study of blended fuel in marine application*

Section 822 authorizes the Coast Guard to conduct a study and report to Congress on safety and performance issues involving the use of blended gasoline in marine applications. There are a number of reports of vessels, both recreational and commercial, using gasoline as a fuel and subsequently suffering failure of critical fuel system components. In addition, there appears to be an increase in the number of fires and explosions on recreational and commercial vessels. The study authorized by this section will examine the extent to which blended fuels have contributed to component failures, fires, and explosions.

*Sec. 823. Renewal of Advisory Committees*

Section 823 amends existing legislation to extend from September 30, 2010 to September 30, 2020, the termination date of the following advisory committees: 46 U.S.C. § 9307(f)(1) (Great Lakes Pilotage Advisory Committee); 46 U.S.C. § 13110 (National Boating Safety Advisory Council); section 19 of the Coast Guard Authorization Act of 1991 (Lower Mississippi River Waterway Safety Advisory Committee); 33 U.S.C. § 1231a (Towing Safety Advisory Committee); and 33 U.S.C. § 2073 (Navigation Safety Advisory Council). This section also makes several other minor amendments.

## TITLE IX—CRUISE VESSEL SAFETY

*Sec. 901. Short title; table of contents*

Section 901 specifies that the title may be cited as the “Cruise Vessel Security and Safety Act of 2009”.

*Sec. 902. Findings*

Section 902 presents several findings regarding crime aboard cruise ships.

*Sec. 903. Cruise vessel security and safety requirements*

Section 903 adds a new section 3507 to title 46.

Subsection (a) requires that beginning 18 months after the date of enactment of the Act, each vessel to which the section applies must comply with specific design and construction standards. The vessels must have rails located not less than 42 inches above the cabin deck, and must have passenger staterooms and crew cabins equipped with peep holes or other means of visual identification. To the extent that technology is available, the vessels must integrate technology that can detect when passengers have fallen overboard. The vessels must also be equipped with operable acoustic hailing or warning devices to provide communication capability around the entire vessel when it is operating in high risk waters as defined by the Coast Guard.

Immediately upon enactment of the Act, any vessel, the keel of which is laid after the date of enactment of the Act, must equip passenger staterooms and cabins with security latches and time sensitive key technologies.

Subsection (b) requires that the owner of a vessel to which the section applies shall maintain a video surveillance system to assist in documenting crimes on the vessel, and to provide evidence for the prosecution of such crimes. Any law enforcement official performing official duties in the course and scope of an investigation shall be provided access by the ship owner to a copy of all video records generated by the surveillance system upon request.

Subsection (c) requires that the owner of a vessel to which the section applies shall provide, in each passenger stateroom, information regarding the locations of the U.S. consulate and the U.S. embassy for each country the vessel will visit during its voyage.

Subsection (d) requires that the owner of a vessel to which the section applies shall maintain on the vessel adequate, in-date supplies of anti-retroviral medications and other medications designed to prevent the transmission of sexually transmitted diseases after a sexual assault. The vessel must also maintain equipment and materials for performing medical examinations in sexual assault cases and to evaluate the patient for trauma, provide medical care, and preserve evidence. Further, there must be available at all times on the vessel's medical staff who possess a current physician's or registered nurse's license; who have either at least three years of post-graduate or post-registration clinical practice in general and emergency medicine or board certification in emergency medicine, family practice medicine, or internal medicine; and who meet guidelines established by the American College of Emergency Physicians, and are able to provide assistance in the event of an alleged sexual assault, including conducting forensic sexual assault exams and administering proper medical treatment to assault victims.

The vessel owner must prepare and provide to the patient and maintain written documentation of the findings of medical examinations conducted after an alleged assault, and these results must be signed by the patient.

The vessel owner must also provide to the victim of an alleged sexual assault free and immediate access to contact information for local law enforcement, the FBI, the Coast Guard, the nearest U.S. consulate or embassy, and the National Sexual Assault Hotline program or other third party victim advocacy hotline service. The vessel owner must also make available a private telephone line and

Internet-accessible computer terminal so that the victim may confidentially access law enforcement officials, an attorney, and the information and support services available through the National Sexual Assault Hotline program or other third party victim advocacy hotline service.

Subsection (e) requires that the master or other individual in charge of a vessel to which this section applies shall treat information concerning a medical examination performed following an alleged sexual assault confidential so that no information may be released to the cruise line or other owner of the vessel or any legal representative thereof without the prior knowledge and written approval of the patient or the patient's next-of-kin as appropriate. However, information other than medical findings necessary for the master to comply with log book reporting requirements or other reporting requirements or to secure the safety of passengers and crew members may be released—and information may be released to law enforcement officials performing official duties in the course and scope of an investigation.

The master or other individual in charge of a vessel to which this section applies must also treat information derived from post-assault counseling or other supportive services as confidential. No information may be released to the cruise line or any legal representative of the cruise line without the prior knowledge and written approval of the patient or the patient's next-of-kin as appropriate.

Subsection (f) requires that the owner of a vessel to which this section applies shall establish and implement procedures and restrictions concerning which crewmembers have access to passenger staterooms, the period during which they have access, and shall ensure that the procedures and restrictions are fully and properly implemented and periodically reviewed.

Subsection (g) requires that the owner of a vessel to which this section applies shall record in a log book, either electronically or otherwise, in a centralized location readily accessible to law enforcement a report on all complaints of certain crimes, all complaints of theft of property valued in excess of \$1,000, and all complaints of other crimes committed on any voyage that embarks and disembarks passengers in the United States. The owner must make the log book available upon request to the FBI, the Coast Guard, and any law enforcement officer performing official duties in the course and scope of an investigation.

This subsection requires that entries into log books recording alleged crimes shall include, at a minimum, the name of the vessel operator/cruise line; the flag of the vessel; the age and gender of the victim and assailant; the nature of the alleged crime; the vessel's position at the time of the incident or, if that is not known, the position at the time the incident was reported; the time, date, and method of the initial report and of the incident; the total number of passengers and crew on the voyage; and the case number of the report.

This subsection also requires the vessel's owner or designee to contact the nearest FBI Field Office of Legal Attaché by telephone as soon as possible after the occurrence on board the vessel of an incident involving homicide, suspicious death, a missing U.S. national, kidnapping, assault with serious bodily injury, any offense to which 18 U.S.C. §§ 2241, 2242, 2243, or 2244(a), or (c) applies,

firing or tampering with the vessel or theft of money or property in excess of \$10,000 to report the incident.

These reporting requirements apply to an incident involving criminal activity if:

- the vessel, regardless of registry, is owned, in whole or in part, by a U.S. person, regardless of the nationality of the victim or perpetrator and the incident occurs when the vessel is within the admiralty and maritime jurisdiction of the United States and outside the jurisdiction of any State;
- the incident concerns an offense by or against a U.S. national committed outside the jurisdiction of any nation;
- the incident occurs in the Territorial Sea of the United States, regardless of the nationality of the vessel, the victim, or the perpetrator; or
- the incident concerns a victim or perpetrator who is a U.S. national on a vessel that departed from or will arrive at a U.S. port.

The Secretary of Transportation is required to maintain a statistical compilation of certain incidents on an Internet site that provides a numerical accounting of the missing persons and alleged crimes recorded in each report that are no longer under investigation. The data shall be updated no less frequently than quarterly and aggregated by cruise line (and each cruise line shall be identified by name), and by whether the crime was committed by a passenger or a crew member. Each cruise line taking on or discharging passengers in the United States shall include a link on its Internet website to the website maintained by the Secretary of Transportation.

Subsection (h) states that any person who violates this section or a regulation under this section shall be liable for a civil penalty of not more than \$25,000 for each day during which the violation continues, except that the maximum penalty will be \$50,000. Any person that willfully violates this section, or a regulation under the section, shall be fined not more than \$250,000 or imprisoned not more than one year, or both. Further, entry into a U.S. port may be denied to a vessel to which this section applies if the owner of the vessel commits an act or omission for which a penalty may be imposed or fails to pay a penalty imposed on the owner under this subsection.

Subsection (i) requires that within six months of the date of enactment of the Act, the Secretary shall issue guidelines, training curricula, and inspection and certification procedures necessary to carry out the requirements of this section.

Subsection (j) requires that the Secretary of Transportation and the Commandant to each issue regulations necessary to implement this section.

Subsection (k) states that this section and section 3508 applies to a passenger vessel that is authorized to carry at least 250 passengers, has onboard sleeping facilities for each passenger, is on a voyage that embarks or disembarks passengers in the United States, and is not engaged on a coastwise voyage. Title IX does not apply to vessels of the United States, or vessels owned and operated by a State.

Subsection (l) defines the term owner to mean the owner, charterer, managing operator, master, or other individual in charge of a vessel.

Section 903 also adds a new section 3508 to title 46.

Subsection (a) of section 3508 states that the Secretary of the department in which the Coast Guard is operating, in consultation with the Director of the FBI and the Administrator of the Maritime Administration, shall develop training standards and curricula to allow for the certification of passenger vessel security personnel and crewmembers on the appropriate methods for prevention, detection, evidence preservation, and reporting of criminal activities in the international maritime environment.

Subsection (b) states that the standards established by the Secretary shall include the training and certification of vessel security personnel and crewmembers, including recommendations for incorporating a background check process for personnel trained and certified in foreign countries. The standards shall also include the training of students and instructors in all aspects of the prevention and detection of crime and the preservation of evidence.

Subsection (c) provides that beginning two years after the standards are established, no vessel to which the section applies may enter a U.S. port on a voyage or voyage segment on which a U.S. citizen is a passenger unless there is at least one crewmember on board who is certified as having successfully completed the required training.

Subsection (d) states that no vessel to which the subsection applies may enter a U.S. port on a voyage or voyage segment on which a U.S. citizen is a passenger unless there is at least one crewmember on board who is properly trained in the prevention and detection of crime and the preservation of evidence.

Subsection (e) provides that any person that violates this section or any regulation under this section shall be liable for a civil penalty of not more than \$50,000.

Subsection (f) authorizes the Secretary to deny entry into the United States to a vessel to which this section applies if the owner commits an act or omission for which a penalty may be imposed, or fails to pay an imposed penalty.

*Section 904. Study and report on the security needs of passenger vessels*

This section requires that, within three months after the date of enactment of this Act, the Secretary shall conduct a study of the security needs of passenger vessels and report the findings of the study to Congress.

## TITLE X—UNITED STATES MARINER PROTECTION

*Sec. 1001. Short title*

Section 1001 states that this title may be cited as the “United States Mariner and Vessel Protection Act of 2009”.

*Sec. 1002. Use of force against piracy*

Section 1002 adds a new section 8107 to title 46. The section states that if an owner, operator, master, mariner or time charterer uses or authorizes the use of force to defend a U.S.-flagged vessel

against an act of piracy, that individual will not be liable for the injury or death caused by that use of force to any person that participated in the act of piracy.

*Sec. 1003. Agreements*

Section 1003 states that the Secretary of the department in which the Coast Guard is operating shall work through the International Maritime Organization to establish agreements with flag and port states that will promote a coordinated action to protect against, deter and rapidly respond to acts of piracy against the vessels of those states, and in the waters under the jurisdiction of those states. Additionally, the section states that the Secretary shall work to ensure that limitations of liability are established similar to those in 46 U.S.C. § 8107, as amended by this Act.

TITLE XI—PORT SECURITY

*Sec. 1101. Maritime homeland security public awareness program*

Section 1101 requires the Secretary of Homeland Security to establish a program to seek the cooperation of the commercial and recreational boating industries and the public in improving awareness of, and reporting potential terrorist activities in, the maritime domain.

*Sec. 1102. Transportation Worker Identification Credential*

Section 1102 requires the Secretary of Homeland Security to submit a report to the appropriate committees of the House and Senate, not later than 120 days upon the completion of a pilot program to test TWIC access control technologies at port facilities and vessels nationwide. The report shall discuss: (1) the findings of the pilot program regarding key technical and operational aspects of implementing TWIC technologies in the maritime sector; (2) a listing of the degree to which the established metrics were achieved during the pilot program; and (3) an analysis of the viability of those technologies being used in the marine environment, including the challenges of implementing those technologies and strategies to mitigate the challenges identified.

In addition, this section requires GAO to review the Secretary's report, and submit an assessment of the report's findings and recommendations to the appropriate committees of the House and Senate.

*Sec. 1103. Review of interagency operational centers*

Section 1103 requires the DHS IG to submit a report within 180 days of the enactment of this Act to the appropriate committees of the House and Senate concerning the establishment of Interagency Operational Centers for Port Security required by the SAFE Port Act. The report shall examine: (1) DHS' efforts to establish the centers; (2) a construction timeline; (3) a detailed breakdown, by center, of the incorporation of those representatives required by 46 U.S.C. § 70107A(b)(3); (4) hurdles faced during the development of the centers; (5) information on the number of security clearances obtained by participating State, local and tribal officials; and (6) an examination of the relationship between the Interagency Operational Centers and State, local, and regional fusion centers partici-

pating in DHS' Regional Fusion Center Initiative under section 511 of the Implementing the Recommendations of the 9/11 Commission Act of 2007 (P.L. 110–53).

*Sec. 1104. Maritime security response teams*

Section 1104 amends 46 U.S.C. § 70106 by striking the current subsection (c) and inserting language requiring that: in addition to the maritime safety and security teams, the Secretary of the department in which the Coast Guard is operating shall establish no less than two maritime security response teams to act as the Coast Guard's rapidly deployable counterterrorism and law enforcement response units that can apply advanced interdiction skills in response to threats of maritime terrorism. The teams shall be stationed in a way to minimize their response time to any reported maritime terrorist threat and to coordinate activities with Federal, State and local law enforcement and emergency response agencies.

*Sec. 1105. Coast Guard detection canine team program expansion*

Section 1105 requires the Secretary of Homeland Security to increase the number of detection canine teams certified by the Coast Guard for the purposes of maritime-related security by no fewer than 10 teams annually through fiscal year 2012. Deployment of the teams will be based on risk, consistent with the SAFE Port Act.

The Secretary shall encourage the use of canine teams by the owners and operators of port facilities, passenger cruise liners, ocean-going cargo vessels, and other vessels to strengthen security on these facilities and vessels.

The Secretary, acting through the Commandant, shall procure canine teams through domestic breeding while meeting the Commandant's performance needs and criteria; support the expansion and upgrading of existing canine training facilities; and partner with other Federal, State or local agencies, nonprofit organizations, universities or private sector to increase breeding and training capacity for the Coast Guard canine detection teams.

*Sec. 1106. Coast Guard port assistance program*

Section 1106 amends 46 U.S.C. 70110 to establish a Coast Guard port assistance program. The program authorizes the Secretary of the department in which the Coast Guard is operating to lend, lease, donate or provide equipment not required by the Coast Guard for mission performance and to provide technical training and support to the foreign ports or facilities to bring them into compliance with applicable International Ship and Port Facility Code (ISPS) standards.

The port or facility is required to have a port security assessment by the Coast Guard or certified third party entity to validate their compliance with ISPS. The assistance provided to the facilities will be based on an assessment of the risks to United States security, and the inability of the port or facility to bring itself into compliance, or to maintain compliance.

*Sec. 1107. Maritime biometric identification*

Section 1107 requires the Secretary of Homeland Security, acting through the Commandant, to conduct a pilot program, in the maritime environment, for the mobile biometric identification of sus-

pected individuals, including terrorists, to enhance border security and other purposes.

The Secretary shall ensure the program is coordinated with other biometric identification programs within DHS, and shall evaluate the costs and feasibility of expanding the capability to all Coast Guard cutters, stations, deployable maritime teams and any other appropriate DHS assets.

*Sec. 1108. Review of potential threats*

Section 1108 requires the Secretary of Homeland Security to submit a report no later than one year after the date of enactment of this Act to the appropriate committees of the House and Senate analyzing the threat, vulnerability, and consequence of a terrorist attack on gasoline and chemical cargo shipments in port areas in the United States.

*Sec. 1109. Port security pilot*

Section 1109 requires the Secretary of Homeland Security to leverage existing Federal grants to establish a pilot program to test and deploy preventive radiological or nuclear detection equipment on Coast Guard vessels, and at other selected port region locations to enhance border security and for other purposes.

*Sec. 1110. Seasonal workers*

Section 1110 requires GAO to conduct a study on the effects the TWIC requirement has on companies that employ seasonal employees. GAO shall submit a report no later than one year after the date of enactment of this Act to the appropriate committees of the House and Senate giving the results of an assessment of: (1) the costs born by companies to obtain TWIC cards for seasonal employees; (2) whether the Coast Guard and Transportation Security Administration are processing TWIC applications expeditiously for seasonal workers; (3) whether TWIC costs or other factors have led to a reduction in service; (4) the impact of TWIC requirements on the hiring of seasonal or other temporary employees; and (5) an assessment of possible alternatives to TWIC that may be used for seasonal employees, including discussion of the security vulnerabilities created by those alternatives.

*Sec. 1111. Comparative risk assessment of vessel-based and facility-based liquefied natural gas regasification processes*

Section 1111 requires the Secretary of Homeland Security, acting through the Commandant, to provide a report no later than one year after the date of enactment of this Act to the appropriate committees of the House and Senate, which provides the findings and conclusions of a comparative risk assessment examining the relative safety and security risks associated with vessel and facility based natural gas regasification processes conducted within three miles from land versus those conducted more than three miles from land.

*Sec. 1112. Pilot program for fingerprinting of maritime workers*

Section 1112 requires the Secretary of Homeland Security within 180 days after the date of enactment of this Act to establish procedures to enable individuals required to be fingerprinted for TWIC

to be fingerprinted at any DHS-operated or contracted facility that fingerprints the public for the Department. This section will expire December 31, 2012.

*Sec. 1113. Transportation security cards on vessels*

Section 1113 clarifies that only mariners who enter secure areas of vessels must obtain TWIC cards.

*Sec. 1114. International labor study*

Section 1114 requires GAO to conduct a study assessing methods to conduct background security investigations of individuals who possess biometric identification cards that comply with International Labor Convention number 185 and that are equivalent to the investigations conducted on individuals that apply for a visa to enter the United States.

The results of the study must be submitted within 180 days after the date of enactment of this Act to the appropriate committees of the House and Senate.

*Sec. 1115. Maritime security advisory committees*

Section 1115 amends 46 U.S.C. 70112 by specifically designating entities and organizations to comprise the National Maritime Security Advisory Committee. The members shall include at least one individual who represents the interests of: port authorities, facility owner/operators, terminal owner/operators, vessel owner/operators, maritime labor organizations, academic community, State or local governments and maritime industry.

This section also requires that each Area Maritime Security Advisory Committee shall be comprised of individuals who represent the interests of the port industry, terminal operators, port labor organizations and other users of the port areas.

This section extends the expiration of the National Maritime Security Advisory Committee to September 30, 2010.

*Sec. 1116. Seaman shoreside access*

Section 1116 requires each facility security plan approved under 46 U.S.C. § 70103(c), to provide a system to allow seamen, pilots, representatives of seaman's welfare, and labor organizations to transit through marine terminals to board or exit a vessel in a timely manner at no cost to the individual. The Committee has learned that individuals may, at times, be charged hundreds of dollars for being provided an escort through a secure facility when they board or depart a vessel.

*Sec. 1117. Waterside security around especially hazardous materials terminals and tankers*

Section 1117 makes the Commandant of the Coast Guard responsible for enforcing security zones established by the Coast Guard around terminals and around tankers transporting especially hazardous materials. It further restricts a facility security plan from being based on the provision by a State or local government of waterside security unless the Secretary of the department in which the Coast Guard is operating certifies that the State or local governments have the training, resources, personnel, equipment, and experience necessary to successfully deter, to the maximum extent

practicable, all transportation security incidents, such as a terrorist attack on the vessel or facility.

This section also prohibits the Coast Guard from approving a facility security plan for a new especially hazardous materials terminal the construction of which is begun after the date of enactment of this Act unless the Secretary certifies that the Coast Guard sector in which the terminal is located has all of the assets it needs to provide waterside security around the terminal, including qualified State and local resources made available through a security arrangement with the facility.

*Section 1118. Review of liquefied natural gas facilities*

Section 1118 requires the Secretary of Homeland Security to notify the FERC when a determination is made that the waterway to a proposed waterside LNG facility is suitable or unsuitable for marine traffic for that facility.

*Section 1119. Use of secondary authentication for transportation security cards*

Section 1119 authorizes the Secretary of Homeland Security to use a secondary authentication system for individuals applying for TWIC when fingerprints are unable to be taken or read.

*Section 1120. Report on state and local law enforcement augmentation of Coast Guard resources with respect to security zones and United States ports*

Section 1120 requires the Secretary of the department in which the Coast Guard is operating to submit a report to the appropriate committees of the House and Senate, not later than 180 days after the enactment of this act. The report shall discuss how much State and local law enforcement entities are augmenting Coast Guard resources by enforcing Coast Guard-imposed security zones around vessels that are transiting to, through, or from United States ports and port security patrols. The report shall specify the: (1) number of ports in which State and local law enforcement entities are being used to enforce such Coast Guard-imposed security zones or to conduct security patrols in United States ports; (2) number of formal agreements entered into between the Coast Guard, and State and local law enforcement entities to engage those entities in enforcing such Coast Guard-imposed security zones or conducting such security patrols; (3) extent to which the Coast Guard has set national standards for training, equipment, and resources to ensure that State and local law enforcement agencies enforcing such Coast Guard-imposed security zones or conducting such security patrols can deter a transportation security incident; (4) extent to which the Coast Guard has assessed the ability of State and local law enforcement entities to carry out the assigned security duties they have been engaged to perform including their ability to meet any Coast Guard established national standards for training, equipment and resources to ensure the entities can deter a transportation security incident; (5) extent to which State and local law enforcement entities are able to meet the Coast Guard established national training, equipment and resources standard; (6) differences in the Coast Guard's and State and local law enforcement's law enforcement authority, in particular boarding authority; and (7) extent of resource,

training and equipment differences between State and local law enforcement entities and the Coast Guard units engaged in enforcing such Coast Guard-imposed security zones or conducting such security patrols.

*Section 1121. Assessment of transportation security card enrollment sites*

Section 1121 requires the Secretary of Homeland Security to prepare an assessment of the enrollment sites for TWIC not later than 30 days after the date of enactment of this Act. The assessment should include the feasibility for keeping the enrollment sites open after September 23, 2009 and the quality of customer service.

Section 1121 also requires the Secretary to develop timelines and benchmarks for implementing the findings of the assessment as deemed necessary by the Secretary.

## TITLE XII—ALIEN SMUGGLING

*Sec. 1201. Short title*

Section 1201 states that this title may be cited as the “Alien Smuggling and Terrorism Prevention Act of 2009”.

*Sec. 1202. Findings*

Section 1202 finds that alien smuggling by land, air, and sea is a global crime that violates the integrity of the United States borders, compromises our nation’s sovereignty, and places the country at risk of terrorist activity.

*Sec. 1203. Checks against terrorist watchlist*

Section 1203 requires the Secretary of Homeland Security to check alien smuggling suspects and smuggled individuals interdicted at the land, air and sea borders of the United States against all available terrorist watchlists.

*Sec. 1204. Strengthening prosecution and punishment of alien smuggling*

Section 1204 amends section 274(a) of the Immigration and Nationality (8 U.S.C. § 1324(a)) by changing the subsection heading to “Bringing In, Harboring, and Smuggling of Unlawful and Terrorist Aliens.” This section authorizes punishment for persons who, in reckless disregard of the fact that an individual is an alien who lacks lawful authority to enter into, or reside in, the United States, brings that individual to the United States in any manner whatsoever; or recruits, encourages, or induces that individual to enter into or reside in the United States; or transports or moves that individual into the United States in furtherance of their unlawful presence; or harbors, conceals, or shields from detection the individual in any building or any means of transportation.

Section 1204 establishes penalties for individuals who commit a crime as defined by this section. If the offense results in the death of any person, the defendant may be subject to the penalty of death or imprisonment for any term of years or for life. If the offense involves kidnapping, an attempt to kidnap, the conduct required for aggravated sexual abuse (as defined by title 18), or an attempt to commit such abuse, or an attempt to kill, the defendant may be

fined under title 18 or imprisoned for any term of years or life, or both. If the offense involves an individual whom the defendant knew was engaged in or intended to engage in terrorist activity (as defined in section 212(a)(3)(B)), the defendant may be fined under title 18 or imprisoned not more than 30 years or both. If the offense results in serious bodily injury or places in jeopardy the life of any person, the defendant may be fined under title 18 or imprisoned not more than 20 years or both. If the offense was a violation of section 1304 and was committed for the purpose of profit or was committed with the intent or reason to believe that the individual unlawfully brought to the United States would commit an offense against the United States or any State that is punishable by imprisonment for more than one year, the defendant may be fined under title 18 and imprisoned; sentences vary depending on whether it is a first, second, or subsequent violation. If the offense involves the transit of the defendant's spouse, child, sibling, parent, grandparent, niece or nephew, and the offense is not treated by any other penalty created by the bill, the defendant may be fined under title 18 and imprisoned not more than one year or both. In any other case, the defendant may be fined under title 18 or imprisoned not more than five years or both.

This section also provides extraterritorial jurisdiction over some specified offenses and states that no defense for violations that occur on the high seas can be based on necessity unless the defendant reported the matter as soon as practicable to the Coast Guard and did not bring an alien or facilitate the entry of an alien into the United States without lawful authority unless exigent circumstances placed the life of the alien in danger.

The section clarifies that it is not a violation of, or a conspiracy to, violate specific prohibitions in this title for a religious denomination with a bona fide nonprofit or the agents or officers of such a denomination to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of minister or missionary for the vocation as a volunteer who is not a compensated employee, notwithstanding the provision of room, board, travel, medical assistance and other basic living expenses, provided the individual has been a member of denomination for at least one year.

*Sec. 1205. Maritime law enforcement*

Section 1205 amends 18 U.S.C. § 2237(b) to establish penalties for individuals who intentionally violate this section.

This section also establishes penalties of fines, or imprisonment for 10 years, or both for committing offenses that violate: section 274 of the Immigration and Nationality Act (alien smuggling); chapter 77 (peonage, slavery and trafficking in persons), section 111 (shipping), 111A (interference with vessels), 113 (stolen property), or 117 (transportation for illegal sexual activity) of this title; chapter 705 (maritime drug law enforcement) of title 46, or title II of the Act of June 15, 1917 (Chapter 30; 40 Stat. 220).

Section 1205 amends section 18 U.S.C. § 2237(c) and places limitations on the necessity defense. This section does not allow a defendant to offer a necessity defense unless the defendant: immediately upon reaching shore delivered the person to emergency medical or law enforcement personnel with respect to which the ne-

cessity arose; immediately reported to the Coast Guard the necessity resulting giving rise to the defense; and did not bring or attempt to bring or in any manner intentionally facilitate the entry of any alien unless exigent circumstances existed that place the alien's life in danger.

*Sec. 1206. Amendment to the sentencing guidelines*

Section 1206 requires the United States Sentencing Commission to review and, if needed, amend the sentencing guidelines and policy statements applicable to persons convicted of alien smuggling offenses and criminal facility to heave to or obstruction of boarding.

TITLE XIII—MISCELLANEOUS PROVISIONS

*Sec. 1301. Certificate of documentation for GALLANT LADY*

Section 1301 authorizes the Secretary of the department in which the Coast Guard is operating to issue a certificate of documentation with a limited coastwise endorsement for the limited purpose of allowing a vessel, the GALLANT LADY, to host charity events in which the vessel's owner receives no compensation.

*Sec. 1302. Waivers*

Section 1302 authorizes the Secretary of the department in which the Coast Guard is operating to issue a certificate of documentation with a coastwise endorsement to certain vessels.

*Sec. 1303. Great Lakes Maritime Research Institute*

Section 1303 requires the National Maritime Enhancement Institute for the Great Lakes region to conduct maritime transportation studies. It also authorizes appropriations through 2013 to carry out the studies.

*Sec. 1304. Conveyance of Coast Guard Boathouse, Nantucket, Massachusetts*

Section 1304 authorizes the Secretary of the department in which the Coast Guard is operating to convey the Coast Guard Boathouse at Station Brant Point, Nantucket, Massachusetts, to the Town of Nantucket, and permits the town to lease the land on which the Boathouse resides for a period of up to 25 years.

*Sec. 1305. Crew wages on passenger vessels*

Section 1305 places a cap on the liability for cruise ships for violation of the double wage penalty law. Current law provides that if a shipowner does not pay a seaman what the seaman is owed under his employment contract without sufficient cause, the shipowner must pay the seaman two days' wages for each day he does not pay the seaman the contractual amount. This amendment places a cap on class action cases brought for non-payment of the contractual wages. The cap provided is ten times the unpaid wages that are subject to the claim. A three-year statute of limitations is also established for class action lawsuits filed under the Act.

This section also authorizes seaman's wages to be paid electronically into a financial institution designated by the seaman, if the deposits in the financial institution are fully guaranteed under

commonly accepted international standards by the government of the country in which the financial institution is licensed.

*Sec. 1306. Technical corrections*

Section 1306 makes technical corrections to the Coast Guard and Maritime Transportation Act of 2006 (P.L. 109–241).

*Sec. 1307. Conveyance of decommissioned Coast Guard Cutter STORIS*

Section 1307 conveys the decommissioned Coast Guard Cutter STORIS to the Storis Museum and Maritime Education Center in Alaska. This cutter operated in Alaska for decades and this provision allows it to remain in Alaska and be used as museum and historical display, using the same procedures adopted in past conveyances.

*Sec. 1308. Conveyance of Coast Guard HU–25 Falcon Jet aircraft*

Section 1308 conveys an excess HU–25 Falcon Jet aircraft after it is decommissioned to the Elizabeth City State University in North Carolina for educational purposes, using the same procedures adopted in past conveyances.

*Sec. 1309. Decommissioned Coast Guard vessels for Haiti*

Section 1309 allows the government of Haiti a right-of-first-refusal for up to 10 Coast Guard 41-foot patrol boats when they are decommissioned, provided they are used by the Coast Guard of Haiti, and available to the United States in time of war or national emergency.

*Sec. 1310. Phaseout of vessels supporting oil and gas development*

Section 1310 authorizes foreign flag vessels to be chartered for a limited time period to set, relocate, or recover anchors or other mooring equipment of a mobile offshore drilling unit that is located over the outer Continental Shelf for operations to support the exploration, or flow testing and stimulation of wells for offshore mineral or energy resources in the Beaufort Sea or the Chukchi Sea adjacent to Alaska.

*Sec. 1311. Vessel traffic risk assessment*

Section 1311 requires the Commandant to prepare vessel traffic risk assessments for Cook Inlet, Alaska. The Committee is concerned that the increased traffic in this area may require additional safety measures to protect against marine casualties. This assessment will help provide information regarding the risk of marine casualties in these areas.

*Sec. 1312. Study of relocation of Coast Guard Sector Buffalo facilities*

Section 1312 requires the Commandant to conduct a project proposal report on the feasibility of consolidating and relocating the Coast Guard facilities at Coast Guard Sector Buffalo, and to prepare preliminary plans for the design, engineering, and construction for the consolidation of these facilities.

*Section 1313. Conveyance of Coast Guard vessels to Mississippi*

Section 1313 authorizes the Coast Guard to convey, without cost, one of its excess trailerable boats, to each of the Sheriff's Departments of Coahoma, Warren, and Washington Counties, Mississippi, for homeland security purposes.

*Sec. 1314. Coast Guard assets for United States Virgin Islands*

Section 1314 authorizes the Coast Guard to station additional assets in the U.S. Virgin Islands for port security, and other purposes.

*Sec. 1315. Officer requirements for distant water tuna vessels*

Section 1315 amends 46 U.S.C. § 8103 by adding a new subsection entitled "Officer requirements for distant water tuna vessels." Section 1315 authorizes a purse seine tuna fishing vessel documented under chapter 121 that fishes exclusively for highly migratory species under a fishing license issued pursuant to the 1987 Treaty on Fisheries Between the Governments of Certain Pacific Islands States and the Government of the United States in the treaty area, or transiting to or from the treaty area, to engage an individual that is not a citizen of the United States to fill a vacancy in a position, except for the position of master, if no U.S. citizens are readily available to fill the position after timely public notice of the vacancy.

Section 1315 restricts individuals from being engaged unless the individuals hold a valid license or certificate issued in accordance with the 1995 amendments to the Convention on Standards of Training Certification and Watchkeeping for Seafarers, 1978, and by an authority that the Secretary of the department in which the Coast Guard is operating recognizes as imposing equivalent or greater competency and training standards.

This section applies to the engagement of an individual on a vessel that is home-ported in American Samoa, Guam, or the Northern Mariana Islands, and has passed an annual commercial fishing vessel safety exam administered by an individual authorized to enforce this title.

Section 1315 requires the Secretary of the department in which the Coast Guard is operating to treat a license that was issued by a foreign government as meeting the requirements of section 8304, if the Secretary determines that the standards for issuance are equivalent to those under that section.

*Sec. 1316. Assessment of needs for additional Coast Guard presence in high latitude regions*

Section 1316 requires a study and report on the need for additional Coast Guard prevention and response capability in high latitude (polar) regions, including an assessment of existing assets, projected need, and shore infrastructure.

*Sec. 1317. Study of regional response vessel and salvage capability for Olympic Peninsula coast, Washington*

Section 1317 requires the Coast Guard, in conjunction with the National Academy of Sciences, and in consultation with Federal, State and tribal officials to conduct a study of the need for regional

response vessel and salvage capability for the State of Washington Olympic Peninsula coast.

*Sec. 1318. Study of bridges over navigable waters*

Section 1318 requires the Secretary of Transportation to conduct a comprehensive study on the proposed construction or alteration of any proposed bridge, drawbridge, or causeway over navigable waters with a channel depth of 25 feet or greater that may impede or obstruct future navigation to or from port facilities.

The Coast Guard plays an integral role in the advancement of transportation and infrastructure projects in the United States under its authority from the General Bridge Act of 1946 and Department of Transportation Order 1100.1. Given that the Coast Guard is responsible for approving all locations and plans of bridges and causeways across navigable waters, including the necessary environmental processes, it is critical that the Commandant work collaboratively with the Secretary of Transportation to ensure that the bridge permitting processes at both agencies is timely, coordinated, and transparent in nature. Further, the Commandant, together with the Secretary of Transportation and the Secretary of Homeland Security, is directed to submit a report to the House Committee on Transportation and Infrastructure and other appropriate committees not later than 90 days after enactment of this Act on existing coordination protocols for joint infrastructure responsibilities as well as recommended improvements.

*Sec. 1319. Limitation on jurisdiction of States to tax certain seamen*

Section 1319 limits State jurisdiction to tax worker crewmembers on vessels that regularly work on the navigable waters of two or more States; workers would only be taxed in one State.

*Sec. 1320. Decommissioned Coast Guard vessels for Bermuda*

Section 1320 authorizes the Coast Guard to transfer decommissioned 41-foot patrol boats to Bermuda for use by its Coast Guard. It is the Committee's intent to limit a transfer under this section until the Coast Guard has been notified by the government of Haiti that it does not require the vessels, as provided under section 1309 of this Act.

*Sec. 1321. Conveyance of Coast Guard vessels to Nassau County, New York*

Section 1321 authorizes the Coast Guard to convey, without cost, two 41-foot patrol boats to the Police Department of Nassau County, New York, for homeland security purposes.

*Sec. 1322. Newtown Creek, New York City, New York*

Section 1322 requires the Administrator of the Environmental Protection Agency to conduct a study on the public health, safety and environmental concerns related to the underground petroleum spill on the Brooklyn shoreline of Newtown Creek, New York City, New York. This section requires a report containing the results of the study to be submitted to the Committee on Environment and Public Works, Senate Committee on Commerce, Science and Transportation and the Committee on Transportation and Infrastructure of the House.

*Sec. 1323. Land conveyance, Coast Guard property in Marquette County, Michigan, to the City of Marquette, Michigan*

Section 1323 authorizes the Coast Guard to convey, as surplus property, the Coast Guard Station Marquette and Lighthouse Point, totaling approximately nine acres, to the City of Marquette, Michigan.

*Sec. 1324. Mission requirement analysis for navigable portions of the Rio Grande River, Texas, international water boundary*

Section 1324 requires the Secretary of the department in which the Coast Guard is operating to prepare a mission requirement analysis of the navigable portions of the Rio Grande River, Texas, along the international water boundary. The analysis should assess Coast Guard missions, assets, and personnel assigned along the River and should identify the needs of the Coast Guard to increase search and rescue operations and migrant and drug interdiction operations.

*Sec. 1325. Conveyance of Coast Guard property in Cheboygan, Michigan*

Section 1325 authorizes the Coast Guard to convey, at fair market value, approximately three acres to the Cornerstone Christian Academy who will have right of first refusal to purchase the all or a portion of the real property.

#### LEGISLATIVE HISTORY AND COMMITTEE CONSIDERATION

In the 110th Congress, the Subcommittee on Coast Guard and Maritime Transportation held a hearing on March 8, 2007, on “The Coast Guard Budget and Authorization for Fiscal Year 2008”. On February 26, 2008, the Subcommittee held a hearing on “FY 2009 Budget: Coast Guard, Federal Maritime Commission and Maritime Administration”.

On June 22, 2007, Chairman James L. Oberstar introduced H.R. 2830, the “Coast Guard Authorization Act of 2008”. On June 26, 2007, the Subcommittee met to consider H.R. 2830, and favorably recommended it, as amended, to the Committee on Transportation and Infrastructure by voice vote with a quorum present. On June 28, 2007, the Committee met in open session and ordered H.R. 2830, as amended, reported favorably to the House by voice vote with a quorum present. On September 20, 2007, the Committee reported the bill, as amended, to the House. H. Rept. 110–338, Part I.

On October 1, 2007, the Committee on Homeland Security ordered the bill, as amended, reported favorably to the House. H. Rept. 110–338, Part II. On October 30, 2007, the Committee on Judiciary ordered the bill, as amended, reported favorably to the House. H. Rept. 110–338, Part III. On April 23, 2008, the Committee on Judiciary filed a supplemental report. H. Rept. 110–338, Part IV.

On April 24, 2008, the House passed H.R. 2830 by a vote of 395–7. The Senate did not complete action on the legislation.

In the 111th Congress, on May 13, 2009, the Subcommittee on Coast Guard and Maritime Transportation met to examine the

President's fiscal year 2010 budget request and policy initiatives for the Coast Guard.

On September 23, 2009, Chairman James L. Oberstar introduced H.R. 3619, the "Coast Guard Authorization Act of 2009". This bill is comprised of several different bills that have been considered by the Committee on Transportation and Infrastructure and, in some cases, the House in the 111th Congress. These bills include: H.R. 1747, the "Great Lakes Icebreaker Replacement Act" (H. Rept. 111-81)(passed the House by voice vote on April 27, 2009); H.R. 1665, the "Coast Guard Acquisition Reform Act of 2009" (H. Rept. 111-215)(passed the House, 426-0, on July 29, 2009); H.R. 2651, the "Maritime Workforce Development Act" (passed the House by voice vote on October 14, 2009); H.R. 2650, the "Coast Guard Modernization Act of 2009" (ordered reported on June 4, 2009); H.R. 2652, the "Maritime Safety Act of 2009" (ordered reported on June 4, 2009); H.R. 3360, the "Cruise Vessel Security and Safety Act of 2009" (ordered reported on July 30, 2009); and H.R. 3376, the "United States Mariner and Vessel Protection Act of 2009" (ordered reported on July 30, 2009).

#### RECORD 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 roll call 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. During consideration of H.R. 3619, the Committee adopted two amendments to the bill. There were no recorded votes taken in connection consideration of H.R. 3619 or ordering H.R. 3619, as amended, reported. A motion to order H.R. 3619, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

#### 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 section 308(a) of the Congressional Budget Act of 1974, the Committee references the report of the Congressional Budget Office included in the report.

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 objectives of this legislation are to authorize funding for personnel and activities of the United States Coast Guard and make changes to maritime transportation law.

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 enclosed cost estimate for H.R. 3619, as amended, from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, October 2, 2009.*

Hon. JAMES L. OBERSTAR,  
*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. 3619, the Coast Guard Authorization Act of 2010.

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

Sincerely,

ROBERT A. SUNSHINE  
(For Douglas W. Elmendorf, Director).

Enclosure.

*H.R. 3619—Coast Guard Authorization Act of 2010*

Summary: H.R. 3619 would amend various laws that govern the activities of the U.S. Coast Guard (USCG). The bill also would authorize appropriations totaling \$9 billion through fiscal year 2014, primarily for ongoing USCG operations during fiscal year 2010. CBO estimates that appropriating the amounts specifically authorized by the bill or estimated to be necessary to carry out certain titles would result in discretionary spending of about \$8.8 billion over the 2010–2014 period.

Implementing title V, which addresses the Coast Guard's acquisition practices, could result in future savings in discretionary spending, but CBO cannot estimate such savings or clearly identify how much of that savings should be attributed to the legislation rather than to reforms that the Coast Guard has already begun implementing under existing authority.

H.R. 3619 could increase revenues from civil penalties, but CBO estimates that any such increases would be less than \$500,000 a year.

Other provisions of the bill also would affect direct spending, primarily by directing the Coast Guard to donate rather than sell certain property (resulting in a loss of offsetting receipts). We estimate that those provisions would increase direct spending by a total of \$3 million over the 2010–2019 period.

H.R. 3619 contains intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) because it would impose new requirements on vessel owners and operators and others in the maritime industry. The bill also would increase the costs of complying with existing mandates related to protections for active-duty personnel in the Coast Guard. The aggregate costs of the mandates in the bill on private-sector entities

are uncertain because many of them would depend on regulations to be developed under the bill. Consequently, CBO cannot determine whether those costs would exceed the annual threshold established in UMRA for private-sector mandates (\$139 million in 2009, adjusted annually for inflation). CBO estimates that such costs would not exceed the annual threshold established in UMRA for intergovernmental mandates (\$69 million in 2009, adjusted annually for inflation).

**Estimated cost to the Federal Government:** The estimated budgetary effects of H.R. 3619 are summarized in the following table. The costs of this legislation fall within budget functions 300 (natural resources and environment) and 400 (transportation).

**Basis of estimate:** For this estimate, CBO assumes that H.R. 3619 will be enacted early in fiscal year 2010 and that the amounts specifically authorized by the bill or estimated to be necessary will be appropriated for each year. Estimated outlays are based on historical spending patterns for the authorized activities.

#### *Spending subject to appropriation*

The authorization levels shown in the table are those specified or estimated to be necessary for Coast Guard activities and for certain new programs of the Department of Transportation (DOT). The table excludes \$25 million to be derived from the Oil Spill Liability Trust Fund (OSLTF) for USCG operating and research expenses because that amount is already authorized under existing law.

	By fiscal year, in millions of dollars—					
	2010	2011	2012	2013	2014	2010–2014
<b>CHANGES IN SPENDING SUBJECT TO APPROPRIATION <sup>1</sup></b>						
<b>Reauthorization of USCG activities: <sup>2</sup></b>						
Authorization level .....	8,604	0	0	0	0	8,604
Estimated outlays .....	5,742	1,514	664	380	128	8,428
<b>Great Lakes icebreaker replacement:</b>						
Authorization level .....	153	0	0	0	0	153
Estimated outlays .....	18	38	34	28	17	135
<b>USCG acquisition reform:</b>						
Estimated authorization level .....	5	0	0	0	0	5
Estimated outlays .....	3	2	0	0	0	5
<b>Maritime workforce development:</b>						
Authorization level .....	22	22	22	22	22	110
Estimated outlays .....	14	17	19	19	20	89
<b>Marine safety:</b>						
Estimated authorization level .....	8	8	8	8	8	40
Estimated outlays .....	6	8	9	9	8	40
<b>Other grants, studies, and programs:</b>						
Estimated authorization level .....	16	14	24	24	21	100
Estimated outlays .....	13	15	22	24	22	96
<b>Total proposed changes:</b>						
Estimated authorization level .....	8,808	44	54	54	51	9,011
Estimated outlays .....	5,796	1,594	748	460	195	8,792

<sup>1</sup> Enacting H.R. 3619 would result in small increases in revenues from criminal and civil fines and penalties (and associated direct spending from the Crime Victims Fund), but CBO estimates that those changes would be insignificant. We also expect that enacting the bill could result in additional direct spending associated with extending expiring maritime documents and with conveying certain Coast Guard property. In total, those provisions would increase direct spending by an estimated \$3 million over the 2010–2019 period.

<sup>2</sup> The USCG received appropriations totaling about \$8.3 billion for fiscal year 2009, including \$240 million under the American Recovery and Reinvestment Act of 2009.

Note: USCG—U.S. Coast Guard; components may not sum to totals because of rounding.

**Reauthorization of USCG Activities.** Title I would reauthorize funding for ongoing USCG activities for 2010. Specifically, the title

would authorize the appropriation of about \$6.9 billion for USCG operations (including \$134 million for reserve training and \$13 million for environmental compliance), about \$1.6 billion for capital acquisitions, \$16 million for the alteration of bridges, and nearly \$30 million for research programs. Of the amounts authorized by title I, \$45 million would be derived from the OSLTF.

CBO estimates that appropriating the amounts specified in title I for ongoing USCG activities would cost \$8.4 billion over the 2010–2014 period. About \$180 million of the authorized amounts would be spent after 2014.

Title I also would authorize the appropriation of about \$1.4 billion for Coast Guard retirement benefits in fiscal year 2010, but that amount is excluded from this estimate because such benefits are considered an entitlement under current law and are not subject to appropriation. Thus, authorizing the \$1.4 billion would have no additional budgetary impact.

**Great Lakes Icebreaker Replacement.** Title IV would authorize the appropriation of \$153 million to construct an icebreaker ship for the Coast Guard to use on the Great Lakes. Assuming appropriation of the authorized amount, CBO estimate that building the new icebreaker would cost \$135 million over the 2010–2014 period. The remaining \$18 million would be spent after 2014.

**USCG Acquisition Reform.** Title V addresses the contracting practices used by the Coast Guard to acquire capital assets such as vessels and aircraft. Assuming appropriation of the necessary amounts, CBO estimate that implementing title V would cost the USCG about \$5 million over the next two years, mostly to develop life-cycle cost estimates for current acquisition initiatives. We estimate that other administrative costs for additional testing and certification (and to develop life-cycle cost estimates for major acquisition initiatives in the future) would not significantly affect the agency's annual budget.

Title V would restrict the Coast Guard's reliance on private entities to manage major acquisitions and would require the agency to revise other procurement practices to rectify problems identified by the Department of Defense (DoD) and other federal agencies. It also would require that many future acquisitions be open to competition and be subject to specified testing, analysis, and certification requirements. Finally, the title would require the Coast Guard to hire additional contracting and management personnel and to produce various reports on its acquisition activities.

The contracting reforms required by H.R. 3619 could result in lower procurement expenditures in the future. Much of the long-term savings, however, might occur even in the absence of the legislation because the Coast Guard is already implementing many of those reforms, including hiring additional contracting personnel. CBO cannot estimate the likely size of cost savings from improving procurement practices or clearly identify what proportion of such savings would be attributable to the legislation and what share would result from changes that the Coast Guard is already implementing.

Any savings realized by the Coast Guard as a result of the legislation would depend on future changes in the level of discretionary appropriations for capital acquisitions. Annual funding for Coast Guard acquisition has risen rapidly in recent years—from about

\$640 million in fiscal year 2002 to nearly \$1.6 billion for 2009. (The 2009 figure includes nearly \$100 million provided by the American Recovery and Reinvestment Act of 2009.) Most of the increase over this period stems from new funding for the Integrated Deepwater Initiative, which will provide for the replacement of many of the agency's vessels, aircraft, and other assets at an estimated cost of between \$25 billion to \$30 billion over the next 25 years.

**Maritime Workforce Development.** Title VI would authorize appropriations totaling \$110 million over the 2010–2014 period (and \$22 million in 2015) for DOT's Maritime Administration to provide loans and grants to students attending certain maritime training institutions.

Of the amounts authorized by title VI, \$10 million would be available in each of fiscal years 2010 through 2015 for loans to students that enroll in one of the six state maritime academies or in another maritime training institution operated by a commercial and nonprofit organization. The legislation also would authorize the appropriation of \$1 million in each year over the same period to administer the new loan program. Under the bill, principal and interest payments made by the borrower would be deposited into a revolving loan fund and would be available to cover administrative costs as well as to make new loans without further appropriation action.

The Federal Credit Reform Act (FCRA) requires that the budgetary impact of federal credit programs, including the loan program that would be established by this legislation, be measured in terms of the net present value of estimated cash flow. That measure is known as the subsidy cost. Under FCRA, agencies must receive an appropriation equal to the estimated subsidy cost before making loans. FCRA further specifies that repayments of loans are unavailable for spending and that new loan obligations may be made only to the extent that new budget authority is provided in advance. In other words, direct loan repayments are not available to "revolve" into new loans. Instead, such repayments are a means of financing the original loans. In CBO's view, the concept of using loan repayments to cover administrative costs and make new loans, as proposed in title VI, is inconsistent with the requirements of FCRA. It is possible that this inconsistency would result in the program not being implemented or being implemented in a form other than that proposed by the bill.

For the purposes of this estimate, CBO assumes that the loan program would be implemented as directed by the legislation and that amounts collected from loan repayments would be available to the program for administrative expenses and to make new loans. In that case, the effective subsidy cost of the loans would be 100 percent because cash flows into the government from borrower repayment would not be credited to the original loan (as normally would be required under FCRA) but would be used to cover other costs of the program. Therefore, CBO estimates that the provision of \$60 million in loan subsidy over the 2010–2015 period, as authorized by the bill, would yield a loan volume of \$60 million.

Based on expected demand for student loans and historical expenditures of other loan programs operated by the Maritime Administration, CBO estimates that implementing the new loan pro-

gram would cost \$37 million over the next five years, including \$5 million for administrative costs, and \$29 million after 2014.

The title also would authorize the appropriation of \$10 million in each of fiscal years 2010 through 2015 for grants to maritime training institutions to establish demonstration projects to increase mariner recruitment, training, and retention. The legislation would authorize the appropriation of \$1 million in each year over the same period to administer the new grants. Based on the historical spending pattern of other grant programs operated by the agency, CBO estimates that implementing this provision would cost \$52 million over the next five years, including \$5 million for administration, and \$14 million after 2014.

Marine Safety. Title VIII would amend laws governing marine safety programs carried out by the Coast Guard. CBO estimates that implementing title VIII would cost \$40 million over the 2010–2014 period, assuming appropriation of the amounts specifically authorized by the title or estimated to be necessary for regulatory and administrative expenses.

Title VIII would authorize the appropriation of \$3 million annually (through 2014) for each of two new programs to fund grants to state, local, or other nonfederal entities. The grants would be awarded by the Coast Guard for research and training to improve safety on fishing vessels. In addition, the title would authorize \$1 million for a study on the use of blended fuels by marine vessels. CBO estimates that appropriating the amounts specifically authorized by title VIII would cost \$31 million over the 2010–2014 period.

The title also would require the Coast Guard to promulgate and enforce new rules and regulations addressing other marine safety issues, including recordkeeping, safety equipment, and spill protection for vessels that carry over 600 cubic meters of fuel oil. In addition, the title would extend the life of several advisory committees, some of which receive financial support from the Coast Guard. Based on information provided by the agency, CBO estimates that carrying out the required studies and rulemakings and supporting advisory committees would cost about \$9 million over the 2010–2014 period.

Other Grants, Studies, and Programs. H.R. 3619 would authorize appropriations for several new programs, most of which would be carried out by the Coast Guard. CBO estimates that appropriating the authorized amounts would cost \$96 million over the 2010–2014 period. (An additional \$24 million would be spent from those authorizations after 2014, including \$20 million authorized to be appropriated for 2015.) The proposed authorizations include:

- \$7.5 million for programs to assist colleges and other institutions that serve minority students. The programs would include management internships, an aviation officer initiative, and cooperative research laboratories.

- \$70 million over the 2010–2014 period (plus \$20 million in 2015) to support shipping in the Arctic. The proposed funding would support USCG programs such as aids to navigation, ice-breaking, oil spill prevention and response and search and rescue. A portion of the funding (\$5 million for each of fiscal years 2011 through 2015) would be used by the Department of Transportation for demonstration projects to reduce vessel emission or discharges of pollutants.

- \$10 million over the 2010–2013 period for projects carried out by the Great Lakes Maritime Research Institute.
- \$1 million for 2010 to conduct an assessment of vessel traffic risk for Cook Inlet, Alaska.
- \$5 million for a study of an underground oil spill on the Brooklyn shore of Newtown Creek in New York.
- An estimated \$6 million over the 2010–2014 period to promulgate safety regulations, develop training curricula, and establish certification and inspection procedures to address the safety of passengers and crewmembers on cruise vessels.

Based on information provided by the Coast Guard, CBO estimates that carrying out the provisions of other titles of the bill would have no significant effect on the agency's operating budget. Those provisions include requirements to reorganize leadership positions in the agency, provide additional port security assets in the Virgin Islands, and expand the use of canine teams to detect narcotics and explosives at ports.

#### *Direct spending*

The bill would authorize the Coast Guard to sell about three acres of property in Cheboygan, Michigan, and spend the proceeds on environmental restoration projects.

Because such proceeds, if collected under current law, could not be spent without further appropriation action, enacting this provision would increase direct spending over the 2010–2019 period. CBO estimates that any such increase would be about \$1 million over the 2010–2019 period.

Several provisions of the bill would direct the USCG to donate real and personal property to various parties such as nonprofit organizations or local governments. CBO estimates that one of the properties—a 5.5-acre parcel of land in the city of Marquette, Michigan—has significant market value. Based on local property values and on information provided by the General Services Administration regarding disposal of surplus USCG property, we estimate that donating the Marquette parcel to the city (rather than selling it under existing authority) would result in a loss of offsetting receipts of about \$2 million over the next 10 years. We expect that all of the other affected property would either be retained by the Coast Guard or eventually given to other entities under current law; therefore, donating those assets would result in no loss of offsetting receipts.

Title VIII would authorize the USCG to extend certain expiring marine licenses, certificates of registry, and merchant mariners' documents. Because the extension could delay the collection of fees charged for renewal of such documents, enacting this provision could reduce offsetting receipts (considered an increase in direct spending) over the next year or two. Some of those receipts may be spent without further appropriation, however, to cover collection costs. CBO estimates that the net effect on direct spending from enacting this provision would be insignificant.

**Intergovernmental and private-sector impact:** H.R. 3619 contains intergovernmental and private-sector mandates as defined in UMRA because it would impose new requirements on vessel owners and operators and others in the maritime industry. The bill also would increase the costs of complying with existing mandates

related to protections for active-duty personnel in the Coast Guard. The aggregate costs of the mandates in the bill on private-sector entities are uncertain because many of them would depend on regulations to be developed under the bill. Consequently, CBO cannot determine whether those costs would exceed the annual threshold established in UMRA for private-sector mandates (\$139 million in 2009, adjusted annually for inflation). CBO estimates that such costs would not exceed the annual threshold established in UMRA for intergovernmental mandates (\$69 million in 2009, adjusted annually for inflation).

UMRA excludes from the application of that act any legislative provision that is necessary for the ratification or implementation of international treaty obligations. CBO has determined that section 812 of H.R. 3619 falls within that exclusion; therefore, we have not reviewed it for intergovernmental or private-sector mandates.

*Mandates that apply to both public and private entities*

**Safety Equipment and Management Requirements.** H.R. 3619 would require certain commercial and public vessels to carry approved survival craft that ensure that no part of an individual is immersed in water. All survival craft would have to meet this standard by January 1, 2015. The costs to comply with this mandate would depend on how the Coast Guard implements the new standard. However, based on information about the range in costs of survival crafts, CBO expects that the cost of replacing hundreds of survival craft on private vessels would probably be relatively small. Further, because most public vessels do not use survival craft that immerse individuals in water, CBO estimates that additional costs to public entities would be minimal.

The bill also would require owners and operators of certain domestic passenger vessels to implement safety management procedures as determined by the Secretary of Homeland Security. According to the Coast Guard and industry sources, the costs to public and private entities could vary widely depending on the coverage and scope of those procedures. However, only a small number of public entities would be affected by those requirements, and CBO estimates that the cost to those entities to be small. Because a large number of private entities could be affected by those requirements and the nature of future regulations is uncertain, CBO cannot estimate the total cost of this mandate to private entities.

**Other Mandates on the Maritime Industry.** The bill also would impose new requirements on businesses in the maritime industry. For example, the bill would impose new security requirements on operators of hazardous material facilities; require owners and operators of public and commercial vessels to comply with new record-keeping requirements; require ports to include in their security plans provisions that allow crew members, pilots, and representatives of crew members to leave and reboard ships without paying escort fees; and provide whistleblower protections for maritime employees. CBO estimates that the additional costs to comply with those mandates would be small because compliance probably would involve only small adjustments, if any, in current procedures.

**Increasing Authorized Coast Guard Personnel.** The bill would increase the costs of complying with existing intergovernmental and private-sector mandates by increasing the number of active-duty

personnel in the Coast Guard. The additional personnel would be eligible for protections under the Servicemembers Civil Relief Act (SCRA). Under SCRA, servicemembers have the right to maintain a single state of residence for purposes of paying state and local personal income taxes. They also have the right to request a deferral in the payment of certain state and local taxes and fees. SCRA also requires creditors to charge no more than 6 percent interest on servicemembers' obligations when such obligations predate active-duty service and allows courts to temporarily stay certain civil proceedings, such as evictions, foreclosures, and repossessions. Extending these existing protections to additional servicemembers would constitute mandates as defined in UMRA and could result in lost revenues to government and private-sector entities.

The number of active-duty servicemembers covered by SCRA would increase by less than 1 percent, CBO estimates. Servicemembers' utilization of the various provisions of the SCRA depends on a number of uncertain factors, including how often and how long they are deployed. CBO expects, however, that relatively few of the added servicemembers would take advantage of the deferrals in certain state and local tax payments; the lost revenues to those governments thus would be insignificant. Moreover, because the increase in the number of active-duty servicemembers covered by SCRA would be so small, CBO expects that the increased costs for private-sector entities also would be small.

*Mandates that apply to private entities only*

**Safety Requirements for Cruise Vessels.** Owners and operators of cruise vessels would be required to meet certain safety standards, post information about the location of U.S. embassies and consulates for countries on the voyage itinerary, and limit crew access to passenger cabins. The bill also would require cruise lines to maintain a log book of alleged crimes, report suspected criminal activities that occur on their vessels to the appropriate law enforcement authorities, and provide online access to data on criminal acts that occur on cruise vessels. In addition, the bill would require cruise lines to adhere to specific procedures when assisting victims of a sexual assault and to carry certain medical supplies and equipment designated for use in such cases. Lastly, cruise lines would be required to have at least one crewmember trained in crime scene investigation onboard while the vessel is in service.

According to the Maritime Administration and the U.S. Coast Guard, between 125 and 150 cruise vessels that access U.S. ports would have to comply with the requirements in the bill. Industry representatives indicate that those vessels already comply with most of the bill's requirements and that any needed adjustments in current practice would probably be minor. CBO therefore expects that the incremental costs of the mandates would fall below the annual threshold established in UMRA.

**Safety Requirements for Commercial Fishing Vessels.** H.R. 3619 would impose new safety requirements on owners and operators of commercial fishing vessels. The bill would require the individuals in charge of commercial fishing vessel operating beyond three nautical miles of the U.S. coast to keep a record of equipment maintenance and to pass a safety training program and a refresher training once every five years. The cost of recordkeeping would be mini-

mal. The new safety training program, however, would have to include training in collision prevention, personal survival, and emergency medical care. According to industry sources, the cost of similar training programs currently available is between \$100 and \$500 per person. Those sources also indicate that thousands of U.S. commercial fishing captains nationwide and others would have to comply with the training requirement. The bill would establish a grant program to provide funding for training on commercial fishing safety.

The bill also would establish safety equipment standards for certain commercial fishing vessels operating beyond three nautical miles of the coast. In addition, beginning in 2010, the bill would require that such vessels that are less than 50 feet in length be constructed in a manner that provides a level of safety equivalent to the minimum safety standards established by the Coast Guard that apply to recreational vessels. The cost to comply with those mandates would depend on the standards to be set by the Coast Guard.

**Safety Requirements for Other Vessels.** The bill would authorize the Coast Guard to establish standards for the use of emergency locator beacons on recreational vessels and for the installation and use of lifesaving devices on non-propelled vessels such as barges. If the Coast Guard establishes either of those standards, it would impose a private-sector mandate. CBO cannot estimate the cost of complying with the mandate because it would depend on future regulations.

The bill also would require all oil tankers in Prince William Sound to be escorted by two towing vessels. Current law only requires two escort vessels for single-hulled tankers. Because the current practice is to provide two escort vessels for all tankers, CBO estimates that the incremental cost to comply with the mandate would be minimal.

#### *Previous CBO estimates*

On September 24, 2009, CBO transmitted a cost estimate for S. 1194, the Coast Guard Authorization Act of Fiscal Years 2010 and 2011, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on July 8, 2009. The Senate bill contains lower funding levels for most activities, would authorize appropriations for both 2010 and 2011 rather than just 2010, and would include authorizations for some programs carried out by the National Oceanic and Atmospheric Administration. The CBO cost estimates for the two versions of the legislation reflect those differences. The estimates also reflect the costs of carrying out other titles added to H.R. 3616 for cruiseship safety, maritime security, and other activities.

On June 10, 2009, CBO transmitted a cost estimate for S. 685, the Oil Spill Prevention Act of 2009, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on May 20, 2009. The CBO estimate of that legislation is the same for similar provisions in title VIII of H.R. 3619.

CBO also submitted cost estimates for several pieces of legislation that were previously ordered reported by the House Committee on Transportation and Infrastructure that are also contained in H.R. 3619. Those include:

- H.R. 1747, the Great Lakes Icebreaker Replacement Act, as ordered reported on April 2, 2009 (estimate transmitted on April 15, 2009);
- H.R. 1665, the Coast Guard Acquisition Reform Act of 2009, as ordered reported on April 2, 2009 (estimate transmitted on April 15, 2009);
- H.R. 2652, the Maritime Safety Act of 2009, as ordered reported on June 4, 2009 (estimate transmitted on June 23, 2009);
- H.R. 2650, the Coast Guard Modernization Act of 2009, as ordered reported on June 4, 2009 (estimate transmitted on June 23, 2009);
- H.R. 2651, the Maritime Workforce Development Act, as ordered reported on June 4, 2009 (estimate transmitted on July 13, 2009);
- H.R. 3376, the United States Mariner and Vessel Protection Act of 2009, as ordered reported on July 30, 2009, (estimate transmitted on August 13, 2009); and
- H.R. 3360, the Cruise Vessel Security and Safety Act of 2009, as ordered reported on July 30, 2009 (estimate transmitted on August 19, 2009).

The CBO cost estimates for those earlier bills or acts are the same as those for similar provisions contained in H.R. 3619.

Estimate prepared by: Federal Costs: Deborah Reis; Impact on State, Local, and Tribal Governments: Ryan Miller; Impact on the Private Sector: Amy Petz and Samuel Wise.

Estimate approved by: Theresa Gullo, Deputy Assistant Director for Budget Analysis.

COMPLIANCE WITH HOUSE RULE XXI

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits, as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. The Committee has required Members of Congress to comply with all requirements of clause 9(e), 9(f), and 9(g) of rule XXI. The following table provides the list of such provisions included in the bill:

Section	Description of provision	Requested by
1301	Certificate of Documentation for GALLANT LADY	Corrine Brown
1302	Certificate of Documentation for OCEAN VERITAS	Don Young
1302	Certificate of Documentation for MAYA	Wally Herger
1302	Certificate of Documentation for ZIPPER	John M. McHugh
1302	Certificate of Documentation for GULF DIVER IV	Jay Inslee Jim McDermott
1302	Certificate of Documentation for M/V GEYSIR	James A. Himes
1304	Conveyance of Coast Guard Boat House, Nantucket, Massachusetts	William D. Delahunt
1307	Conveyance of Decommissioned Coast Guard Cutter Storis	Don Young
1308	Conveyance of Coast Guard of HU-25 Falcon Jet Aircraft	Elijah E. Cummings
1312	Study of Relocation of Coast Guard Sector Buffalo Facilities	Brian Higgins
1313	Conveyance of Coast Guard Vessels to Mississippi	Bennie G. Thompson
1317	Study of Regional Response Vessel and Salvage Capability for Olympic Peninsula Coast, Washington.	Norman D. Dicks
1321	Conveyance of Coast Guard Vessels to Nassau County, New York	Peter T. King
1322	Newton Creek, New York, NY	Nydia M. Velazquez
1323	Land Conveyance, Coast Guard Property in Marquette County, Michigan, to the city of Marquette, Michigan.	Bart Stupak

Section	Description of provision	Requested by
1324 .....	Mission Requirement Analysis for Navigable Portions of the Rio Grande River, Texas, International Water Boundary.	Henry Cuellar
1325 .....	Conveyance of Coast Guard Property in Cheboygan, Michigan .....	Bart Stupak

#### 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 pursuant 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” (P.L. 104–4).

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 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. 3619 does not preempt any state, local or tribal law.

#### ADVISORY COMMITTEE STATEMENT

This legislation extends the termination dates for several advisory committees, as defined by section 3 of the Federal Advisory Committee Act, including the: Great Lakes Pilotage Advisory Committee, National Boating Safety Advisory Committee, Houston-Galveston Navigation Safety Advisory Committee, Lower Mississippi River Waterway Safety Advisory Committee, Towing Safety Advisory Committee, Navigation Safety Advisory Council, and the National Maritime Security Advisory Committee. The Committee finds pursuant to section 5 of the Federal Advisory Committee Act that none of the functions of the proposed advisory committees are being or could be performed by one or more agencies or by an advisory committee already in existence. The Committee also determines that these advisory committees have a clearly defined purpose, fairly balanced membership, and meets all of the other requirements of section 5(b) of the Federal Advisory Committee Act.

#### APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the resolution 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 (P.L. 104–1).

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 3—COMPOSITION AND ORGANIZATION**

Sec.						
41.	Grades and ratings.	*	*	*	*	*
		*	*	*	*	*
	<b>[42. Number and distribution of commissioned officers.]</b>					
42.	<i>Number and distribution of commissioned officers on active duty promotion list.</i>	*	*	*	*	*
		*	*	*	*	*
	<b>[47. Vice Commandant; assignment.</b>					
	<b>[50. Area Commanders.</b>					
	<b>[50a. Chief of Staff.]</b>					
47.	<i>Vice Commandant; appointment.</i>					
50.	<i>Vice admirals.</i>	*	*	*	*	*
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52.	<i>Vice admirals and admirals, continuity of grade.</i>	*	*	*	*	*
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55.	<i>District Ombudsmen.</i>					
56.	<i>Chief Acquisition Officer.</i>					
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		*	*	*	*	*

**§ 41. Grades and ratings**

In the Coast Guard there shall be **[an admiral,]** *admirals*; vice admirals; rear admirals; rear admirals (lower half); captains; commanders; lieutenant commanders; lieutenants; lieutenants (junior grade); ensigns; chief warrant officers; cadets; warrant officers; and enlisted members. Enlisted members shall be distributed in ratings established by the Secretary.

**§ 42. Number and distribution of commissioned officers**

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

**[(b)** The commissioned officers on the active duty promotion list shall be distributed in grade in the following percentages, respectively: rear admiral 0.375; rear admiral (lower half) 0.375; captain 6.0; commander 15.0; lieutenant commander 22.0. The Secretary shall prescribe the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign. The Secretary may, as

the needs of the Coast Guard require, reduce the percentage applicable to any grade above lieutenant commander, and in order to compensate for such reduction increase correspondingly the percentage applicable to any lower grade.

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

[(d) The numbers resulting from such computations shall be for all purposes the authorized number in each grade, except that the authorized number for a grade is temporarily increased during the period between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.

[(e) Officers who are not included on the active duty promotion list, officers serving as extra numbers in grade under sections 432 and 433 of this title, and officers serving with other departments or agencies on a reimbursable basis or excluded under the provisions of section 324(d) of title 49, shall not be counted in determining authorized strengths under subsection (c) and shall not count against those strengths. The number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy and of the Reserve serving in connection with organizing, administering, recruiting, instructing, or training the reserve components shall be prescribed by the Secretary.]

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

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

(b) *DISTRIBUTION PERCENTAGES BY GRADE.*—

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

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

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

(A) may reduce, as the needs of the Coast Guard require, any of the percentages set forth in paragraph (1); and  
 (B) shall apply that total percentage reduction to any other lower grade or combination of lower grades.

(c) COMPUTATIONS.—

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

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

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

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

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

\* \* \* \* \*

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

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

**【§ 50. Area commanders**

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

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

**【§ 50a. Chief of Staff**

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

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

**§ 50. Vice admirals**

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

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

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

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

*(A) The Deputy Commandant for Mission Support.*

*(B) The Deputy Commandant for Operations and Policy.*

*(C) The Commander, Force Readiness Command.*

*(D) The Commander, Operations Command.*

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

*(4)(A) Except as provided in subparagraph (B), the Deputy Commandant for Operations and Policy must have at least 10 years experience in vessel inspection, marine casualty investigations, mariner licensing, or an equivalent technical expertise in the design and*

construction of commercial vessels, with at least 4 years of leadership experience at a staff or unit carrying out marine safety functions.

(B) The requirements of subparagraph (A) do not apply to such Deputy Commandant if the subordinate officer serving in the grade of rear admiral with responsibilities for marine safety, security, and stewardship possesses that experience.

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

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

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

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

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

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

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

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

## **§ 51. Retirement**

[(a) An officer who, while serving in the grade of vice admiral, is retired for physical disability shall be placed on the retired list with the grade of vice admiral.]

[(b) An officer who is retired while serving in the grade of vice admiral, or who, after serving at least two and one-half years in the grade of vice admiral, is retired while serving in a lower grade, may in the discretion of the President, be retired with the grade of vice admiral.]

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

(a) An officer, other than the Commandant, who, while serving in the grade of admiral or vice admiral, is retired for physical disability shall be placed on the retired list with the highest grade in which that officer served.

(b) An officer, other than the Commandant, who is retired while serving in the grade of admiral or vice admiral, or who, after serving at least two and one-half years in the grade of admiral or vice

*admiral, is retired while serving in a lower grade, may in the discretion of the President, be retired with the highest grade in which that officer served.*

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

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

*(1) \* \* \**

*(2) while awaiting retirement, beginning on the day that officer is relieved from the position of Commandant, Vice Commandant, [Area Commander, or Chief of Staff] or Vice Admirals and ending on the day before the officer's retirement, but not for more than 60 days.*

**§ 52. Vice admirals and admirals, continuity of grade**

The continuity of an officer's precedence on the active duty promotion list, date of rank, grade, pay, and allowances as a vice admiral or admiral shall not be interrupted by the termination of an appointment for the purpose of reappointment to another position as a vice admiral or admiral.

\* \* \* \* \*

**§ 55. District Ombudsmen**

*(a) IN GENERAL.—The Commandant shall appoint an employee of the Coast Guard in each Coast Guard District as a District Ombudsman to serve as a liaison between ports, terminal operators, shipowners, and labor representatives and the Coast Guard.*

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

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

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

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

*(c) FUNCTIONS.—*

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

*(2) GUIDELINES FOR DISPUTES.—*

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

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

*(C) PRIORITY.—In providing such assistance, the District Ombudsman shall give priority to complaints brought by petitioners who believe they will suffer a significant hard-*

ship as the result of implementing a Coast Guard requirement or being denied a Coast Guard service.

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

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

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

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

(A) in a timely fashion; and

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

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

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

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

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

(3) the eventual resolution of each such matter.

#### **§ 56. Chief Acquisition Officer**

(a) *ESTABLISHMENT OF CHIEF ACQUISITION OFFICER.*—There shall be in the Coast Guard a Chief Acquisition Officer selected by the Commandant who shall be a Rear Admiral or civilian from the Senior Executive Service (career reserved) and who meets the qualifications set forth under subsection (b). The Chief Acquisition Officer shall serve at the Assistant Commandant level and have acquisition management as that individual's primary duty.

(b) *QUALIFICATIONS.*—

(1) The Chief Acquisition Officer and any Flag Officer serving in the Acquisitions Directorate shall be an acquisition professional with a program manager level III certification and must have at least 10 years experience in an acquisition position, of which at least 4 years were spent in one of the following qualifying positions:

(A) Program executive officer.

(B) Program manager of a Level 1 or Level 2 acquisition.

(C) Deputy program manager of a Level 1 or Level 2 acquisition.

(D) Project manager for a Level 1 or Level 2 acquisition.

(E) Any other acquisition position of significant responsibility in which the primary duties are supervisory or management duties.

(2) The Commandant shall periodically publish a list of the positions designated under this subsection.

(c) **AUTHORITY AND FUNCTIONS OF THE CHIEF ACQUISITION OFFICER.**—The functions of the Chief Acquisition Officer shall include—

(1) monitoring the performance of programs and projects on the basis of applicable performance measurements and advising the Commandant, through the chain of command, regarding the appropriate business strategy to achieve the missions of the Coast Guard;

(2) maximizing the use of full and open competition at the prime contract and subcontract levels in the acquisition of property, capabilities, assets, and services by the Coast Guard by establishing policies, procedures, and practices that ensure that the Coast Guard receives a sufficient number of sealed bids or competitive proposals from responsible sources to fulfill the Government's requirements, including performance and delivery schedules, at the lowest cost or best value considering the nature of the property, capability, asset, or service procured;

(3) making acquisition decisions in concurrence with the technical authority of the Coast Guard, as designated by the Commandant, and consistent with all other applicable laws and decisions establishing procedures within the Coast Guard;

(4) ensuring the use of detailed performance specifications in instances in which performance based contracting is used;

(5) managing the direction of acquisition policy for the Coast Guard, including implementation of the unique acquisition policies, regulations, and standards of the Coast Guard;

(6) developing and maintaining an acquisition career management program in the Coast Guard to ensure that there is an adequate acquisition workforce;

(7) assessing the requirements established for Coast Guard personnel regarding knowledge and skill in acquisition resources and management and the adequacy of such requirements for facilitating the achievement of the performance goals established for acquisition management;

(8) developing strategies and specific plans for hiring, training, and professional development; and

(9) reporting to the Commandant, through the chain of command, on the progress made in improving acquisition management capability.

#### **§ 57. Marine safety workforce**

(a) **DESIGNATION OF MARINE SAFETY WORKFORCE.**—

(1) **IN GENERAL.**—The Secretary, acting through the Commandant, shall designate those positions in the Coast Guard that constitute the marine safety workforce.

(2) **REQUIRED POSITIONS.**—In designating positions under paragraph (1), the Secretary shall include, at a minimum, the following marine safety-related positions:

(A) Program oversight.

(B) Vessel and facility inspection.

(C) Casualty investigation.

(D) Pollution investigation.

(E) Merchant Mariner licensing, documentation, and registry.

(F) Marine safety engineering or other technical activities.

(3) **MARINE SAFETY MANAGEMENT HEADQUARTER ACTIVITIES.**—The Secretary shall also designate under paragraph (1) those marine safety-related positions located at Coast Guard headquarters units, including the Marine Safety Center and the National Maritime Center.

(b) **CAREER PATHS.**—The Secretary, acting through the Commandant, shall ensure that appropriate career paths for civilian and military Coast Guard personnel who wish to pursue careers in marine safety are identified in terms of the education, training, experience, and assignments necessary for career progression of civilians and members of the Armed Forces to the most senior marine safety positions. The Secretary shall make available published information on such career paths.

(c) **QUALIFICATIONS.**—With regard to the marine safety workforce, an officer, member, or civilian employee of the Coast Guard assigned as a—

(1) marine inspector shall have the training, experience, and qualifications equivalent to that required for a similar position at a classification society recognized by the Secretary under section 3316 of title 46 for the type of vessel, system, or equipment that is inspected;

(2) marine casualty investigator shall have training, experience, and qualifications in investigation, marine casualty reconstruction, evidence collection and preservation, human factors, and documentation using best investigation practices by Federal and non-Federal entities; or

(3) marine safety engineer shall have knowledge, skill, and practical experience in—

(A) the construction and operation of commercial vessels;

(B) judging the character, strength, stability, and safety qualities of such vessels and their equipment; or

(C) the qualifications and training of vessel personnel.

(d) **APPRENTICESHIP REQUIREMENT.**—Any officer, member, or employee of the Coast Guard in training to become a marine inspector, marine casualty investigator, or a marine safety engineer shall serve a minimum of one-year apprenticeship, unless otherwise directed by the Commandant, under the guidance of a qualified marine inspector, marine casualty investigator, or marine safety engineer. The Commandant may authorize shorter apprenticeship periods for certain qualifications, as appropriate.

(e) **BALANCED WORKFORCE POLICY.**—In the development of marine safety workforce policies under this section with respect to any civilian employees or applicants for employment with the Coast Guard, the Secretary shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

(f) **MANAGEMENT INFORMATION SYSTEM.**—The Secretary, acting through the Commandant, shall establish a management informa-

tion system for the marine safety workforce that shall provide, at a minimum, the following standardized information on persons serving in marine safety positions:

(1) Qualifications, assignment history, and tenure in assignments of persons in the marine safety workforce.

(2) Promotion rates for military and civilian personnel in the marine safety workforce.

(g) ASSESSMENT OF ADEQUACY OF MARINE SAFETY WORKFORCE.—

(1) REPORT.—The Secretary, acting through the Commandant, shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by December 1 of each year on the adequacy of the current marine safety workforce to meet that anticipated workload.

(2) CONTENTS.—The report shall specify the number of civilian and military Coast Guard personnel currently assigned to marine safety positions and shall identify positions that are understaffed to meet the anticipated marine safety workload.

(h) SECTOR CHIEF OF MARINE SAFETY.—

(1) IN GENERAL.—There shall be in each Coast Guard sector a Chief of Marine Safety who shall be at least a Lieutenant Commander or civilian employee within the grade GS-13 of the General Schedule, and who shall be a—

(A) marine inspector, qualified to inspect vessels, vessel systems, and equipment commonly found in the sector; and

(B) qualified marine casualty investigator.

(2) FUNCTIONS.—The Chief of Marine Safety for a sector—

(A) is responsible for all individuals who, on behalf of the Coast Guard, inspect or examine vessels, conduct marine casualty investigations; and

(B) if not the Coast Guard officer in command of that sector, is the principal advisor to the Sector Commander regarding marine safety matters in that sector.

(i) SIGNATORIES OF LETTER OF QUALIFICATION.—Each individual signing a letter of qualification for marine safety personnel must hold a letter of qualification for the type being certified.

### **§ 58. Centers of Expertise for Marine Safety**

(a) ESTABLISHMENT.—The Commandant of the Coast Guard may establish and operate one or more Centers of Expertise for Marine Safety (in this section referred to as a “Center”).

(b) MISSIONS.—The Centers shall—

(1) be used to provide and facilitate education, training, and research in marine safety including vessel inspection and casualty investigation;

(2) develop a repository of information on marine safety; and

(3) perform any other missions as the Commandant may specify.

(c) JOINT OPERATION WITH EDUCATIONAL INSTITUTION AUTHORIZED.—The Commandant may enter into an agreement with an appropriate official of an institution of higher education to—

(1) provide for joint operation of a Center; and

(2) provide necessary administrative services for a Center, including administration and allocation of funds.

(d) ACCEPTANCE OF DONATIONS.—(1) Except as provided in paragraph (2), the Commandant may accept, on behalf of a Center, donations to be used to defray the costs of the Center or to enhance the operation of the Center. Those donations may be accepted from any State or local government, any foreign government, any foundation or other charitable organization (including any that is organized or operates under the laws of a foreign country), or any individual.

(2) The Commandant may not accept a donation under paragraph (1) if the acceptance of the donation would compromise or appear to compromise—

(A) the ability of the Coast Guard or the department in which the Coast Guard is operating, any employee of the Coast Guard or the department, or any member of the Armed Forces to carry out any responsibility or duty in a fair and objective manner; or

(B) the integrity of any program of the Coast Guard, the department in which the Coast Guard is operating, or of any person involved in such a program.

(3) The Commandant shall prescribe written guidance setting forth the criteria to be used in determining whether or not the acceptance of a donation from a foreign source would have a result described in paragraph (2).

**§ 59. Marine industry training program**

(a) IN GENERAL.—The Commandant shall, by policy, establish a program under which an officer, member, or employee of the Coast Guard may be assigned to a private entity to further the institutional interests of the Coast Guard with regard to marine safety, including for the purpose of providing training to an officer, member, or employee. Policies to carry out the program—

(1) with regard to an employee of the Coast Guard, shall include provisions, consistent with sections 3702 through 3704 of title 5, as to matters concerning—

(A) the duration and termination of assignments;

(B) reimbursements; and

(C) status, entitlements, benefits, and obligations of program participants; and

(2) shall require the Commandant, before approving the assignment of an officer, member, or employee of the Coast Guard to a private entity, to determine that the assignment is an effective use of the Coast Guard's funds, taking into account the best interests of the Coast Guard and the costs and benefits of alternative methods of achieving the same results and objectives.

(b) ANNUAL REPORT.—Not later than the date of the submission each year of the President's budget request under section 1105 of title 31, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that describes—

(1) the number of officers, members, and employees of the Coast Guard assigned to private entities under this section; and

(2) the specific benefit that accrues to the Coast Guard for each assignment.

\* \* \* \* \*

**CHAPTER 5—FUNCTIONS AND POWERS**

Sec.

81. Aids to navigation authorized.

\* \* \* \* \*

99. *Enforcement authority.*

100. *Enforcement of coastwise trade laws.*

101. *Marine safety.*

102. *Appeals and waivers.*

\* \* \* \* \*

**§ 93. Commandant; general powers**

(a) \* \* \*

\* \* \* \* \*

(c) *MARINE SAFETY RESPONSIBILITIES.—In exercising the Commandant's duties and responsibilities with regard to marine safety, the individual with the highest rank who meets the experience qualifications set forth in section 50(a)(4) shall serve as the principal advisor to the Commandant regarding—*

(1) *the operation, regulation, inspection, identification, manning, and measurement of vessels, including plan approval and the application of load lines;*

(2) *approval of materials, equipment, appliances, and associated equipment;*

(3) *the reporting and investigation of marine casualties and accidents;*

(4) *the licensing, certification, documentation, protection and relief of merchant seamen;*

(5) *suspension and revocation of licenses and certificates;*

(6) *enforcement of manning requirements, citizenship requirements, control of log books;*

(7) *documentation and numbering of vessels;*

(8) *State boating safety programs;*

(9) *commercial instruments and maritime liens;*

(10) *the administration of bridge safety;*

(11) *administration of the navigation rules;*

(12) *the prevention of pollution from vessels;*

(13) *ports and waterways safety;*

(14) *waterways management; including regulation for regattas and marine parades;*

(15) *aids to navigation; and*

(16) *other duties and powers of the Secretary related to marine safety and stewardship.*

(d) *OTHER AUTHORITY NOT AFFECTED.—Nothing in subsection (c) affects—*

(1) *the authority of Coast Guard officers and members to enforce marine safety regulations using authority under section 89 of this title; or*

(2) *the exercise of authority under section 91 of this title and the provisions of law codified at sections 191 through 195 of title 50 on the date of enactment of this paragraph.*

\* \* \* \* \*

**§ 96. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards**

A Coast Guard vessel the home port of which is in [a State of the United States] *the United States or Guam* may not be overhauled, repaired, or maintained in a shipyard outside the United States or *Guam*, other than in the case of voyage repairs.

\* \* \* \* \*

**§ 99. Enforcement authority**

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

- (1) *carry a firearm; and*
- (2) *while at a facility (as defined in section 70101 of title 46)—*
  - (A) *make an arrest without warrant for any offense against the United States committed in their presence; and*
  - (B) *seize property as otherwise provided by law.*

**§ 100. Enforcement of coastwise trade laws**

*Officers and members of the Coast Guard are authorized to enforce chapter 551 of title 46. The Secretary shall establish a program for these officers and members to enforce that chapter, including the application of those laws to vessels that support the exploration, development, and production of oil, gas, or mineral resources in the Gulf of Mexico.*

**§ 101. Marine safety**

*To protect life, property, and the environment on, under, and over waters subject to the jurisdiction of the United States and on vessels subject to the jurisdiction of the United States, the Commandant shall promote maritime safety as follows:*

- (1) *By taking actions necessary and in the public interest to protect such life, property, and the environment.*
- (2) *Based on the following priorities:*
  - (A) *Preventing marine casualties and threats to the environment.*
  - (B) *Minimizing the impacts of marine casualties and environmental threats.*
  - (C) *Maximizing lives and property saved and environment protected in the event of a marine casualty.*

**§ 102. Appeals and waivers**

*Except for the Commandant of the Coast Guard, any individual adjudicating an appeal or waiver of a decision regarding marine safety, including inspection or manning and threats to the environment, shall—*

- (1) *be a qualified specialist with the training, experience, and qualifications in marine safety to effectively judge the facts and circumstances involved in the appeal and make a judgment regarding the merits of the appeal; or*
- (2) *have a senior staff member who—*
  - (A) *meets the requirements of paragraph (1);*
  - (B) *actively advises the individual adjudicating the appeal; and*

(C) concurs in writing on the decision on appeal.

\* \* \* \* \*

**CHAPTER 7—COOPERATION WITH OTHER AGENCIES**

Sec.

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

\* \* \* \* \*

153. Appointment of judges.

\* \* \* \* \*

**§ 149. Assistance to foreign governments and maritime authorities**

(a) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

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

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

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

\* \* \* \* \*

**§ 153. Appointment of judges**

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

\* \* \* \* \*

**CHAPTER 9—COAST GUARD ACADEMY**

Sec.

181. Administration of Academy.

\* \* \* \* \*

- 199. *Minority recruiting program.*
- 200. *Marine safety curriculum.*

\* \* \* \* \*

**§ 182. Cadets; number, appointment, obligation to serve**

[(a) The number of cadets appointed annually to the Academy shall be as determined by the Secretary but the number appointed in any one year shall not exceed six hundred. Appointments to cadetships shall be made under regulations prescribed by the Secretary, who shall determine age limits, methods of selection of applicants, term of service as a cadet before graduation, and all other matters affecting such appointments. All such appointments shall be made without regard to the sex, race, color, or religious beliefs of an applicant. In the administration of this chapter, the Secretary shall take such action as may be necessary and appropriate to insure that female individuals shall be eligible for appointment and admission to the Coast Guard Academy, and that the relevant standards required for appointment, admission, training, graduation, and commissioning of female individuals shall be the same as those required for male individuals, except for those minimum essential adjustments in such standards required because of physiological differences between male and female individuals. The Secretary may summarily dismiss from the Coast Guard any cadet who, during his cadetship, is found unsatisfactory in either studies or conduct, or may be deemed not adapted for a career in the Coast Guard. Cadets shall be subject to rules governing discipline prescribed by the Commandant.]

(a) *CORPS OF CADETS; NUMBER; NOMINATION.—*

(1) *The authorized strength of the Corps of Cadets (determined for any academic program year as of the day before the last day of the academic program year) is 1,000, excluding those foreign nationals admitted for instructions pursuant to section 195. Subject to that limitation, cadets are selected as follows:*

(A) *Not more than 10 individuals, appointed by the Secretary of Homeland Security, in order of merit as established by competitive examination, from the children of members of the Armed Forces who were killed in action or died of, or have a service-connected disability at not less than 100 per centum resulting from, wounds or injuries received or diseases contracted in, or preexisting injury or disease aggravated by, active service, children of members who are in a “missing status” (as defined in section 551(2) of title 37), and children of civilian employees who are in “missing status” (as defined in section 5561(5) of title 5). The determination of the Department of Veterans Affairs as to service connection of the cause of death or disability is rated, is binding upon the Secretary.*

(B) *Not less than one, nominated at large by the Vice President or, if there is no Vice President, by the President pro tempore of the Senate.*

(C) *Not less than one, nominated by each Senator.*

(D) *Not less than one, nominated by each Representative in Congress.*

*(E) Not less than one, nominated by the Delegate to the House of Representatives from the District of Columbia, the Delegate in Congress from the Virgin Islands, the Resident Commissioner from Puerto Rico, the Delegate in Congress from Guam, the Delegate in Congress from American Samoa, or the Resident Representative from the Commonwealth of the Northern Mariana Islands.*

*Each Senator, Representative, and Delegate in Congress, including the Resident Commissioner and the Resident Representative, is entitled to nominate 10 persons each year. Cadets who do not graduate on time shall not count against the allocations pursuant to subparagraphs (B)–(E). Nominees may be submitted without ranking or with a principal candidate and 9 ranked or unranked alternates. A nominee not selected for appointment under this paragraph shall be considered an alternate for the purposes of appointment under paragraph (2).*

*(2) The Secretary may appoint, each academic program year, individuals who are either—*

*(A) alternates nominated pursuant to paragraph (1) (C), (D), or (E); or*

*(B) applicants who applied directly for admission.*

*(3) In addition, the Secretary may appoint, each academic program year, individuals who are—*

*(A) children of members of the Armed Forces who—*

*(i) are on active duty (other than for training) and who have served continuously on active duty for at least eight years;*

*(ii) are, or who died while they were, retired with pay or granted retired or retainer pay;*

*(iii) are serving as members of reserve components and are credited with at least eight years of service;*

*(iv) would be, or who died while they would have been, entitled to retired pay, except for not having attained 60 years of age; or*

*(v) have been awarded the Medal of Honor;*

*the total number of whom cannot exceed 5 percent of the class to be admitted; however, a person who is eligible for selection under subsection (a)(1)(A) may not be selected under this subparagraph;*

*(B) enlisted members of the Coast Guard or the Coast Guard Reserve, the total number of whom cannot exceed 5 percent of the class to be admitted;*

*(C) graduates of the Coast Guard Scholars program, the total number of whom cannot exceed 30 percent of the class to be admitted; and*

*(D) individuals who possess qualities that the Superintendent identifies to be of particular value to the Academy and the Service, the total number of whom cannot exceed 20 percent of the class to be admitted.*

*(4) An individual shall be qualified for nomination, selection, and appointment as a cadet at the Academy only if the individual—*

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

*(B) meets such minimum requirements that the Secretary may establish.*

(5) *The Superintendent shall furnish to any Member of Congress, upon the written request of such Member, the name of the Congressman or other nominating authority responsible for the nomination of any named or identified person for appointment to the Academy.*

(6) *For purposes of the limitation in subsection (a)(1) establishing the aggregate authorized strength of the Corps of Cadets, the Secretary may, for any academic program year, permit a variance in that limitation by not more than 5 percent. In applying that limitation, and any such variance, the last day of an academic program year shall be considered to be graduation day.*

\* \* \* \* \*

**§ 199. Minority recruiting program**

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

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

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

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

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

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

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

**§ 200. Marine safety curriculum**

*The Commandant of the Coast Guard shall ensure that professional courses of study in marine safety are provided at the Coast Guard Academy, and during other officer accession programs, to give Coast Guard cadets and other officer candidates a background and understanding of the marine safety program. These courses may include such topics as program history, vessel design and construction, vessel inspection, casualty investigation, and administrative law and regulations.*

\* \* \* \* \*

**CHAPTER 11—PERSONNEL**

**OFFICERS**

**A. APPOINTMENTS**

Sec.  
211. Original appointment of permanent commissioned officers.

\* \* \* \* \*

[216. Director of Boating Safety Office]

\* \* \* \* \*

D. DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS

\* \* \* \* \*  
[293. Compulsory retirement at age of sixty-two.]  
293. *Compulsory retirement.*

GENERAL PROVISIONS

\* \* \* \* \*  
426. *Emergency leave retention authority.*  
\* \* \* \* \*

OFFICERS

A. Appointments

\* \* \* \* \*

§ 214. Appointment of temporary officers

[(a) The President may appoint temporary commissioned officers in the Regular Coast Guard in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers, warrant officers, and enlisted members of the Coast Guard, and from licensed officers of the United States merchant marine.]

- (a) *The president may appoint temporary commissioned officers—*
  - (1) *in the Regular Coast Guard in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers, warrant officers, and enlisted members of the Coast Guard, and from holders of licenses issued under chapter 71 of title 46; and*
  - (2) *in the Coast Guard Reserve in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers of the Coast Guard Reserve.*

\* \* \* \* \*

§ 216. Director of Boating Safety Office

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

\* \* \* \* \*

B. Selection for Promotion

\* \* \* \* \*

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

(a) Before a board is convened under section 251 of this title, notice of the convening date, the promotion zone to be considered, and the officers eligible for consideration[, and the number of offi-

cers the board may recommend for promotion] shall be given to the service at large.

\* \* \* \* \*

**§ 258. Selection boards; information to be furnished boards**

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

(1) \* \* \*

\* \* \* \* \*

(b) *PROVISION OF DIRECTION AND GUIDANCE.*—

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

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

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

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

**§ 259. Officers to be recommended for promotion**

(a) A selection board convened to recommend officers for promotion shall recommend those eligible officers whom the board, *giving due consideration to the needs of the Coast Guard for officers with particular skills so noted in specific direction furnished to the board by the Secretary under section 258 of this title*, considers best qualified of the officers under consideration for promotion. No officer may be recommended for promotion unless he receives the recommendation of at least a majority of the members of a board composed of five members, or at least two-thirds of the members of a board composed of more than five members.

\* \* \* \* \*

**§ 260. Selection boards; reports**

(a) \* \* \*

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

\* \* \* \* \*

**D. Discharges; Retirements; Revocation of Commissions**

\* \* \* \* \*

**§ 290. Rear admirals and rear admirals (lower half); continuation on active duty; involuntary retirement**

(a) The Secretary shall from time to time convene boards to recommend for continuation on active duty the most senior officers on the active duty promotion list serving in the grade of rear admiral (lower half) or rear admiral who have not previously been considered for continuation in that grade. [Officers serving for the time being or who have served in the grade of vice admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued in the grade of rear admiral.] *Officers, other than the Commandant, serving for the time being or who have served in the grade of vice admiral or admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued in the grade of rear admiral.* A board shall consist of at least five officers serving in the grade of vice admiral or as rear admirals previously continued. Boards shall be convened frequently enough to assure that each officer serving in the grade of rear admiral (lower half) or rear admiral is subject to consideration for continuation during a promotion year in which that officer completes not less than four or more than five years combined service in the grades of rear admiral (lower half) and rear admiral.

\* \* \* \* \*

**[§ 293. Compulsory retirement at age of sixty-two**

[Any regular commissioned officer, except a commissioned warrant officer, who has reached the age of sixty-two shall be retired from active service.]

**§ 293. Compulsory retirement**

(a) *REGULAR COMMISSIONED OFFICERS.—Any regular commissioned officer, except a commissioned warrant officer, serving in a grade below rear admiral (lower half) shall be retired on the first day of the month following the month in which the officer becomes 62 years of age.*

(b) *FLAG-OFFICER GRADES.—(1) Except as provided in paragraph (2), any regular commissioned officer serving in a grade of rear admiral (lower half) or above shall be retired on the first day of the month following the month in which the officer becomes 64 years of age.*

(2) *The retirement of an officer under paragraph (1) may be deferred—*

*(A) by the President, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 68 years of age; or*

*(B) by the Secretary of the department in which the Coast Guard is operating, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 66 years of age.*

\* \* \* \* \*

GENERAL PROVISIONS

\* \* \* \* \*

**§ 426. Emergency leave retention authority**

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

\* \* \* \* \*

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

Sec.

461. Remission of indebtedness of enlisted members upon discharge.

\* \* \* \* \*

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

\* \* \* \* \*

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

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

\* \* \* \* \*

**CHAPTER 17—ADMINISTRATION**

\* \* \* \* \*

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

(a) \* \* \*

\* \* \* \* \*

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

- (1) it is a Coast Guard vessel or aircraft[; or];
- (2) it is a surface naval vessel or military aircraft on which one or more members of the Coast Guard are assigned pursuant to section 379 of title 10[.]; or
- (3) any other vessel or aircraft on government noncommercial service when—

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

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

**§ 638. Coast Guard ensigns and pennants**

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

\* \* \* \* \*

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**ARMED FORCES RETIREMENT HOME ACT OF 1991**

**TITLE XV—ARMED FORCES RETIREMENT HOME**

\* \* \* \* \*

**SEC. 1502. DEFINITIONS.**

For purposes of this title:

(1) \* \* \*

\* \* \* \* \*

**【(4) The term “Armed Forces” does not include the Coast Guard when it is not operating as a service in the Navy.】**

(5) The term “chief personnel officers” means—

(A) \* \* \*

\* \* \* \* \*

(C) the Deputy Chief of Staff for Personnel of the Air Force; **【and】**

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

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

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

(A) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

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**TITLE 10, UNITED STATES CODE**

\* \* \* \* \*

**Subtitle A—General Military Law**

\* \* \* \* \*

**PART IV—SERVICE, SUPPLY, AND  
PROCUREMENT**

\* \* \* \* \*

**CHAPTER 165—ACCOUNTABILITY AND RESPONSIBILITY**

\* \* \* \* \*

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

(a) DEPOSIT REQUIRED.—The Secretary of the military department concerned *or, in the case of the Coast Guard, the Commandant* shall deposit in the Armed Forces Retirement Home Trust Fund a percentage (determined under subsection (b)) of the following amounts:

(1) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

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**TITLE 37, UNITED STATES CODE**

\* \* \* \* \*

**CHAPTER 19—ADMINISTRATION**

\* \* \* \* \*

**§ 1007. Deductions from pay**

(a) \* \* \*

\* \* \* \* \*

(i)(1) \* \* \*

\* \* \* \* \*

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

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

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

\* \* \* \* \*

**SECTION 605 OF THE COAST GUARD AND MARITIME  
TRANSPORTATION ACT OF 2004**

\* \* \* \* \*

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

(a) \* \* \*

(b) STUDY AND REPORT.—

(1) IN GENERAL.—**[**The Secretary of Transportation shall conduct a study that**]** *The Institute shall conduct maritime transportation studies of the Great Lakes region, including studies that—*

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

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

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

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

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

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

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

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

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

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

(K) *identify ways to improve the integration of the Great Lakes marine transportation system into the national transportation system;*

(L) *examine the potential of expanded operations on the Great Lakes marine transportation system;*

(M) *identify ways to include intelligent transportation applications into the Great Lakes marine transportation system;*

(N) *analyze the effects and impacts of aging infrastructure and port corrosion on the Great Lakes marine transportation system;*

(O) *establish and maintain a model Great Lakes marine transportation system database; and*

*(P) identify market opportunities for, and impediments to, the use of United States-flag vessels in trade with Canada on the Great Lakes.*

\* \* \* \* \*

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

(4) AUTHORIZATION OF APPROPRIATIONS.—*There are authorized to be appropriated to carry out paragraph (1)—*  
*(A) \$2,400,000 for fiscal year 2010;*  
*(B) \$2,500,000 for fiscal year 2011;*  
*(C) \$2,600,000 for fiscal year 2012; and*  
*(D) \$2,700,000 for fiscal year 2013.*

**TITLE 46, UNITED STATES CODE**

\* \* \* \* \*

**PART A—GENERAL PROVISIONS**

**CHAPTER 21—GENERAL**

- Sec.  
 2101. General definitions.  
 \* \* \* \* \*  
 2116. *Marine safety strategy, goals, and performance assessments.*  
 2117. *Termination for unsafe operation.*  
 2118. *Establishment of equipment standards.*  
 \* \* \* \* \*

**§ 2101. General definitions**

In this subtitle—

- (1) “associated equipment”—  
 (A) \* \* \*  
 (B) *with the exception of emergency locator beacons*, does not include radio equipment.

\* \* \* \* \*

(19) “offshore supply vessel” means a motor vessel [of more than 15 gross tons but less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title] that regularly carries goods, supplies, individuals in addition to the crew, or equipment in support of exploration, exploitation, or production of offshore mineral or energy.

\* \* \* \* \*

**§ 2114. Protection of seamen against discrimination**

- (a)(1) A person may not discharge or in any manner discriminate against a seaman because—  
 (A) the seaman in good faith has reported or is about to report to the Coast Guard or other appropriate Federal agency or department that the seaman believes that a violation of a

maritime safety law or regulation prescribed under that law or regulation has occurred; **[or]**

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

(C) *the seaman testified in a proceeding brought to enforce a maritime safety law or regulation prescribed under that law;*

(D) *the seaman notified, or attempted to notify, the vessel owner or the Secretary of a work-related personal injury or work-related illness of a seaman;*

(E) *the seaman cooperated with a safety investigation by the Secretary or the National Transportation Safety Board;*

(F) *the seaman furnished information to the Secretary, the National Transportation Safety Board, or any other public official as to the facts relating to any marine casualty resulting in injury or death to an individual or damage to property occurring in connection with vessel transportation; or*

(G) *the seaman accurately reported hours of duty under this part.*

\* \* \* \* \*

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

**[**(1) restraining violations of this section;

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

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

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

*(b) A seaman alleging discharge or discrimination in violation of subsection (a) of this section, or another person at the seaman's request, may file a complaint with respect to such allegation in the same manner as a complaint may be filed under subsection (b) of section 31105 of title 49. Such complaint shall be subject to the procedures, requirements, and rights described in that section, including with respect to the right to file an objection, the right of a person to file for a petition for review under subsection (c) of that section, and the requirement to bring a civil action under subsection (d) of that section.*

\* \* \* \* \*

**§2116. Marine safety strategy, goals, and performance assessments**

*(a) LONG-TERM STRATEGY AND GOALS.—In conjunction with existing federally required strategic planning efforts, the Secretary shall develop a long-term strategy for improving vessel safety and the safety of individuals on vessels. The strategy shall include the*

issuance each year of an annual plan and schedule for achieving the following goals:

- (1) Reducing the number and rates of marine casualties.
- (2) Improving the consistency and effectiveness of vessel and operator enforcement and compliance programs.
- (3) Identifying and targeting enforcement efforts at high-risk vessels and operators.
- (4) Improving research efforts to enhance and promote vessel and operator safety and performance.

(b) CONTENTS OF STRATEGY AND ANNUAL PLANS.—

(1) MEASURABLE GOALS.—The strategy and annual plans shall include specific numeric or measurable goals designed to achieve the goals set forth in subsection (a). The purposes of the numeric or measurable goals are the following:

(A) To increase the number of safety examinations on all high-risk vessels.

(B) To eliminate the backlog of marine safety-related rulemakings.

(C) To improve the quality and effectiveness of marine safety information databases by ensuring that all Coast Guard personnel accurately and effectively report all safety, casualty, and injury information.

(D) To provide for a sufficient number of Coast Guard marine safety personnel, and provide adequate facilities and equipment to carry out the functions referred to in section 93(c).

(2) RESOURCE NEEDS.—The strategy and annual plans shall include estimates of—

(A) the funds and staff resources needed to accomplish each activity included in the strategy and plans; and

(B) the staff skills and training needed for timely and effective accomplishment of each goal.

(c) SUBMISSION WITH THE PRESIDENT'S BUDGET.—Beginning with fiscal year 2011 and each fiscal year thereafter, the Secretary shall submit to Congress the strategy and annual plan not later than 60 days following the transmission of the President's budget submission under section 1105 of title 31.

(d) ACHIEVEMENT OF GOALS.—

(1) PROGRESS ASSESSMENT.—No less frequently than semi-annually, the Coast Guard Commandant and the Assistant Commandant for Marine Safety shall jointly assess the progress of the Coast Guard toward achieving the goals set forth in subsection (b). The Commandant and the Assistant Commandant shall jointly convey their assessment to the employees of the Assistant Commandant and shall identify any deficiencies that should be remedied before the next progress assessment.

(2) REPORT TO CONGRESS.—The Secretary shall report annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(A) on the performance of the marine safety program in achieving the goals of the marine safety strategy and annual plan under subsection (a) for the year covered by the report;

- (B) on the program's mission performance in achieving numerical measurable goals established under subsection (b); and
- (C) recommendations on how to improve performance of the program.

**§2117. Termination for unsafe operation**

An individual authorized to enforce this title—

- (1) may remove a certificate required by this title from a vessel that is operating in a condition that does not comply with the provisions of the certificate;
- (2) may order the individual in charge of a vessel that is operating that does not have on board the certificate required by this title to return the vessel to a mooring and to remain there until the vessel is in compliance with this title; and
- (3) may direct the individual in charge of a vessel to which this title applies to immediately take reasonable steps necessary for the safety of individuals on board the vessel if the official observes the vessel being operated in an unsafe condition that the official believes creates an especially hazardous condition, including ordering the individual in charge to return the vessel to a mooring and to remain there until the situation creating the hazard is corrected or ended.

**§2118. Establishment of equipment standards**

- (a) In establishing standards for approved equipment required on vessels subject to part B of this title, the Secretary shall establish standards that are—
  - (1) based on performance using the best available technology that is economically achievable; and
  - (2) operationally practical.
- (b) Using the standards established under subsection (a), the Secretary may also certify lifesaving equipment that is not required to be carried on vessels subject to part B of this title to ensure that such equipment is suitable for its intended purpose.
- (c) At least once every 10 years the Secretary shall review and revise the standards established under subsection (a) to ensure that the standards meet the requirements of this section.

PART B—INSPECTION AND REGULATIONS OF VESSELS

**CHAPTER 31—GENERAL**

Sec.							
3101.	Authority to suspend inspection.						
		*	*	*	*	*	*
3104.	Survival craft.						
		*	*	*	*	*	*

**§3104. Survival craft**

(a) Except as provided in subsection (b), the Secretary may not approve a survival craft as a safety device for purposes of this part, unless the craft ensures that no part of an individual is immersed in water.

(b) *The Secretary may authorize a survival craft that does not provide protection described in subsection (a) to remain in service until not later than January 1, 2015, if—*

- (1) *it was approved by the Secretary before January 1, 2010; and*
- (2) *it is in serviceable condition.*

**CHAPTER 32—MANAGEMENT OF VESSELS**

\* \* \* \* \*

**§ 3202. Application**

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

- (1) \* \* \*

(b) **OTHER PASSENGER VESSELS.**—*This chapter applies to a vessel that is—*

- (1) *a passenger vessel or small passenger vessel; and*
- (2) *is transporting more passengers than a number prescribed by the Secretary based on the number of individuals on the vessel that could be killed or injured in a marine casualty.*

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

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

- (1) \* \* \*

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

\* \* \* \* \*

**§ 3203. Safety management system**

- (a) \* \* \*

(c) *In prescribing regulations for passenger vessels and small passenger vessels, the Secretary shall consider—*

- (1) *the characteristics, methods of operation, and nature of the service of these vessels; and*
- (2) *with respect to vessels that are ferries, the sizes of the ferry systems within which the vessels operate.*

\* \* \* \* \*

**CHAPTER 33—INSPECTION GENERALLY**

\* \* \* \* \*

**§ 3306. Regulations**

- (a) \* \* \*

\* \* \* \* \*

(k)(1) *Each vessel of the United States that is constructed under a contract entered into after the date of enactment of the Maritime Safety Act of 2009, or that is delivered after January 1, 2011, with an aggregate capacity of 600 cubic meters or more of oil fuel, shall comply with the requirements of Regulation 12A under Annex I to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, entitled “Oil Fuel Tank Protection”.*

(2) *The Secretary may prescribe regulations to apply the requirements described in Regulation 12A to vessels described in paragraph (1) that are not otherwise subject to that convention. Any such regulation shall be considered to be an interpretive rule for the purposes of section 553 of title 5.*

(3) *In this subsection the term “oil fuel” means any oil used as fuel in connection with the propulsion and auxiliary machinery of the vessel in which such oil is carried.*

\* \* \* \* \*

**§ 3309. Certificate of inspection**

(a) \* \* \*

\* \* \* \* \*

(d) *A certificate of inspection issued under this section shall be signed by the senior Coast Guard member or civilian employee who inspected the vessel, in addition to the officer in charge of marine inspection.*

\* \* \* \* \*

**CHAPTER 35—CARRIAGE OF PASSENGERS**

Sec.

3501. Number of passengers.

\* \* \* \* \*

3507. *Passenger vessel security and safety requirements.*

3508. *Crime scene preservation training for passenger vessel crew members.*

\* \* \* \* \*

**§ 3507. Passenger vessel security and safety requirements**

(a) **VESSEL DESIGN, EQUIPMENT, CONSTRUCTION, AND RETROFITTING REQUIREMENTS.—**

(1) **IN GENERAL.—***Each vessel to which this subsection applies shall comply with the following design and construction standards:*

(A) *The vessel shall be equipped with ship rails that are located not less than 42 inches above the cabin deck.*

(B) *Each passenger stateroom and crew cabin shall be equipped with entry doors that include peep holes or other means of visual identification.*

(C) *For any vessel the keel of which is laid after the date of enactment of the Cruise Vessel Security and Safety Act of 2009, each passenger stateroom and crew cabin shall be equipped with—*

- (i) *security latches; and*
- (ii) *time-sensitive key technology.*

(D) *The vessel shall integrate technology that can be used for capturing images of passengers or detecting passengers who have fallen overboard, to the extent that such technology is available.*

(E) *The vessel shall be equipped with a sufficient number of operable acoustic hailing or other such warning devices to provide communication capability around the entire vessel when operating in high risk areas (as defined by the United States Coast Guard).*

(2) **FIRE SAFETY CODES.**—*In administering the requirements of paragraph (1)(C), the Secretary shall take into consideration fire safety and other applicable emergency requirements established by the U.S. Coast Guard and under international law, as appropriate.*

(3) **EFFECTIVE DATE.**—

(A) **IN GENERAL.**—*Except as provided in subparagraph (B), the requirements of paragraph (1) shall take effect 18 months after the date of enactment of the Cruise Vessel Security and Safety Act of 2009.*

(B) **LATCH AND KEY REQUIREMENTS.**—*The requirements of paragraph (1)(C) take effect on the date of enactment of the Cruise Vessel Security and Safety Act of 2009.*

(b) **VIDEO RECORDING.**—

(1) **REQUIREMENT TO MAINTAIN SURVEILLANCE.**—*The owner of a vessel to which this section applies shall maintain a video surveillance system to assist in documenting crimes on the vessel and in providing evidence for the prosecution of such crimes, as determined by the Secretary.*

(2) **ACCESS TO VIDEO RECORDS.**—*The owner of a vessel to which this section applies shall provide to any law enforcement official performing official duties in the course and scope of an investigation, upon request, a copy of all records of video surveillance that the official believes may provide evidence of a crime reported to law enforcement officials.*

(c) **SAFETY INFORMATION.**—*The owner of a vessel to which this section applies shall provide in each passenger stateroom, and post in a location readily accessible to all crew and in other places specified by the Secretary, information regarding the locations of the United States embassy and each consulate of the United States for each country the vessel will visit during the course of the voyage.*

(d) **SEXUAL ASSAULT.**—*The owner of a vessel to which this section applies shall—*

(1) *maintain on the vessel adequate, in-date supplies of anti-retroviral medications and other medications designed to prevent sexually transmitted diseases after a sexual assault;*

(2) *maintain on the vessel equipment and materials for performing a medical examination in sexual assault cases to evaluate the patient for trauma, provide medical care, and preserve relevant medical evidence;*

(3) *make available on the vessel at all times medical staff who have undergone a credentialing process to verify that he or she—*

(A) *possesses a current physician's or registered nurse's license and—*

(i) has at least 3 years of post-graduate or post-registration clinical practice in general and emergency medicine; or

(ii) holds board certification in emergency medicine, family practice medicine, or internal medicine;

(B) is able to provide assistance in the event of an alleged sexual assault, has received training in conducting forensic sexual assault examination, and is able to promptly perform such an examination upon request and provide proper medical treatment of a victim, including administration of anti-retroviral medications and other medications that may prevent the transmission of human immunodeficiency virus and other sexually transmitted diseases; and

(C) meets guidelines established by the American College of Emergency Physicians relating to the treatment and care of victims of sexual assault;

(4) prepare, provide to the patient, and maintain written documentation of the findings of such examination that is signed by the patient; and

(5) provide the patient free and immediate access to—

(A) contact information for local law enforcement, the Federal Bureau of Investigation, the United States Coast Guard, the nearest United States consulate or embassy, and the National Sexual Assault Hotline program or other third party victim advocacy hotline service; and

(B) a private telephone line and Internet-accessible computer terminal by which the individual may confidentially access law enforcement officials, an attorney, and the information and support services available through the National Sexual Assault Hotline program or other third party victim advocacy hotline service.

(e) **CONFIDENTIALITY OF SEXUAL ASSAULT EXAMINATION AND SUPPORT INFORMATION.**—The master or other individual in charge of a vessel to which this section applies shall—

(1) treat all information concerning an examination under subsection (d) confidential, so that no medical information may be released to the cruise line or other owner of the vessel or any legal representative thereof without the prior knowledge and approval in writing of the patient, or, if the patient is unable to provide written authorization, the patient's next-of-kin, except that nothing in this paragraph prohibits the release of—

(A) information, other than medical findings, necessary for the owner or master of the vessel to comply with the provisions of subsection (g) or other applicable incident reporting laws;

(B) information to secure the safety of passengers or crew on board the vessel; or

(C) any information to law enforcement officials performing official duties in the course and scope of an investigation; and

(2) treat any information derived from, or obtained in connection with, post-assault counseling or other supportive services confidential, so no such information may be released to the cruise line or any legal representative thereof without the prior knowledge and approval in writing of the patient, or, if the pa-

*tient is unable to provide written authorization, the patient's next-of-kin.*

(f) *CREW ACCESS TO PASSENGER STATEROOMS.—The owner of a vessel to which this section applies shall—*

(1) *establish and implement procedures and restrictions concerning—*

(A) *which crew members have access to passenger staterooms; and*

(B) *the periods during which they have that access; and*  
 (2) *ensure that the procedures and restrictions are fully and properly implemented and periodically reviewed.*

(g) *LOG BOOK AND REPORTING REQUIREMENTS.—*

(1) *IN GENERAL.—The owner of a vessel to which this section applies shall—*

(A) *record in a log book, either electronically or otherwise, in a centralized location readily accessible to law enforcement personnel, a report on—*

(i) *all complaints of crimes described in paragraph (3)(A)(i),*

(ii) *all complaints of theft of property valued in excess of \$1,000, and*

(iii) *all complaints of other crimes, committed on any voyage that embarks or disembarks passengers in the United States; and*

(B) *make such log book available upon request to any agent of the Federal Bureau of Investigation, any member of the United States Coast Guard, and any law enforcement officer performing official duties in the course and scope of an investigation.*

(2) *DETAILS REQUIRED.—The information recorded under paragraph (1) shall include, at a minimum—*

(A) *the vessel operator;*

(B) *the name of the cruise line;*

(C) *the flag under which the vessel was operating at the time the reported incident occurred;*

(D) *the age and gender of the victim and the accused assailant;*

(E) *the nature of the alleged crime or complaint, as applicable, including whether the alleged perpetrator was a passenger or a crew member;*

(F) *the vessel's position at the time of the incident, if known, or the position of the vessel at the time of the initial report;*

(G) *the time, date, and method of the initial report and the law enforcement authority to which the initial report was made;*

(H) *the time and date the incident occurred, if known;*

(I) *the total number of passengers and the total number of crew members on the voyage; and*

(J) *the case number or other identifier provided by the law enforcement authority to which the initial report was made.*

(3) *REQUIREMENT TO REPORT CRIMES AND OTHER INFORMATION.—*

(A) *IN GENERAL.*—The owner of a vessel to which this section applies (or the owner's designee)—

(i) shall contact the nearest Federal Bureau of Investigation Field Office or Legal Attache by telephone as soon as possible after the occurrence on board the vessel of an incident involving homicide, suspicious death, a missing United States national, kidnapping, assault with serious bodily injury, any offense to which section 2241, 2242, 2243, or 2244 (a) or (c) of title 18 applies, firing or tampering with the vessel, or theft of money or property in excess of \$10,000 to report the incident;

(ii) shall furnish a written report of the incident to the Secretary via an Internet based portal;

(iii) may report any serious incident that does not meet the reporting requirements of clause (i) and that does not require immediate attention by the Federal Bureau of Investigation via the Internet based portal maintained by the Secretary of Transportation; and

(iv) may report any other criminal incident involving passengers or crew members, or both, to the proper State or local government law enforcement authority.

(B) *INCIDENTS TO WHICH SUBPARAGRAPH (A) APPLIES.*—Subparagraph (A) applies to an incident involving criminal activity if—

(i) the vessel, regardless of registry, is owned, in whole or in part, by a United States person, regardless of the nationality of the victim or perpetrator, and the incident occurs when the vessel is within the admiralty and maritime jurisdiction of the United States and outside the jurisdiction of any State;

(ii) the incident concerns an offense by or against a United States national committed outside the jurisdiction of any nation;

(iii) the incident occurs in the Territorial Sea of the United States, regardless of the nationality of the vessel, the victim, or the perpetrator; or

(iv) the incident concerns a victim or perpetrator who is a United States national on a vessel during a voyage that departed from or will arrive at a United States port.

(4) *AVAILABILITY OF INCIDENT DATA VIA INTERNET.*—

(A) *WEBSITE.*—The Secretary of Transportation shall maintain a statistical compilation of all incidents described in paragraph (3)(A)(i) on an Internet site that provides a numerical accounting of the missing persons and alleged crimes recorded in each report filed under paragraph (3)(A)(i) that are no longer under investigation by the Federal Bureau of Investigation. The data shall be updated no less frequently than quarterly, aggregated by—

(i) cruise line, with each cruise line identified by name; and

(ii) whether each crime was committed by a passenger or a crew member.

(B) *ACCESS TO WEBSITE.*—Each cruise line taking on or discharging passengers in the United States shall include

a link on its Internet website to the website maintained by the Secretary under subparagraph (A).

(h) **ENFORCEMENT.**—

(1) **PENALTIES.**—

(A) **CIVIL PENALTY.**—Any person that violates this section or a regulation under this section shall be liable for a civil penalty of not more than \$25,000 for each day during which the violation continues, except that the maximum penalty for a continuing violation is \$50,000.

(B) **CRIMINAL PENALTY.**—Any person that willfully violates this section or a regulation under this section shall be fined not more than \$250,000 or imprisoned not more than 1 year, or both.

(2) **DENIAL OF ENTRY.**—The Secretary may deny entry into the United States to a vessel to which this section applies if the owner of the vessel—

(A) commits an act or omission for which a penalty may be imposed under this subsection; or

(B) fails to pay a penalty imposed on the owner under this subsection.

(i) **PROCEDURES.**—Within 6 months after the date of enactment of the Cruise Vessel Security and Safety Act of 2009, the Secretary shall issue guidelines, training curricula, and inspection and certification procedures necessary to carry out the requirements of this section.

(j) **REGULATIONS.**—The Secretary of Transportation and the Commandant shall each issue such regulations as are necessary to implement this section.

(k) **APPLICATION.**—

(1) **IN GENERAL.**—This section and section 3508 apply to a passenger vessel (as defined in section 2101(22)) that—

(A) is authorized to carry at least 250 passengers;

(B) has onboard sleeping facilities for each passenger;

(C) is on a voyage that embarks or disembarks passengers in the United States; and

(D) is not engaged on a coastwise voyage.

(2) **FEDERAL AND STATE VESSELS.**—This section and section 3508 do not apply to a vessel that is owned and operated by the United States Government or a vessel that is owned and operated by a State.

(l) **OWNER DEFINED.**—In this section and section 3508, the term “owner” means the owner, charterer, managing operator, master, or other individual in charge of a vessel.

**§ 3508. Crime scene preservation training for passenger vessel crew members**

(a) **IN GENERAL.**—Within 1 year after the date of enactment of the Cruise Vessel Security and Safety Act of 2009, the Secretary, in consultation with the Director of the Federal Bureau of Investigation and the Maritime Administrator, shall develop training standards and curricula to allow for the certification of passenger vessel security personnel, crew members, and law enforcement officials on the appropriate methods for prevention, detection, evidence preservation, and reporting of criminal activities in the international maritime environment. The Administrator of the Maritime Administration

may certify organizations in the United States and abroad that offer the curriculum for training and certification under subsection (c).

(b) *MINIMUM STANDARDS.*—The standards established by the Secretary under subsection (a) shall include—

(1) the training and certification of vessel security personnel, crew members, and law enforcement officials in accordance with accepted law enforcement and security guidelines, policies, and procedures, including recommendations for incorporating a background check process for personnel trained and certified in foreign countries;

(2) the training of students and instructors in all aspects of prevention, detection, evidence preservation, and reporting of criminal activities in the international maritime environment; and

(3) the provision or recognition of off-site training and certification courses in the United States and foreign countries to develop and provide the required training and certification described in subsection (a) and to enhance security awareness and security practices related to the preservation of evidence in response to crimes on board passenger vessels.

(c) *CERTIFICATION REQUIREMENT.*—Beginning 2 years after the standards are established under subsection (b), no vessel to which this section applies may enter a United States port on a voyage (or voyage segment) on which a United States citizen is a passenger unless there is at least 1 crew member onboard who is certified as having successfully completed training in the prevention, detection, evidence preservation, and reporting of criminal activities in the international maritime environment on passenger vessels under subsection (a).

(d) *INTERIM TRAINING REQUIREMENT.*—No vessel to which this section applies may enter a United States port on a voyage (or voyage segment) on which a United States citizen is a passenger unless there is at least 1 crew member onboard who has been properly trained in the prevention, detection, evidence preservation and the reporting requirements of criminal activities in the international maritime environment. The owner of such a vessel shall maintain certification or other documentation, as prescribed by the Secretary, verifying the training of such individual and provide such documentation upon request for inspection in connection with enforcement of the provisions of this section. This subsection shall take effect 1 year after the date of enactment of the Cruise Vessel Safety and Security Act of 2009 and shall remain in effect until superseded by the requirements of subsection (c).

(e) *CIVIL PENALTY.*—Any person that violates this section or a regulation under this section shall be liable for a civil penalty of not more than \$50,000.

(f) *DENIAL OF ENTRY.*—The Secretary may deny entry into the United States to a vessel to which this section applies if the owner of the vessel—

(1) commits an act or omission for which a penalty may be imposed under subsection (e); or

(2) fails to pay a penalty imposed on the owner under subsection (e).

\* \* \* \* \*

CHAPTER 41—UNINSPECTED VESSELS GENERALLY

\* \* \* \* \*

§ 4102. Safety equipment

(a) \* \* \*

[(b) Each uninspected vessel propelled by machinery shall carry at least one readily accessible life preserver or other lifesaving device, of the type prescribed by regulation, for each individual on board.]

(b) The Secretary shall prescribe regulations requiring the installation, maintenance, and use of life preservers and other lifesaving devices for individuals on board uninspected vessels.

\* \* \* \* \*

CHAPTER 45—UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

Sec.

4501. Application.

\* \* \* \* \*

[4503. Fish processing vessel certification.]

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

\* \* \* \* \*

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

4508. Commercial Fishing Safety Advisory Committee.

\* \* \* \* \*

§ 4502. Safety standards

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

(1) \* \* \*

\* \* \* \* \*

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

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

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

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

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

(A) operate beyond [the Boundary Line] 3 nautical miles from the baseline from which the territorial sea of the United

*States is measured or beyond 3 nautical miles from the coastline of the Great Lakes;*

\* \* \* \* \*

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

(A) \* \* \*

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

\* \* \* \* \*

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

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

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

**[(G) other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment.]**

*(G) ground tackle sufficient for the vessel.*

\* \* \* \* \*

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

**[(1) a fish processing vessel; and**

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

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

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

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

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

*(2) The training program shall—*

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

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

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

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

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

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

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

- (1) subsection (b) of this section applies to the vessel;*
- (2) the vessel is less than 50 feet overall in length; and*
- (3) the vessel is built after January 1, 2010.*

(i)(1) *The Secretary shall establish a Fishing Safety Training Grants Program to provide funding to municipalities, port authorities, other appropriate public entities, not-for-profit organizations, and other qualified persons that provide commercial fishing safety training—*

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

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

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

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

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

(4) *There is authorized to be appropriated \$3,000,000 for each of fiscal years 2010 through 2014 for grants under this subsection.*

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

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

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

(4) *There is authorized to be appropriated \$3,000,000 for each fiscal year 2010 through 2014 for activities under this subsection.*

**[§ 4503. Fish processing vessel certification]**

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

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

(1) \* \* \*

\* \* \* \* \*

(c) *This section applies to a vessel to which section 4502(b) of this title applies that is at least 50 feet overall in length and—*

*(1) is built after July 1, 2010; or*

*(2) undergoes a major conversion completed after that date.*

*(d)(1) After January 1, 2020, a fishing vessel, fish processing vessel, or fish tender vessel to which section 4502(b) of this title applies shall comply with an alternate safety compliance program that is developed in cooperation with the commercial fishing industry and prescribed by the Secretary, if the vessel—*

*(A) is at least 50 feet overall in length;*

*(B) is built before July 1, 2010; and*

*(C) is 25 years of age or older.*

*(2) Alternative safety compliance programs may be developed for purposes of paragraph (1) for specific regions and fisheries.*

*(3) A fishing vessel, fish processing vessel, or fish tender vessel to which section 4502(b) of this title applies that was classed before July 1, 2010, shall—*

*(A) remain subject to the requirements of a classification society approved by the Secretary; and*

*(B) have on board a certificate from that society.*

\* \* \* \* \*

**§ 4506. Exemptions**

(a) \* \* \*

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

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

**[(2) is operating—**

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

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

\* \* \* \* \*

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

**§ 4508. Commercial Fishing Safety Advisory Committee**

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

(1) \* \* \*

\* \* \* \* \*

(b)(1) The Committee shall consist of **[seventeen]** *eighteen* members with particular expertise, knowledge, and experience regarding the commercial fishing industry as follows:

(A) ten members **[from the commercial fishing industry who—]** *who shall represent the commercial fishing industry and who—*

(i) \* \* \*

(ii) have experience in the operation of vessels to which this chapter applies or as a crew member or processing line worker on **[an uninspected]** *a fish processing vessel;*

**[(B) three members from the general public, including, whenever possible, an independent expert or consultant in maritime safety and a member of a national organization composed of persons representing owners of vessels to which this chapter applies and persons representing the marine insurance industry;]**

*(B) three members who shall represent the general public, including, whenever possible—*

*(i) an independent expert or consultant in maritime safety;*

*(ii) a marine surveyor who provides services to vessels to which this chapter applies; and*

*(iii) a person familiar with issues affecting fishing communities and families of fishermen;*

**(C) one member [representing each of—]** *each of whom shall represent—*

*(i) naval architects [or marine surveyors;] and marine engineers;*

\* \* \* \* \*

*(iii) education or training professionals related to fishing vessel, fish processing vessel, or fish tender vessel safety or personnel qualifications; [and]*

*(iv) underwriters that insure vessels to which this chapter applies[.]; and*

*(v) owners of vessels to which this chapter applies.*

\* \* \* \* \*

**(e)(1)** The Federal Advisory Committee Act (5 App. U.S.C.) applies to the Committee, except that the Committee terminates on **[September 30, 2010.] September 30, 2020.**

\* \* \* \* \*

**PART C—LOAD LINES OF VESSELS**

**CHAPTER 51—LOAD LINES**

\* \* \* \* \*

**§ 5102. Application**

(a) \* \* \*

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

(1) \* \* \*

\* \* \* \* \*

**(3)** a fishing vessel, *unless the vessel is built or undergoes a major conversion completed after July 1, 2010.*

\* \* \* \* \*

PART E—MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS

CHAPTER 71—LICENSES AND CERTIFICATES OF REGISTRY

Sec.							
7101.	Issuing and classifying licenses and certificates of						
<b>[7105. Oaths.]</b>							
	*	*	*	*	*	*	*
7115.	<i>Merchant Mariner Medical Advisory Committee.</i>						
	*	*	*	*	*	*	*

**[§ 7105. Oaths**

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

**[§ 7106. Duration of licenses**

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

**[§ 7107. Duration of certificates of registry**

[A certificate of registry issued under this part is valid for 5 years and may be renewed for additional 5-year periods. However, the validity of a certificate issued to a medical doctor or professional nurse is conditioned on the continuous possession by the holder of a license as a medical doctor or registered nurse, respectively, issued by a State.]

**§ 7106. Duration of licenses**

(a) *IN GENERAL.*—A license issued under this part is valid for a 5-year period and may be renewed for additional 5-year periods; except that the validity of a license issued to a radio officer is conditioned on the continuous possession by the holder of a first-class or second-class radiotelegraph operator license issued by the Federal Communications Commission.

(b) *ADVANCE RENEWALS.*—A renewed license issued under this part may be issued up to 8 months in advance but is not effective until the date that the previously issued license expires or until the completion of any active suspension or revocation of that previously issued merchant mariner’s document, whichever is later.

**§ 7107. Duration of certificates of registry**

(a) *IN GENERAL.*—A certificate of registry issued under this part is valid for a 5-year period and may be renewed for additional 5-year periods; except that the validity of a certificate issued to a medical doctor or professional nurse is conditioned on the continuous possession by the holder of a license as a medical doctor or registered nurse, respectively, issued by a State.

(b) *ADVANCE RENEWALS.*—A renewed certificate of registry issued under this part may be issued up to 8 months in advance but is not effective until the date that the previously issued certificate of registry expires or until the completion of any active suspension or revocation of that previously issued merchant mariner's document, whichever is later.

\* \* \* \* \*

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

(a) *ESTABLISHMENT.*—

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

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

- (A) medical certification determinations for issuance of merchant mariner credentials;
- (B) medical standards and guidelines for the physical qualifications of operators of commercial vessels;
- (C) medical examiner education; and
- (D) medical research.

(b) *MEMBERSHIP.*—

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

- (A) ten who are health-care professionals with particular expertise, knowledge, or experience regarding the medical examinations of merchant mariners or occupational medicine; and
- (B) four who are professional mariners with knowledge and experience in mariner occupational requirements.

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

(c) *APPOINTMENTS; TERMS; VACANCIES.*—

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

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

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

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

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

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

**CHAPTER 73—MERCHANT MARINERS' DOCUMENTS**

Sec.

7301. General.

\* \* \* \* \*

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

\* \* \* \* \*

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

(a) \* \* \*

\* \* \* \* \*

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

(f) *PERIODS OF VALIDITY AND RENEWAL OF MERCHANT MARINERS' DOCUMENTS.*—

(1) *IN GENERAL.*—Except as provided in subsection (g), a merchant mariner's document issued under this chapter is valid for a 5-year period and may be renewed for additional 5-year periods.

(2) *ADVANCE RENEWALS.*—A renewed merchant mariner's document may be issued under this chapter up to 8 months in advance but is not effective until the date that the previously issued merchant mariner's document expires or until the completion of any active suspension or revocation of that previously issued merchant mariner's document, whichever is later.

\* \* \* \* \*

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

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

\* \* \* \* \*

**§ 7310. Able seamen—offshore supply vessels**

For service on a vessel [of less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title] engaged in support of exploration, exploitation, or production of offshore mineral or energy resources, an individual may be rated as able seaman—offshore supply vessels if the individual has at least 6 months' service on deck on

board vessels operating on the oceans or the navigable waters of the United States (including the Great Lakes).

\* \* \* \* \*

**§ 7312. Scale of employment**

(a) \* \* \*

\* \* \* \* \*

(d) Individuals qualified as able seamen—offshore supply vessels under section 7310 of this title may constitute all of the able seamen required on board a vessel [of less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title] engaged in support of exploration, exploitation, or production of offshore mineral or energy resources.

\* \* \* \* \*

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

Sec.

7501. Duplicates.

\* \* \* \* \*

7507. *Fingerprinting.*

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

\* \* \* \* \*

**§ 7502. Records**

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

(b) The Secretary may prescribe regulations requiring a vessel owner or managing operator of a commercial vessel, or the employer of a seaman on that vessel, to maintain records of each individual engaged on the vessel on matters of engagement, discharge, and service for not less than 5 years after the date of the completion of the service of that individual on the vessel. The regulations may require that a vessel owner, managing operator, or employer shall make these records available to the individual and the Coast Guard on request.

(c) A person violating this section, or a regulation prescribed under this section, is liable to the United States Government for a civil penalty of not more than \$5,000.

\* \* \* \* \*

**§ 7507. Fingerprinting**

The Secretary of the Department in which the Coast Guard is operating may not require an individual to be fingerprinted for the issuance or renewal of a license, a certificate of registry, or a merchant mariner's document under chapter 71 or 73 if the individual

was fingerprinted when the individual applied for a transportation security card under section 70105.

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

(a) *LICENSES AND CERTIFICATES OF REGISTRY.*—Notwithstanding sections 7106 and 7107, the Secretary of the department in which the Coast Guard is operating may—

(1) extend for not more than one year an expiring license or certificate of registry issued for an individual under chapter 71 if the Secretary determines that the extension is required to enable the Coast Guard to eliminate a backlog in processing applications for those licenses or certificates of registry or in response to a national emergency or natural disaster, as deemed necessary by the Secretary; or

(2) issue for not more than five years an expiring license or certificate of registry issued for an individual under chapter 71 for the exclusive purpose of aligning the expiration date of such license or certificate of registry with the expiration date of a merchant mariner's document.

(b) *MERCHANT MARINER DOCUMENTS.*—Notwithstanding section 7302(g), the Secretary may—

(1) extend for not more than one year an expiring merchant mariner's document issued for an individual under chapter 71 if the Secretary determines that the extension is required to enable the Coast Guard to eliminate a backlog in processing applications for those licenses or certificates of registry or in response to a national emergency or natural disaster, as deemed necessary by the Secretary; or

(2) issue for not more than five years an expiring merchant mariner's document issued for an individual under chapter 71 for the exclusive purpose of aligning the expiration date of such merchant mariner's document with the expiration date of a merchant mariner's document.

(c) *MANNER OF EXTENSION.*—Any extensions granted under this section may be granted to individual seamen or a specifically identified group of seamen.

PART F—MANNING OF VESSELS

\* \* \* \* \*

CHAPTER 81—GENERAL

Sec.						
8101.	Complement of inspected vessels.	*	*	*	*	*
8107.	Use of force against piracy.	*	*	*	*	*

**§ 8103. Citizenship and Navy Reserve requirements**

(a) \* \* \*  
\* \* \* \* \*

(l) *OFFICER REQUIREMENTS FOR DISTANT WATER TUNA VESSELS.*—

(1) *CITIZENSHIP.*—Notwithstanding subsection (a), a purse seine tuna fishing vessel documented under chapter 121 fishing exclusively for highly migratory species under a fishing license issued pursuant to the 1987 Treaty on Fisheries Between the Governments of Certain Pacific Islands States and the Government of the United States of America in the treaty area (as that term is used in that treaty), or transiting to or from the treaty area exclusively for such purpose, may engage an individual who is not a citizen of the United States to fill a vacancy in a position referred to in subsection (a) (except for the master) if, after timely public notice of the vacancy, no United States citizens are readily available to fill the vacancy.

(2) *RESTRICTIONS.*—

(A) *IN GENERAL.*—An individual may not be engaged under paragraph (1) unless the individual holds a valid license or certificate issued—

(i) in accordance with the standards established by the 1995 amendments to the Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 95); and

(ii) by an authority that the Secretary of the department in which the Coast Guard is operating recognizes as imposing competency and training standards equivalent to or exceeding those required for a license issued under chapter 71.

(B) *LIMITATION ON APPLICATION.*—Paragraph (1) applies only to engagement of an individual on a vessel that—

(i) is homeported in American Samoa, Guam, or the Northern Mariana Islands; and

(ii) has passed an annual commercial fishing vessel safety exam administered by a individual authorized to enforce this title.

(3) *TREATMENT OF EQUIVALENT LICENSE.*—The Secretary of the department in which the Coast Guard is operating shall treat a license held by an individual engaged under paragraph (1) that was issued by a foreign government as meeting the requirements of section 8304 with respect to that engagement, if the Secretary determines that the standards for issuing that license are equivalent to the standards that apply under that section.

**§ 8104. Watches**

(a) \* \* \*

\* \* \* \* \*

(d)(1) On a merchant vessel of more than 100 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 (except a vessel only operating on rivers, harbors, lakes (except the Great Lakes), bays, sounds, bayous, and canals, a fishing, fish tender, or whaling vessel, a fish processing vessel of not more than 5,000 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, yacht, or vessel engaged in salvage operations), the licensed individuals, sailors, coal passers,

firemen, oilers, and water tenders shall be divided, when at sea, into at least 3 watches, and shall be kept on duty successively to perform ordinary work incident to the operation and management of the vessel. The requirement of this subsection applies to radio officers only when at least 3 radio officers are employed. A licensed individual or seaman in the deck or engine department may not be required to work more than 8 hours in one day.

(2) Paragraph (1) does not apply to an offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title if the individuals engaged on the vessel are in compliance with hours of service requirements (including recording and record-keeping of that service) prescribed by the Secretary.

(e) On a vessel designated by [subsection (d)] subsection (d)(1) of this section—

(1) \* \* \*

\* \* \* \* \*

(g) On a towing vessel, an offshore supply vessel of less than 500 gross tons as measured under section 14502 of this title, or less than 6,000 gross tons as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, or a barge to which this section applies, that is engaged on a voyage of less than 600 miles, the licensed individuals and crewmembers (except the coal passers, firemen, oilers, and water tenders) may be divided, when at sea, into at least 2 watches.

\* \* \* \* \*

**§ 8107. Use of force against piracy**

*An owner, operator, time charterer, master, or mariner who uses force, or authorizes the use of force, to defend a vessel of the United States against an act of piracy shall not be liable for any injury or death caused by such force to any person participating in the act of piracy.*

**CHAPTER 83—MASTERS AND OFFICERS**

\* \* \* \* \*

**§ 8301. Minimum number of licensed individuals**

(a) \* \* \*

[(b) An offshore supply vessel on a voyage of less than 600 miles shall have a licensed mate. However, if the vessel is on a voyage of at least 600 miles, the vessel shall have 2 licensed mates. An offshore supply vessel of more than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title may not be operated without a licensed engineer.]

(b)(1) *An offshore supply vessel of less than 6,000 gross tons, as measured under section 14302 of this title, on a voyage of less than 600 miles shall have at least one licensed mate. Such a vessel on a voyage of 600 miles or more shall have two licensed mates.*

(2) *An offshore supply vessel of more than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary*

under section 14104 of this title, may not be operated without a licensed engineer.

(3) An offshore supply vessel shall have at least one mate. Additional mates on an offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title shall be prescribe in accordance with hours of service requirements (including recording and record-keeping of that service) prescribed by the Secretary.

\* \* \* \* \*

**CHAPTER 89—SMALL VESSEL MANNING**

\* \* \* \* \*

**§ 8905. Exemptions**

(a) \* \* \*

[(b) Section 8904 of this title does not apply to a vessel of less than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title engaged in the offshore mineral and oil industry if the vessel has offshore mineral and oil industry sites or equipment as its ultimate destination or place of departure.]

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

\* \* \* \* \*

**CHAPTER 93—GREAT LAKES PILOTAGE**

\* \* \* \* \*

**§ 9307. Great Lakes Pilotage Advisory Committee**

(a) \* \* \*

\* \* \* \* \*

(f)(1) The Federal Advisory Committee Act (5 U.S.C. App.) applies to the Committee, except that the Committee terminates on [September 30, 2010.] *September 30, 2020.*

\* \* \* \* \*

**CHAPTER 103—FOREIGN AND INTERCOASTAL VOYAGES**

\* \* \* \* \*

**§ 10313. Wages**

(a) \* \* \*

\* \* \* \* \*

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

(2) The total amount required to be paid under paragraph (1) with respect to all claims in a class action suit by seamen on a passenger vessel capable of carrying more than 500 passengers for wages under this section against a vessel master, owner, or operator

or the employer of the seamen shall not exceed ten times the unpaid wages that are the subject of the claims.

(3) A class action suit for wages under this subsection must be commenced within three years after the later of—

(A) the date of the end of the last voyage for which the wages are claimed; or

(B) the receipt, by a seaman who is a claimant in the suit, of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.

\* \* \* \* \*

**§ 10315. Allotments**

(a) \* \* \*

\* \* \* \* \*

(f) *DEPOSITS IN SEAMAN ACCOUNT.*—By written request signed by the seaman, a seaman employed on a passenger vessel capable of carrying more than 500 passengers may authorize the master, owner, or operator of the vessel, or the employer of the seaman, to make deposits of wages of the seaman into a checking, savings, investment, or retirement account, or other account to secure a payroll or debit card for the seaman if—

(1) the wages designated by the seaman for such deposit are deposited in a United States or international financial institution designated by the seaman;

(2) such deposits in the financial institution are fully guaranteed under commonly accepted international standards by the government of the country in which the financial institution is licensed;

(3) a written wage statement or pay stub, including an accounting of any direct deposit, is delivered to the seaman no less often than monthly; and

(4) while on board the vessel on which the seaman is employed, the seaman is able to arrange for withdrawal of all funds on deposit in the account in which the wages are deposited.

\* \* \* \* \*

**CHAPTER 105—COASTWISE VOYAGES**

\* \* \* \* \*

**§ 10504. Wages**

(a) \* \* \*

\* \* \* \* \*

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

(2) The total amount required to be paid under paragraph (1) with respect to all claims in a class action suit by seamen on a passenger vessel capable of carrying more than 500 passengers for wages under this section against a vessel master, owner, or operator

or the employer of the seamen shall not exceed ten times the unpaid wages that are the subject of the claims.

(3) A class action suit for wages under this subsection must be commenced within three years after the later of—

(A) the date of the end of the last voyage for which the wages are claimed; or

(B) the receipt, by a seaman who is a claimant in the suit, of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.

\* \* \* \* \*

(f) **DEPOSITS IN SEAMAN ACCOUNT.**—On written request signed by the seaman, a seaman employed on a passenger vessel capable of carrying more than 500 passengers may authorize, the master, owner, or operator of the vessel, or the employer of the seaman, to make deposits of wages of the seaman into a checking, savings, investment, or retirement account, or other account to secure a payroll or debit card for the seaman if—

(1) the wages designated by the seaman for such deposit are deposited in a United States or international financial institution designated by the seaman;

(2) such deposits in the financial institution are fully guaranteed under commonly accepted international standards by the government of the country in which the financial institution is licensed;

(3) a written wage statement or pay stub, including an accounting of any direct deposit, is delivered to the seaman no less often than monthly; and

(4) while on board the vessel on which the seaman is employed, the seaman is able to arrange for withdrawal of all funds on deposit in the account in which the wages are deposited.

\* \* \* \* \*

**CHAPTER 111—PROTECTION AND RELIEF**

\* \* \* \* \*

**§ 11108. Taxes**

(a) \* \* \*

(b) **LIABILITY.**—

(1) \* \* \*

(2) **APPLICATION.**—This subsection applies to an individual—

(A) \* \* \*

【(B) who performs regularly-assigned duties while engaged as a master, officer, or crewman on a vessel operating on the navigable waters of more than one State.】

(B) who performs regularly assigned duties while engaged as a master, officer, or crewman on a vessel operating on navigable waters in 2 or more States.

\* \* \* \* \*

**CHAPTER 113—OFFICIAL LOGBOOKS**

Sec.

- 11301. Logbook and entry requirements.  
\* \* \* \* \*
- 11304. *Additional logbook and entry requirements.*  
\* \* \* \* \*

**§ 11304. Additional logbook and entry requirements**

(a) *A vessel of the United States that is subject to inspection under section 3301 of this title, except a vessel on a voyage from a port in the United States to a port in Canada, shall have an official logbook, which shall be kept available for review by the Secretary on request.*

(b) *The log book required by subsection (a) shall include the following entries:*

- (1) *The time when each seaman and each officer assumed or relieved the watch.*
- (2) *The number of hours in service to the vessels of each seaman and each officer.*
- (3) *An account of each accident, illness, and injury that occurs during each watch.*

PART H—IDENTIFICATION OF VESSELS

\* \* \* \* \*

**CHAPTER 121—DOCUMENTATION OF VESSELS**

\* \* \* \* \*

**SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION**

\* \* \* \* \*

**§ 12113. Fishery endorsement**

(a) \* \* \*

\* \* \* \* \*

(d) **REQUIREMENTS BASED ON LENGTH, TONNAGE, OR HORSE-POWER.—**

(1) \* \* \*

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

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

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

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

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

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

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

\* \* \* \* \*

PART I—STATE BOATING SAFETY PROGRAMS

\* \* \* \* \*

CHAPTER 131—RECREATIONAL BOATING SAFETY

\* \* \* \* \*

§ 13110. National Boating Safety Advisory Council

(a) \* \* \*

\* \* \* \* \*

(d) [When attending meetings of the Council, a member of the Council or a panel may be paid at a rate not more than the rate for GS–18.] When serving away from home or regular place of business, the member may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5 for individuals employed intermittently in the Government service. A payment under this section does not make a member of the Council an officer or employee of the United States Government for any purpose.

(e) The Council shall terminate on [September 30, 2010.] *September 30, 2020.*

PART J—MEASUREMENT OF VESSELS

\* \* \* \* \*

CHAPTER 141—GENERAL

§ 14101. Definitions

In this part—

(1) \* \* \*

\* \* \* \* \*

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

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

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

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

(D) [making] *that makes* a voyage between a place within a territory or possession of the United States and an

other place under the jurisdiction of the United States not within that territory or possession.

\* \* \* \* \*

**§ 14103. Delegation of authority**

(a) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

**CHAPTER 143—CONVENTION MEASUREMENT**

Sec.

14301. Application.

\* \* \* \* \*

[14303. International Tonnage Certificate (1969).]

14303. *Tonnage Certificate.*

\* \* \* \* \*

**§ 14301. Application**

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

[(1) a documented vessel.

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

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

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

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

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

\* \* \* \* \*

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

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

(A) \* \* \*

\* \* \* \* \*

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

[(A) the owner requests; or

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

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

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

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

[(d) After July 18, 1994, an existing vessel (except an existing vessel referred to in subsection (b)(5)(A) or (B) of this section)] *(c) An existing vessel that has not undergone a change that the Secretary finds substantially affects the vessel's gross tonnage (or a vessel to which IMO Resolutions A.494 (XII) of November 19, 1981, A.540 (XIII) of November 17, 1983, or A.541 (XIII) of November 17, 1983, apply) may retain its tonnages existing on July 18, 1994, for the application of relevant requirements under international agreements (except the Convention) and other laws of the United States. However, if the vessel undergoes a change substantially affecting its tonnage after July 18, 1994, the vessel shall be remeasured under this chapter.*

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

**§ 14302. Measurement**

(a) \* \* \*

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

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

\* \* \* \* \*

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

(a) After measuring a vessel under this chapter, the Secretary shall issue, on request of the owner, an International Tonnage Certificate (1969) and deliver it to the owner or master of the vessel. *For a vessel to which the Convention does not apply, the Secretary shall prescribe a certificate to be issued as evidence of a vessel's measurement under this chapter.*

(b) The certificate issued under this section shall be maintained as required by the Secretary.

\* \* \* \* \*

**§ 14305. Optional regulatory measurement**

(a) On request of the owner of a [documented vessel measured under this chapter,] *vessel measured under this chapter that is of United States registry or nationality, or a vessel operated under the authority of the United States,* the Secretary also shall measure the

vessel under chapter 145 of this title. The tonnages determined under that chapter shall be used in applying—

(1) \* \* \*

\* \* \* \* \*

**CHAPTER 145—REGULATORY MEASUREMENT**

SUBCHAPTER I—GENERAL

Sec.  
14501. Application.

\* \* \* \* \*

SUBCHAPTER II—FORMAL SYSTEMS

\* \* \* \* \*  
14514. *Reciprocity for foreign vessels.*

\* \* \* \* \*

SUBCHAPTER I—GENERAL

**§ 14501. Application**

This chapter applies to the following:

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

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

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

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

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

\* \* \* \* \*

**§ 14503. Certificate of measurement**

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

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

\* \* \* \* \*

SUBCHAPTER II—FORMAL SYSTEMS

\* \* \* \* \*

**§ 14513. Dual tonnage measurement**

(a) \* \* \*

\* \* \* \* \*

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

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

**§ 14514. Reciprocity for foreign vessels**

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

\* \* \* \* \*

**PART F—GOVERNMENT-OWNED MERCHANT VESSELS**

\* \* \* \* \*

**CHAPTER 571—GENERAL AUTHORITY**

Sec.

57101. Placement of vessels in National Defense Reserve Fleet.

\* \* \* \* \*

51705. *Maritime career training loan program.*

51706. *Maritime recruitment, training, and retention grant program.*

\* \* \* \* \*

**§ 51705. Maritime career training loan program**

(a) *ESTABLISHMENT.—The Secretary of Transportation shall establish a maritime career training loan program (in this section referred to as the “program”) in accordance with the requirements of this section.*

(b) *PURPOSE.—The purpose of the program shall be to make maritime career training loans available to eligible students to provide for the training of United States mariners.*

(c) *ADMINISTRATION.—The program shall be carried out by the Secretary, acting through the Administrator of the Maritime Administration.*

(d) *DUTIES.—The Secretary shall—*

*(1) allocate, on an annual basis, the award of loans under the program based on the needs of students;*

*(2) develop an application process and eligibility criteria for the award of loans under the program;*

*(3) approve applications for loans under the program based on the eligibility criteria and allocations made under paragraph (1); and*

*(4) designate maritime training institutions at which loans made under the program may be used.*

(e) *DESIGNATION OF MARITIME TRAINING INSTITUTIONS.—*

*(1) IN GENERAL.—In designating maritime training institutions under subsection (d)(4), the Secretary—*

*(A) may include Federal, State, and commercial training institutions and nonprofit training organizations, except that undergraduate students at the United States Merchant*

*Marine Academy shall not be eligible for loans under the program;*

*(B) shall designate institutions based on geographic diversity and scope of classes offered;*

*(C) shall ensure that designated institutions have the ability to administer the program; and*

*(D) shall ensure that designated institutions meet requirements to provide training instruction for appropriate Coast Guard-approved training instruction.*

**(2) EXCLUSIONS.—The Secretary—**

*(A) may exclude from participation in the program a maritime training institution that has had severe performance deficiencies, including deficiencies demonstrated by audits or program reviews conducted during the 5 calendar years immediately preceding the present year;*

*(B) shall exclude from participation in the program a maritime training institution that has delinquent or outstanding debts to the United States, unless such debts are being repaid under or in accordance with a repayment arrangement satisfactory to the United States, or the Secretary in the Secretary's discretion determines that the existence or amount of any such debts has not been finally determined by the appropriate Federal agency;*

*(C) may exclude from participation in the program a maritime training institution that has failed to comply with quality standards established by the Department of Labor, the Coast Guard, or a State; and*

*(D) may establish such other criteria as the Secretary determines will protect the financial interest of the United States and promote the purposes of this section.*

**(f) STATE MARITIME ACADEMIES.—**

**(1) USE OF FUNDS FOR LOANS TO STUDENTS ATTENDING STATE MARITIME ACADEMIES.—***The Secretary may obligate not more than 50 percent of the amounts appropriated to carry out this section for a fiscal year for loans to undergraduate students attending State maritime academies receiving assistance under chapter 515 of this title.*

**(2) ACADEMIC STANDARDS FOR STUDENTS.—***Students at State maritime academies receiving loans under the program shall maintain satisfactory progress toward the completion of their course of study as evidenced by the maintenance of a cumulative C average, or its equivalent, or academic standing consistent with the requirements for graduation, as determined by the institution.*

**(g) LOAN AMOUNTS AND USE.—**

**(1) MAXIMUM AMOUNTS.—***The Secretary may not make loans to a student under the program in an amount that exceeds \$15,000 in a calendar year or \$60,000 in the aggregate.*

**(2) USE OF LOAN PROCEEDS.—***A student who receives a loan under the program may use the proceeds of the loan only for postsecondary expenses incurred at an institution designated by the Secretary under subsection (d)(4) for books, tuition, required fees, travel to and from training facilities, and room and board.*

**(h) STUDENT ELIGIBILITY.—***To be eligible to receive a loan under the program, a student shall—*

(1) be eligible to hold a license or merchant mariner document issued by the Coast Guard;

(2) provide to the Secretary such information as the Secretary may require, including all current Coast Guard documents, certifications, proof of United States citizenship or permanent legal status, and a statement of intent to enter a maritime career;

(3) meet the enrollment requirements of a maritime training institution designated by the Secretary under subsection (d)(4); and

(4) sign an agreement to—

(A) complete a course of instruction at such a maritime training institution; and

(B)(i) maintain a license and serve as an officer in the merchant marine on a documented vessel or a vessel owned and operated by the United States for at least 18 months of service at sea following the date of graduation from the maritime program for which the loan proceeds will be used; or

(ii) serve as an unlicensed merchant mariner on a documented vessel or a vessel owned and operated by the United States for at least 18 months of service at sea following the date of graduation from the maritime program for which the loan proceeds will be used.

(i) ADMINISTRATION OF LOANS.—

(1) CONTENTS OF LOAN AGREEMENTS.—Any agreement between the Secretary and a student borrower for a loan under the program shall—

(A) be evidenced by a note or other written instrument that provides for the repayment of the principal amount of the loan and any origination fee, together with interest thereon, in equal installments (or, if the student borrower so requests, in graduated periodic installments determined in accordance with such schedules as may be approved by the Secretary) payable quarterly, bimonthly, or monthly, at the option of the student borrower, over a period beginning 9 months from the date on which the student borrower completes study or discontinues attendance at the maritime program for which the loans are used at the institution approved by the Secretary and not exceeding 10 years;

(B) include provision for acceleration of repayment of the whole, or any part, of such loan, at the option of the student borrower;

(C) provide the loan without security and without endorsement;

(D) provide that the liability to repay the loan shall be canceled upon the death of the student borrower, or if the student borrower becomes permanently and totally disabled, as determined in accordance with regulations to be issued by the Secretary;

(E) contain a notice of the system of disclosure of information concerning default on such loan to credit bureau organizations; and

(F) include provisions for deferral of repayment, as determined by the Secretary.

(2) *RATE OF INTEREST.*—A student borrower who receives a loan under the program on or after January 1, 2010, and before October 1, 2015, shall be obligated to repay the loan amount to the Secretary, together with interest beginning in the period referred to in paragraph (1)(A), at a rate to be determined as follows:

(A) For a loan for which the first disbursement is made on or after January 1, 2010, and before October 1, 2011, 5.6 percent on the unpaid principal balance of the loan.

(B) For a loan for which the first disbursement is made on or after October 1, 2011, and before October 1, 2012, 4.5 percent on the unpaid principal balance of the loan.

(C) For a loan for which the first disbursement is made on or after October 1, 2012, 3.4 percent on the unpaid principal balance of the loan.

(3) *DISCLOSURE REQUIRED PRIOR TO DISBURSEMENT.*—

(A) *IN GENERAL.*—The Secretary shall at or prior to the time the Secretary makes a loan to a student borrower under the program, provide thorough and adequate loan information on such loan to the student borrower. The disclosures required by this paragraph may be made as part of the written application material provided to the student borrower, as part of the promissory note evidencing the loan, or on a separate written form provided to the student borrower.

(B) *CONTENTS.*—The disclosures shall include—

(i) the address to which communications and payments should be sent;

(ii) the principal amount of the loan;

(iii) the amount of any charges collected at or prior to the disbursement of the loan and whether such charges are to be deducted from the proceeds of the loan or paid separately by the student borrower;

(iv) the stated interest rate on the loan;

(v) the yearly and cumulative maximum amounts that may be borrowed;

(vi) an explanation of when repayment of the loan will be required and when the student borrower will be obligated to pay interest that accrues on the loan;

(vii) a statement as to the minimum and maximum repayment term that the Secretary may impose, and the minimum monthly payment required by law and a description of any penalty imposed as a consequence of default, such as liability for expenses reasonably incurred in attempts by the Secretary to collect on a loan;

(viii) a statement of the total cumulative balance, including the loan applied for, owed by the student borrower to the Secretary, and an estimate of the projected monthly payment, given such cumulative balance;

(ix) an explanation of any special options the student borrower may have for loan consolidation or other refinancing of the loan;

(x) a statement that the student borrower has the right to prepay all or part of the loan, at any time, without penalty;

(xi) a statement summarizing circumstances in which repayment of the loan or interest that accrues on the loan may be deferred, and a brief notice of the program for repayment of loans, on the basis of military service, pursuant to the Department of Defense educational loan repayment program (10 U.S.C. 16302);

(xii) a definition of default and the consequences to the student borrower if the student borrower defaults, together with a statement that the disbursement of, and the default on, a loan under this part shall be reported to a credit bureau or credit reporting agency;

(xiii) to the extent practicable, the effect of accepting the loan on the eligibility of the student borrower for other forms of student assistance; and

(xiv) an explanation of any cost the student borrower may incur in the making or collection of the loan.

(C) INFORMATION TO BE PROVIDED WITHOUT COST.—The information provided under this paragraph shall be available to the Secretary without cost to the student borrower.

(4) REPAYMENT AFTER DEFAULT.—The Secretary may require any student borrower who has defaulted on a loan made under the program to—

(A) pay all reasonable collection costs associated with such loan; and

(B) repay the loan pursuant to an income contingent repayment plan.

(5) AUTHORIZATION TO REDUCE RATES AND FEES.—Notwithstanding any other provision of this section, the Secretary may prescribe by regulation any reductions in the interest rate or origination fee paid by a student borrower of a loan made under the program as the Secretary determines appropriate to encourage ontime repayment of the loan. Such reductions may be offered only if the Secretary determines the reductions are cost neutral and in the best financial interest of the United States.

(6) COLLECTION OF REPAYMENTS.—The Secretary shall collect repayments made under the program and exercise due diligence in such collection, including maintenance of all necessary records to ensure that maximum repayments are made. Collection and servicing of repayments under the program shall be pursued to the full extent of the law, including wage garnishment if necessary. The Secretary of the Department in which the Coast Guard is operating shall provide the Secretary of Transportation with any information regarding a mariner that may aid in the collection of repayments under this section.

(7) REPAYMENT SCHEDULE.—A student borrower who receives a loan under the program shall repay the loan quarterly, bi-monthly, or monthly, at the option of the student borrower, over a period beginning 9 months from the date the student borrower completes study or discontinues attendance at the maritime program for which the loan proceeds are used and ending not more than 10 years after the date repayment begins. Provisions for deferral of repayment shall be determined by the Secretary.

(8) *CONTRACTS FOR SERVICING AND COLLECTION OF LOANS.*—  
The Secretary may—

(A) enter into a contract or other arrangement with State or nonprofit agencies and, on a competitive basis, with collection agencies for servicing and collection of loans under this section; and

(B) conduct litigation necessary to carry out this section.

(j) *REVOLVING LOAN FUND.*—

(1) *ESTABLISHMENT.*—The Secretary shall establish a revolving loan fund consisting of amounts deposited in the fund under paragraph (2).

(2) *DEPOSITS.*—The Secretary shall deposit in the fund—

(A) receipts from the payment of principal and interest on loans made under the program; and

(B) any other monies paid to the Secretary by or on behalf of individuals under the program.

(3) *AVAILABILITY OF AMOUNTS.*—Amounts in the fund shall be available to the Secretary, without further appropriation—

(A) to cover the administrative costs of the program, including the maintenance of records and making collections under this section; and

(B) to the extent that amounts remain available after paying such administrative costs, to make loans under the program.

(4) *MAINTENANCE OF RECORDS.*—The Secretary shall maintain accurate records of the administrative costs referred to in paragraph (3)(A).

(k) *ANNUAL REPORT.*—The Secretary, on an annual basis, shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the program, including—

(1) the total amount of loans made under the program in the preceding year;

(2) the number of students receiving loans under the program in the preceding year; and

(3) the total amount of loans made under program that are in default as of the date of the report.

(l) *AUTHORIZATION OF APPROPRIATIONS.*—There are authorized to be appropriated for each of fiscal years 2010 through 2015—

(1) \$10,000,000 for making loans under the program; and

(2) \$1,000,000 for administrative expenses of the Secretary in carrying out the program.

**§51706. Maritime recruitment, training, and retention grant program**

(a) *STRATEGIC PLAN.*—

(1) *IN GENERAL.*—Not later than one year after the date of enactment of this section, and at least once every 3 years thereafter, the Secretary of Transportation, acting through the Administrator of the Maritime Administration, shall publish in the Federal Register a plan that describes the demonstration, research, and multistate project priorities of the Department of Transportation concerning merchant mariner recruitment,

training, and retention for the 3-year period following the date of publication of the plan.

(2) *CONTENTS.*—A plan published under paragraph (1) shall contain strategies and identify potential projects to address merchant mariner recruitment, training, and retention issues in the United States.

(3) *FACTORS.*—In developing a plan under paragraph (1), the Secretary shall take into account, at a minimum—

(A) the availability of existing research (as of the date of publication of the plan);

(B) the need to ensure results that have broad applicability;

(C) the benefits of economies of scale and the efficiency of potential projects; and

(D) the likelihood that the results of potential projects will be useful to policymakers and stakeholders in addressing merchant mariner recruitment, training, and retention issues.

(4) *CONSULTATION.*—In developing a plan under paragraph (1), the Secretary shall consult with representatives of the maritime industry, labor organizations, and other governmental entities and parties with an interest in the maritime industry.

(5) *TRANSMITTAL TO CONGRESS.*—The Secretary shall transmit copies of a plan published under paragraph (1) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(b) *DEMONSTRATION PROJECTS.*—

(1) *IN GENERAL.*—The Secretary may award grants to a maritime training institution to carry out demonstration projects that implement the priorities identified in the plan prepared under subsection (a)(1), for the purpose of developing and implementing methods to address merchant mariner recruitment, training, and retention issues.

(2) *GRANT AWARDS.*—Grants shall be awarded under this subsection on a competitive basis under guidelines and requirements to be established by the Secretary.

(3) *APPLICATIONS.*—To be eligible to receive a grant for a project under this subsection, a maritime training institution shall submit to the Secretary a grant proposal that includes, at a minimum—

(A) information demonstrating the estimated effectiveness of the project; and

(B) a method for evaluating the effectiveness of the project.

(4) *ELIGIBLE PROJECTS.*—Projects eligible for grants under this subsection may include—

(A) the establishment of maritime technology skill centers developed through local partnerships of industry, labor, education, community-based organizations, economic development organizations, or Federal, State, and local government agencies to meet unmet skills needs of the maritime industry;

(B) projects that provide training to upgrade the skills of workers who are employed in the maritime industry;

(C) projects that promote the use of distance learning, enabling students to take courses through the use of media technology, such as videos, teleconferencing, and the Internet;

(D) projects that assist in providing services to address maritime recruitment and training of youth residing in targeted high poverty areas within empowerment zones and enterprise communities;

(E) the establishment of partnerships with national and regional organizations with special expertise in developing, organizing, and administering merchant mariner recruitment and training services; and

(F) the establishment of maritime training programs that foster technical skills and operational productivity in communities in which economies are related to or dependent upon the maritime industry.

(c) PROJECTS AUTHORIZED.—

(1) PROJECTS.—The Secretary may award grants to carry out projects identified in a plan published under subsection (a)(1) under which the project sponsor will—

(A) design, develop, and test an array of approaches to providing recruitment, training, or retention services to one or more targeted populations;

(B) in conjunction with employers, organized labor, other groups (such as community coalitions), and Federal, State, or local agencies, design, develop, and test various training approaches in order to determine effective practices; or

(C) assist in the development and replication of effective service delivery strategies for the national maritime industry as a whole.

(2) RESEARCH PROJECTS.—The Secretary may award grants to carry out research projects identified in a plan published under subsection (a)(1) that will contribute to the solution of maritime industry recruitment, training, and retention issues in the United States.

(3) MULTISTATE OR REGIONAL PROJECTS.—The Secretary may award grants to carry out multistate or regional projects identified in a plan published under subsection (a)(1) to effectively disseminate best practices and models for implementing maritime recruitment, training, and retention services designed to address industry-wide skill shortages.

(4) GRANT AWARDS.—Grants shall be awarded under this subsection on a competitive basis under guidelines and requirements to be established by the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of fiscal years 2010 through 2015—

(1) \$10,000,000 for making grants under this section; and

(2) \$1,000,000 for administrative expenses of the Secretary in carrying out this section.

\* \* \* \* \*

**Subtitle VII—Security and Drug Enforcement**

\* \* \* \* \*

**CHAPTER 701—PORT SECURITY**

Sec.

70101. Definitions.

**【70110. Actions and assistance for foreign ports and United States territories.】**

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

\* \* \* \* \*

**【70118. Enforcement by State and local officers.】**

\* \* \* \* \*

**§ 70105. Transportation security cards**

(a) \* \* \*

(b) ISSUANCE OF CARDS.—(1) \* \* \*

(2) This subsection applies to—

(A) \* \* \*

(B) an individual issued a license, certificate of registry, or merchant mariners document under part E of subtitle II of this title *allowed unescorted access to a secure area designated in a vessel security plan approved under section 70103 of this title;*

\* \* \* \* \*

(D) an individual engaged on a towing vessel that pushes, pulls, or hauls alongside a tank vessel *allowed unescorted access to a secure area designated in a vessel security plan approved under section 70103 of this title;*

\* \* \* \* \*

(c) DETERMINATION OF TERRORISM SECURITY RISK.—

(1) \* \* \*

\* \* \* \* \*

(3) DENIAL OF WAIVER REVIEW.—

(A) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

**§ 70106. Maritime safety and security teams**

(a) \* \* \*

\* \* \* \* \*

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

(c) **MARITIME SECURITY RESPONSE TEAMS.—**

(1) *IN GENERAL.—In addition to the maritime safety and security teams, the Secretary shall establish no less than two*

*maritime security response teams to act as the Coast Guard's rapidly deployable counterterrorism and law enforcement response units that can apply advanced interdiction skills in response to threats of maritime terrorism.*

(2) *MINIMIZATION OF RESPONSE TIME.—The maritime security response teams shall be stationed in such a way to minimize, to the extent practicable, the response time to any reported maritime terrorist threat.*

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

\* \* \* \* \*

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

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

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

\* \* \* \* \*

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

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

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

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

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

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

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

utilize the programs that are capable of implementing port security antiterrorism measures at ports in foreign countries and territories of the United States that the Secretary finds to lack effective antiterrorism measures.】 *The Secretary shall establish a strategic plan to utilize those assistance programs to assist ports and facilities that are found by the Secretary under subsection (a) not to maintain effective antiterrorism measures in the implementation of port security antiterrorism measures.*

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

(A) \* \* \*

\* \* \* \* \*

(f) COAST GUARD ASSISTANCE PROGRAM.—

(1) IN GENERAL.—*The Secretary may lend, lease, donate, or otherwise provide equipment, and provide technical training and support, to the owner or operator of a foreign port or facility—*

(A) *to assist in bringing the port or facility into compliance with applicable International Ship and Port Facility Code standards;*

(B) *to assist the port or facility in meeting standards established under section 70109A of this chapter; and*

(C) *to assist the port or facility in exceeding the standards described in subparagraphs (A) and (B).*

(2) CONDITIONS.—*The Secretary—*

(A) *shall provide such assistance based upon an assessment of the risks to the security of the United States and the inability of the owner or operator of the port or facility otherwise to bring the port or facility into compliance with those standards and to maintain compliance with them;*

(B) *may not provide such assistance unless the port or facility has been subjected to a comprehensive port security assessment by the Coast Guard or a third party entity certified by the Secretary under section 70110A(b) to validate foreign port or facility compliance with International Ship and Port Facility Code standards; and*

(C) *may only lend, lease, or otherwise provide equipment that the Secretary has first determined is not required by the Coast Guard for the performance of its missions.*

\* \* \* \* \*

**§ 70112. Maritime Security Advisory Committees**

(a) \* \* \*

(b) MEMBERSHIP.—(1) \* \* \*

\* \* \* \* \*

[(5) The membership of an Area Maritime Security Advisory Committee shall include representatives of the port industry, ter-

minal operators, port labor organizations, and other users of the port areas.】

(5)(A) *The National Maritime Security Advisory Committee shall be composed of—*

- (i) at least 1 individual who represents the interests of the port authorities;*
- (ii) at least 1 individual who represents the interests of the facilities owners or operators;*
- (iii) at least 1 individual who represents the interests of the terminal owners or operators;*
- (iv) at least 1 individual who represents the interests of the vessel owners or operators;*
- (v) at least 1 individual who represents the interests of the maritime labor organizations;*
- (vi) at least 1 individual who represents the interests of the academic community;*
- (vii) at least 1 individual who represents the interests of State or local governments; and*
- (viii) at least 1 individual who represents the interests of the maritime industry.*

(B) *Each Area Maritime Security Advisory Committee shall be composed of individuals who represents the interests of the port industry, terminal operators, port labor organizations, and other users of the port areas.*

\* \* \* \* \*

(g) FACA; TERMINATION.—【(1)】 The Federal Advisory Committee Act (5 U.S.C. App.)—

【(A)】 (1) applies to the National Maritime Security Advisory Committee established under this section, except that such committee terminates on September 30, 【2008;】 2010; and

【(B)】 (2) does not apply to Area Maritime Security Advisory Committees established under this section.

【(2) Not later than September 30, 2006, each committee established under this section shall submit to the Congress its recommendation regarding whether the committee should be renewed and continued beyond the termination date.】

\* \* \* \* \*

**【§ 70118. Enforcement by State and local officers**

【(a) IN GENERAL.—Any State or local government law enforcement officer who has authority to enforce State criminal laws may make an arrest for violation of a security zone regulation prescribed under section 1 of title II of the Act of June 15, 1917 (chapter 30; 50 U.S.C. 191) or security or safety zone regulation under section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)) or a safety zone regulation prescribed under section 10(d) of the Deepwater Port Act of 1974 (33 U.S.C. 1509(d)) by a Coast Guard official authorized by law to prescribe such regulations, if—

- 【(1) such violation is a felony; and
- 【(2) the officer has reasonable grounds to believe that the person to be arrested has committed or is committing such violation.

【(b) OTHER POWERS NOT AFFECTED.—The provisions of this section are in addition to any power conferred by law to such officers.

This section shall not be construed as a limitation of any power conferred by law to such officers, or any other officer of the United States or any State. This section does not grant to such officers any powers not authorized by the law of the State in which those officers are employed.】

\* \* \* \* \*

**CHAPTER 705—MARITIME DRUG LAW ENFORCEMENT**

\* \* \* \* \*

**§ 70506. Penalties**

(a) \* \* \*

\* \* \* \* \*

(c) *SIMPLE POSSESSION.*—

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

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

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

\* \* \* \* \*

**ACT OF JULY 5, 1884**

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

An act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

\* \* \* \* \*

SEC. 4. (a) \* \* \*

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

(1) \* \* \*

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

(A) \* \* \*

\* \* \* \* \*

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

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

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

\* \* \* \* \*

**RIVERS AND HARBORS APPROPRIATIONS ACT OF 1915**

\* \* \* \* \*

SEC. 7. [That the] (a) *IN GENERAL.*—The Secretary of Homeland Security is authorized, empowered, and directed to define and establish anchorage grounds for vessels in all harbors, rivers, bays, and other navigable waters of the United States whenever it is manifest to the said Secretary that the maritime or commercial interests of the United States require such anchorage grounds for safe navigation and the establishment of such anchorage grounds shall have been recommended by the Chief of Engineers, and to adopt suitable rules and regulations in relation thereto; and such rules and regulations shall be enforced by the Revenue-Cutter Service under the direction of the Secretary of the Treasury: *Provided*, That at ports or places where there is no revenue cutter available such rules and regulations may be enforced by the Chief of Engineers under the direction of the Secretary of Homeland Security. In the event of the violation of any such rules and regulations by the owner, master, or person in charge of any vessel, such owner, master, or person in charge of such vessel shall be liable to a penalty of [\$100; and the] up to \$10,000. Each day during which a violation continues shall constitute a separate violation. The said vessel may be holden for the payment of such penalty, and may be seized and proceeded against summarily by libel for the recovery of the same in any United States district court for the district within which such vessel may be and in the name of the officer designated by the Secretary of Homeland Security.

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

\* \* \* \* \*

**OIL POLLUTION ACT OF 1990**

\* \* \* \* \*

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

The contents of this Act are as follows:

\* \* \* \* \*

TITLE VII—OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM

\* \* \* \* \*  
 Sec. 7002. Submerged oil program.  
 \* \* \* \* \*

**TITLE I—OIL POLLUTION LIABILITY  
 AND COMPENSATION**

\* \* \* \* \*

**SEC. 1004. LIMITS ON LIABILITY.**

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

- (1) \* \* \*
- (2) for any other vessel, \$950 per gross ton or \$800,000[,], whichever is greater;

\* \* \* \* \*

(d) **ADJUSTING LIMITS OF LIABILITY.**—

- (1) \* \* \*
- (2) **DEEPWATER PORTS AND ASSOCIATED VESSELS.**—  
 (A) \* \* \*

\* \* \* \* \*

*(D) The Secretary may establish, by regulation, a limit of liability of not less than \$12,000,000 for a deepwater port used only in connection with transportation of natural gas.*

\* \* \* \* \*

**SEC. 1012. USES OF THE FUND.**

(a) \* \* \*  
 \* \* \* \* \*

(h) **PERIOD OF LIMITATIONS FOR CLAIMS.**—

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

\* \* \* \* \*

**TITLE IV—PREVENTION AND REMOVAL**

**Subtitle A—Prevention**

\* \* \* \* \*

**SEC. 4116. PILOTAGE.**

(a) \* \* \*  
 (c) **ESCORTS FOR CERTAIN TANKERS.**—[Not later than 6 months]  
 (1) *IN GENERAL.*—Not later than 180 days after the date of the enactment of this Act, the Secretary shall initiate issuance of regulations under section 3703(a)(3) of title 46, United States Code, to define those areas, including Prince William

Sound, Alaska, and Rosario Strait and Puget Sound, Washington (including those portions of the Strait of Juan de Fuca east of Port Angeles, Haro Strait, and the Strait of Georgia subject to United States jurisdiction), on which single hulled tankers over 5,000 gross tons transporting oil in bulk shall be escorted by at least two towing vessels (as defined under section 2101 of title 46, United States Code) or other vessels considered appropriate by the Secretary.

(2) *PRINCE WILLIAM SOUND, ALASKA.*—

(A) *IN GENERAL.*—*The requirement in paragraph (1) relating to single hulled tankers in Prince William Sound, Alaska, described in that paragraph being escorted by at least 2 towing vessels or other vessels considered to be appropriate by the Secretary (including regulations promulgated in accordance with section 3703(a)(3) of title 46, United States Code, as set forth in part 168 of title 33, Code of Federal Regulations (as in effect on March 1, 2009), implementing this subsection with respect to those tankers) shall apply to double hulled tankers over 5,000 gross tons transporting oil in bulk in Prince William Sound, Alaska.*

(B) *IMPLEMENTATION OF REQUIREMENTS.*—*The Secretary of the Federal agency with jurisdiction over the Coast Guard shall carry out subparagraph (A) by order without notice and hearing pursuant to section 553 of title 5, United States Code.*

\* \* \* \* \*

**AMERICAN FISHERIES ACT**

**TITLE II—FISHERIES**

**Subtitle I—Fishery Endorsements**

\* \* \* \* \*

**SEC. 203. ENFORCEMENT OF STANDARD.**

(a) \* \* \*

\* \* \* \* \*

(g) **CERTAIN VESSELS.**—The vessels EXCELLENCE (United States official number 967502), GOLDEN ALASKA (United States official number 651041) and, OCEAN PHOENIX (United States official number 296779) [ , NORTHERN TRAVELER (United States official number 635986), and NORTHERN VOYAGER (United States official number 637398) (or a replacement vessel for the NORTHERN VOYAGER that complies with paragraphs (2), (5), and (6) of section 208(g) of this Act) ] shall be exempt from section 12102(c), as amended by this Act, until such time after October 1, 2001 as more than 50 percent of the interest owned and controlled in the vessel changes, provided that the vessel maintains eligibility for a fishery endorsement under the federal law that was in effect the day before the date of the enactment of this Act, and unless [ , in the case of the NORTHERN TRAVELER or the NORTHERN VOYAGER (or such replacement), the vessel is used in any fishery

under the authority of a regional fishery management council other than the New England Fishery Management Council or Mid-Atlantic Fishery Management Council established, respectively, under subparagraphs (A) and (B) of section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1) (A) and (B)), or in the case of the EXCELLENCE, GOLDEN ALASKA, or OCEAN PHOENIX,] the vessel is used to harvest any fish.

\* \* \* \* \*

**Subtitle II—Bering Sea Pollock Fishery**

\* \* \* \* \*

**SEC. 208. ELIGIBLE VESSELS AND PROCESSORS.**

(a) \* \* \*

\* \* \* \* \*

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

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

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

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

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

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

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

(g) *VESSEL REBUILDING AND REPLACEMENT.*—

(1) *IN GENERAL.*—

(A) *REBUILD OR REPLACE.*—*Notwithstanding any limitation to the contrary on replacing, rebuilding, or lengthening vessels or transferring permits or licenses to a replacement vessel contained in sections 679.2 and 679.4 of title 50,*

*Code of Federal Regulations, as in effect on the date of enactment of the Maritime Safety Act of 2009 and except as provided in paragraph (4), the owner of a vessel eligible under subsection (a), (b), (c), (d), or (e) (other than paragraph (21)), in order to improve vessel safety and operational efficiencies (including fuel efficiency), may rebuild or replace that vessel (including fuel efficiency) with a vessel documented with a fishery endorsement under section 12113 of title 46, United States Code.*

*(B) SAME REQUIREMENTS.—The rebuilt or replacement vessel shall be eligible in the same manner and subject to the same restrictions and limitations under such subsection as the vessel being rebuilt or replaced.*

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

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

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

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

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

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

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

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

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

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

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

(6) *GULF OF ALASKA LIMITATION.*—Notwithstanding paragraph (1), the Secretary shall prohibit from participation in the groundfish fisheries of the Gulf of Alaska any vessel that is rebuilt or replaced under this subsection and that exceeds the maximum length overall specified on the license that authorizes fishing for groundfish pursuant to the license limitation program under part 679 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Maritime Safety Act of 2009.

(7) *AUTHORITY OF PACIFIC COUNCIL.*—Nothing in this section shall be construed to diminish or otherwise affect the authority of the Pacific Council to recommend to the Secretary conservation and management measures to protect fisheries under its jurisdiction (including the Pacific whiting fishery) and participants in such fisheries from adverse impacts caused by this Act.

\* \* \* \* \*

**SEC. 210. FISHERY COOPERATIVE LIMITATIONS.**

(a) \* \* \*

(b) *CATCHER VESSELS ONSHORE.*—

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

(A) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

(7) *FISHERY COOPERATIVE EXIT PROVISIONS.*—

(A) *FISHING ALLOWANCE DETERMINATION.*—For purposes of determining the aggregate percentage of directed fishing allowances under paragraph (1), when a catcher vessel is

removed from the directed pollock fishery, the fishery allowance for pollock for the vessel being removed—

(i) shall be based on the catch history determination for the vessel made pursuant to section 679.62 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Maritime Safety Act of 2009; and

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

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

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

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

(ii) to allow the vessels referred to in clause (i) to participate in any fishery under the authority of the Councils referred to in clause (i) in any manner that is not consistent with the fishery management plan for the fishery developed by the Councils under section 303 of the Magnuson-Stevens Act.

\* \* \* \* \*

**SECTION 5209 OF THE OCEANS ACT OF 1992**

**SEC. 5209. TANK VESSEL DEFINITION CLARIFICATION.**

(a) \* \* \*

(b) The following vessels are deemed not to be a tank vessel for the purposes of any law:

(1) An offshore supply vessel of less than 500 gross tons as measured under section 14502, or an alternate tonnage meas-

*ured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title.*

\* \* \* \* \*

**COAST GUARD AUTHORIZATION ACT OF 1991**

**SEC. 18. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.**

(a) \* \* \*

\* \* \* \* \*

(h) The Committee shall terminate on September 30, **[2010]** 2020.

**SEC. 19. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.**

(a) \* \* \*

(b) The Committee shall consist of **[twenty-four]** *twenty-five* members who have expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels on the Lower Mississippi River and its connecting navigable waterways including the Gulf of Mexico:

(1) \* \* \*

\* \* \* \* \*

*(12) One member representing the Associated Federal Pilots and Docking Masters of Louisiana.*

\* \* \* \* \*

(g) The Committee shall terminate on September 30, **[2010]** 2020.

\* \* \* \* \*

**PUBLIC LAW 96-380**

AN ACT to establish a Towing Safety Advisory Committee in the Department of Transportation.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That [(a) there is Towing Safety established a Towing Safety Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall consist of sixteen members with particular expertise, knowledge, and experience regarding shallow-draft inland and coastal waterway navigation and towing safety as follows:*

**[(1) seven members from the barge and towing industry, reflecting a regional geographic balance;**

**[(2) one member from the offshore mineral and oil supply vessel industry; and**

**[(3) two members from each of the following—**

**[(A) port districts, authorities, or terminal operators;**

**[(B) maritime labor;**

**[(C) shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge); and**

[(D) the general public.] (a) *There is established a Towing Safety Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall consist of eighteen members with particular expertise, knowledge, and experience regarding shallow-draft inland and coastal waterway navigation and towing safety as follows:*

(1) *Seven members representing the barge and towing industry, reflecting a regional geographic balance.*

(2) *One member representing the offshore mineral and oil supply vessel industry.*

(3) *One member representing holders of active licensed Masters or Pilots of towing vessels with experience on the Western Rivers and the Gulf Intracoastal Waterway.*

(4) *One member representing the holders of active licensed Masters of towing vessels in offshore service.*

(5) *One member representing Masters who are active ship-docking or harbor towing vessel.*

(6) *One member representing licensed or unlicensed towing vessel engineers with formal training and experience.*

(7) *Two members representing each of the following groups:*

(A) *Port districts, authorities, or terminal operators.*

(B) *Shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge).*

(8) *Two members representing the general public.*

\* \* \* \* \*

(e) Unless extended by subsequent Act of Congress, the Committee shall terminate on September 30, [2010] 2020.

## SECTION 5 OF THE INLAND NAVIGATIONAL RULES ACT OF 1980

SEC. 5. [(a) The Secretary shall establish a Navigation Safety Advisory Council (hereinafter referred to as the Council) not exceeding 21 members. To assure balanced representation, members shall be chosen, insofar as practical, from the following groups: (1) recognized experts and leaders in organizations having an active interest in the Rules of the Road and vessel and port safety, (2) representatives of owners and operators of vessels, professional mariners, recreational boaters, and the recreational boating industry, (3) individuals with an interest in maritime law, and (4) Federal and State officials with responsibility for vessel and port safety. Additional persons may be appointed to panels of the Council to assist the Council in the performance of its functions. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Council.

[(b) The Council shall advise, consult with, and make recommendations to the Secretary on matters relating to the prevention of collisions, rammings, and groundings, including the Inland Rules of the Road, the International Rules of the Road, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems. Any advice or recommendation made by the Council to the Secretary shall reflect the independent judgment of the Council on the matter concerned. The

Council shall meet at the call of the Secretary, but in any event not less than twice during each calendar year. All proceedings of the Council shall be public, and a record of the proceedings shall be made available for public inspection.】

(a) *ESTABLISHMENT OF COUNCIL.*—

(1) *IN GENERAL.*—*The Secretary of the department in which the Coast Guard is operating shall establish a Navigation Safety Advisory Council (hereinafter referred to as the “Council”), consisting of not more than 21 members. All members shall have expertise in Inland and International vessel navigation Rules of the Road, aids to maritime navigation, maritime law, vessel safety, port safety, or commercial diving safety. Upon appointment, all non-Federal members shall be designated as representative members to represent the viewpoints and interests of one of the following groups or organizations:*

- (A) *Commercial vessel owners or operators.*
- (B) *Professional mariners.*
- (C) *Recreational boaters.*
- (D) *The recreational boating industry.*
- (E) *State agencies responsible for vessel or port safety.*
- (F) *The Maritime Law Association.*

(2) *PANELS.*—*Additional persons may be appointed to panels of the Council to assist the Council in performance of its functions.*

(3) *NOMINATIONS.*—*The Secretary, through the Coast Guard Commandant, shall not less often than once a year publish a notice in the Federal Register soliciting nominations for membership on the Council.*

(b) *FUNCTIONS.*—*The Council shall advise, consult with, and make recommendations to the Secretary, through the Coast Guard Commandant, on matters relating to maritime collisions, rammings, groundings, Inland Rules of the Road, International Rules of the Road, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems. Any advice and recommendations made by the Council to the Secretary shall reflect the independent judgment of the Council on the matter concerned. The Council shall meet at the call of the Coast Guard Commandant, but in any event not less than twice during each calendar year. All proceedings of the Council shall be public, and a record of the proceedings shall be made available for public inspection.*

\* \* \* \* \*

(d) Unless extended by subsequent Act of Congress, the Council shall terminate on September 30, **[2010]** 2020.

**IMMIGRATION AND NATIONALITY ACT**

\* \* \* \* \*

**TITLE II—IMMIGRATION**

\* \* \* \* \*

**CHAPTER 8—GENERAL PENALTY PROVISIONS**

\* \* \* \* \*

## BRINGING IN AND HARBORING CERTAIN ALIENS

SEC. 274. (a) **【CRIMINAL PENALTIES】** *BRINGING IN, HARBORING, AND SMUGGLING OF UNLAWFUL AND TERRORIST ALIENS.*—**【(1)(A)** Any person who—

**【(i)** knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;

**【(ii)** knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law;

**【(iii)** knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation;

**【(iv)** encourages or induces an alien to come to, enter, or reside in the United States, knowing or in reckless disregard of the fact that such coming to, entry, or residence is or will be in violation of law; or

**【(v)(I)** engages in any conspiracy to commit any of the preceding acts, or

**【(II)** aids or abets the commission of any of the preceding acts,

shall be punished as provided in subparagraph (B).

**【(B)** A person who violates subparagraph (A) shall, for each alien in respect to whom such a violation occurs—

**【(i)** in the case of a violation of subparagraph (A)(i) or (v)(I) or in the case of a violation of subparagraph (A)(ii), (iii), or (iv) in which the offense was done for the purpose of commercial advantage or private financial gain, be fined under title 18, United States Code, imprisoned not more than 10 years, or both;

**【(ii)** in the case of a violation of subparagraph (A) (ii), (iii), (iv), or (v)(II) be fined under title 18, United States Code, imprisoned not more than 5 years, or both;

**【(iii)** in the case of a violation of subparagraph (A) (i), (ii), (iii), (iv), or (v) during and in relation to which the person causes serious bodily injury (as defined in section 1365 of title 18, United States Code) to, or places in jeopardy the life of, any person, be fined under title 18, United States Code, imprisoned not more than 20 years, or both; and

**【(iv)** in the case of a violation of subparagraph (A) (i), (ii), (iii), (iv), or (v) resulting in the death of any person, be punished by death or imprisoned for any term of years or for life, fined under title 18, United States Code, or both.

[(C) It is not a violation of clauses (ii) or (iii) of subparagraph (A), or of clause (iv) of subparagraph (A) except where a person encourages or induces an alien to come to or enter the United States, for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officers of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year.

[(2) Any person who, knowing or in reckless disregard of the fact that an alien has not received prior official authorization to come to, enter, or reside in the United States, brings to or attempts to bring to the United States in any manner whatsoever, such alien, regardless of any official action which may later be taken with respect to such alien shall, for each alien in respect to whom a violation of this paragraph occurs—

[(A) be fined in accordance with title 18, United States Code, or imprisoned not more than one year, or both; or

[(B) in the case of—

[(i) an offense committed with the intent or with reason to believe that the alien unlawfully brought into the United States will commit an offense against the United States or any State punishable by imprisonment for more than 1 year,

[(ii) an offense done for the purpose of commercial advantage or private financial gain, or

[(iii) an offense in which the alien is not upon arrival immediately brought and presented to an appropriate immigration officer at a designated port of entry,

be fined under title 18, United States Code, and shall be imprisoned, in the case of a first or second violation of subparagraph (B)(iii), not more than 10 years, in the case of a first or second violation of subparagraph (B)(i) or (B)(ii), not less than 3 nor more than 10 years, and for any other violation, not less than 5 nor more than 15 years.] (1)(A) *Whoever, knowing or in reckless disregard of the fact that an individual is an alien who lacks lawful authority to come to, enter, or reside in the United States, knowingly—*

*(i) brings that individual to the United States in any manner whatsoever regardless of any future official action which may be taken with respect to such individual;*

*(ii) recruits, encourages, or induces that individual to come to, enter, or reside in the United States;*

*(iii) transports or moves that individual in the United States, in furtherance of their unlawful presence; or*

*(iv) harbors, conceals, or shields from detection the individual in any place in the United States, including any building or any means of transportation;*

*or attempts or conspires to do so, shall be punished as provided in subparagraph (C).*

(B) Whoever, knowing that an individual is an alien, brings that individual to the United States in any manner whatsoever at a place, other than a designated port of entry or place designated by the Secretary of Homeland Security, regardless of whether such individual has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such individual, or attempts or conspires to do so, shall be punished as provided in subparagraph (C).

(C) Whoever commits an offense under this paragraph shall, for each individual in respect to whom such a violation occurs—

(i) if the offense results in the death of any person, be fined under title 18, United States Code, and subject to the penalty of death or imprisonment for any term of years or for life;

(ii) if the offense involves kidnapping, an attempt to kidnap, the conduct required for aggravated sexual abuse (as defined in section 2241 of title 18, United States Code, without regard to where it takes place), or an attempt to commit such abuse, or an attempt to kill, be fined under title 18, United States Code, or imprisoned for any term of years or life, or both;

(iii) if the offense involves an individual who the defendant knew was engaged in or intended to engage in terrorist activity (as defined in section 212(a)(3)(B)), be fined under title 18, United States Code, or imprisoned not more than 30 years, or both;

(iv) if the offense results in serious bodily injury (as defined in section 1365 of title 18, United States Code) or places in jeopardy the life of any person, be fined under title 18, United States Code, or imprisoned not more than 20 years, or both;

(v) if the offense is a violation of paragraph (1)(A)(i) and was committed for the purpose of profit, commercial advantage, or private financial gain, or if the offense was committed with the intent or reason to believe that the individual unlawfully brought into the United States will commit an offense against the United States or any State that is punishable by imprisonment for more than 1 year, be fined under title 18, United States Code, and imprisoned, in the case of a first or second violation, not less than 3 nor more than 10 years, and for any other violation, not less than 5 nor more than 15 years;

(vi) if the offense is a violation of paragraphs (1)(A)(ii), (iii), or (iv), or paragraph (1)(B), and was committed for the purpose of profit, commercial advantage, or private financial gain, be fined under title 18, United States Code, or imprisoned not more than 10 years, or both;

(vii) if the offense involves the transit of the defendant's spouse, child, sibling, parent, grandparent, or niece or nephew, and the offense is not described in any of clauses (i) through (vi), be fined under title 18, United States Code, or imprisoned not more than 1 year, or both; and

(viii) in any other case, be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

(2)(A) There is extraterritorial jurisdiction over the offenses described in paragraph (1).

(B) In a prosecution for a violation of, or an attempt or conspiracy to violate, subsection (a)(1)(A)(i), (a)(1)(A)(ii), or (a)(1)(B), that oc-

*curs on the high seas, no defense based on necessity can be raised unless the defendant—*

*(i) as soon as practicable, reported to the Coast Guard the circumstances of the necessity, and if a rescue is claimed, the name, description, registry number, and location of the vessel engaging in the rescue; and*

*(ii) did not bring, attempt to bring, or in any manner intentionally facilitate the entry of any alien into the land territory of the United States without lawful authority, unless exigent circumstances existed that placed the life of that alien in danger, in which case the reporting requirement set forth in clause (i) is satisfied by notifying the Coast Guard as soon as practicable after delivering the alien to emergency medical or law enforcement personnel ashore.*

*(C) It is not a violation of, or an attempt or conspiracy to violate, clause (iii) or (iv) of paragraph (1)(A), or paragraph (1)(A)(ii) (except if a person recruits, encourages, or induces an alien to come to or enter the United States), for a religious denomination having a bona fide nonprofit, religious organization in the United States, or the agents or officer of such denomination or organization, to encourage, invite, call, allow, or enable an alien who is present in the United States to perform the vocation of a minister or missionary for the denomination or organization in the United States as a volunteer who is not compensated as an employee, notwithstanding the provision of room, board, travel, medical assistance, and other basic living expenses, provided the minister or missionary has been a member of the denomination for at least one year.*

*(D) For purposes of this paragraph and paragraph (1)—*

*(i) the term “United States” means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States; and*

*(ii) the term “lawful authority” means permission, authorization, or waiver that is expressly provided for in the immigration laws of the United States or the regulations prescribed under those laws and does not include any such authority secured by fraud or otherwise obtained in violation of law or authority that has been sought but not approved.*

\* \* \* \* \*

**TITLE 18, UNITED STATES CODE**

\* \* \* \* \*

**PART I—CRIMES**

\* \* \* \* \*

**CHAPTER 109—SEARCHES AND SEIZURES**

\* \* \* \* \*

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

(a) \* \* \*

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

(b) *Whoever intentionally violates this section shall—*

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

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

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

(4) *in any other case, be fined under this title or imprisoned for not more than 5 years, or both.*

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

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

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

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

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

\* \* \* \* \*

(e) In this section—

(1) \* \* \*

\* \* \* \* \*

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

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

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

**COAST GUARD AUTHORIZATION ACT OF 1996**

\* \* \* \* \*

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

The table of contents for this Act is as follows:

Sec. 1. Short title.

\* \* \* \* \*

**TITLE I—AUTHORIZATION**

\* \* \* \* \*

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

\* \* \* \* \*

**TITLE XI—MISCELLANEOUS**

\* \* \* \* \*

**SEC. 1120. DOCUMENTATION OF CERTAIN VESSELS.**

(a) \* \* \*

\* \* \* \* \*

(c) **CERTIFICATES OF DOCUMENTATION FOR GALLANT LADY.—**

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

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

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

\* \* \* \* \*

[(3) CONDITION.—The Secretary may not issue a certificate of documentation for a vessel under paragraph (1) unless, not later than 90 days after the date of enactment of this Act, the owner of the vessel referred to in paragraph (1)(B) submits to the Secretary a letter expressing the intent of the owner to, before April 1, 1998, enter into a contract for the construction in the United States of a passenger vessel of at least 130 feet in length.

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

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

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

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

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

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

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

\* \* \* \* \*

**COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2006**

\* \* \* \* \*

**TITLE III—SHIPPING AND NAVIGATION**

\* \* \* \* \*

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

(a) \* \* \*

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

\* \* \* \* \*

## TITLE VI—DELAWARE RIVER PROTECTION AND MISCELLANEOUS OIL PROVISIONS

\* \* \* \* \*

### SEC. 603. LIMITS ON LIABILITY.

(a) ADJUSTMENT OF LIABILITY LIMITS.—

(1) \* \* \*

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

(A) \* \* \*

\* \* \* \* \*

## TITLE IX—TECHNICAL CORRECTIONS

### SEC. 901. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) \* \* \*

\* \* \* \* \*

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

(1) \* \* \*

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

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

(a) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

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

(1) in section 2109 by striking “a Coast Guard or”; and

(2) in section 6308—

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

\* \* \* \* \*

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

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

\* \* \* \* \*

(h) CONSERVATION.—

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

\* \* \* \* \*

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

\* \* \* \* \*

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**DEEPWATER PORT ACT OF 1974**

\* \* \* \* \*

PROCEDURE

SEC. 5. (a) \* \* \*

\* \* \* \* \*

(c)(1) \* \* \*

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

(A) \* \* \*

\* \* \* \* \*

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

\* \* \* \* \*

