

COAST GUARD AUTHORIZATION ACT OF 2015

MAY 15, 2015.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

together with

ADDITIONAL VIEWS

[To accompany H.R. 1987]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 1987) to authorize appropriations for the Coast Guard for fiscal years 2016 and 2017, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:
 Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Coast Guard Authorization Act of 2015”.

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

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

TITLE I—AUTHORIZATIONS

- Sec. 101. Authorizations.
- Sec. 102. Conforming amendments.

TITLE II—COAST GUARD

- Sec. 201. Vice Commandant.
- Sec. 202. Vice admirals.
- Sec. 203. Coast Guard remission of indebtedness.
- Sec. 204. Acquisition reform.
- Sec. 205. Auxiliary jurisdiction.
- Sec. 206. Long-term major acquisitions plan.
- Sec. 207. Coast Guard communities.
- Sec. 208. “Polar Sea” materiel condition assessment and service life extension decision.
- Sec. 209. Repeal.
- Sec. 210. Technical corrections to title 14.
- Sec. 211. Digital boat profile pilot program.
- Sec. 212. Discontinuance of an aid to navigation.
- Sec. 213. Mission performance measures.
- Sec. 214. Communications.
- Sec. 215. Coast Guard graduate maritime operations education.

TITLE III—SHIPPING AND NAVIGATION

- Sec. 301. Treatment of fishing permits.
- Sec. 302. Survival craft.
- Sec. 303. Enforcement.
- Sec. 304. Model years for recreational vessels.
- Sec. 305. Merchant mariner credential expiration harmonization.
- Sec. 306. Marine event safety zones.
- Sec. 307. Technical corrections.
- Sec. 308. Recommendations for improvements of marine casualty reporting.
- Sec. 309. Recreational vessel engine weights.
- Sec. 310. Merchant mariner medical certification reform.
- Sec. 311. Atlantic Coast port access route study.
- Sec. 312. Certificates of documentation for recreational vessels.
- Sec. 313. Program guidelines.
- Sec. 314. Repeals.

TITLE IV—FEDERAL MARITIME COMMISSION

- Sec. 401. Authorization of appropriations.
- Sec. 402. Duties of the Chairman.
- Sec. 403. Prohibition on awards.

TITLE V—MISCELLANEOUS

- Sec. 501. Conveyance of Coast Guard property in Marin County, California.
- Sec. 502. Elimination of reports.
- Sec. 503. Vessel documentation.
- Sec. 504. Conveyance of Coast Guard property in Tok, Alaska.
- Sec. 505. Safe vessel operation in the Great Lakes.
- Sec. 506. Use of vessel sale proceeds.
- Sec. 507. Fishing vessel and fish tender vessel certification.
- Sec. 508. National Academy of Sciences cost comparison.
- Sec. 509. Penalty wages.
- Sec. 510. Recourse for noncitizens.

TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATIONS.

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

**“PART III—COAST GUARD AUTHORIZATIONS AND
REPORTS TO CONGRESS**

| | |
|---------------------------|-------|
| “Chap. | Sec. |
| “27. Authorizations | 2701 |
| “29. Reports | 2901. |

“CHAPTER 27—AUTHORIZATIONS

| | |
|---|--|
| “Sec. | |
| “2702. Authorization of appropriations. | |
| “2704. Authorized levels of military strength and training. | |

“§ 2702. Authorization of appropriations

“Funds are authorized to be appropriated for each of fiscal years 2016 and 2017 for necessary expenses of the Coast Guard as follows:

“(1) For the operation and maintenance of the Coast Guard, not otherwise provided for—

“ (A) \$6,981,036,000 for fiscal year 2016; and

“ (B) \$6,981,036,000 for fiscal year 2017.

“(2) For the acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, and for maintenance, rehabilitation, lease, and operation of facilities and equipment—

“ (A) \$1,546,448,000 for fiscal year 2016; and

“ (B) \$1,546,448,000 for fiscal year 2017.

“(3) For the Coast Guard Reserve program, including operations and maintenance of the program, personnel and training costs, equipment, and services—

“ (A) \$140,016,000 for fiscal year 2016; and

“ (B) \$140,016,000 for fiscal year 2017.

“(4) For the environmental compliance and restoration functions of the Coast Guard under chapter 19 of this title—

“ (A) \$16,701,000 for fiscal year 2016; and

“ (B) \$16,701,000 for fiscal year 2017.

“(5) To the Commandant of the Coast Guard for research, development, test, and evaluation of technologies, materials, and human factors directly related to improving the performance of the Coast Guard’s mission with respect to search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, and for maintenance, rehabilitation, lease, and operation of facilities and equipment—

“ (A) \$19,890,000 for fiscal year 2016; and

“ (B) \$19,890,000 for fiscal year 2017.

“§ 2704. 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 43,000 for each of fiscal years 2016 and 2017.

“(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads for each of fiscal years 2016 and 2017 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.

“CHAPTER 29—REPORTS

| | |
|------------------------------------|--|
| “Sec. | |
| “2904. Manpower requirements plan. | |

“§ 2904. Manpower requirements plan

“(a) IN GENERAL.—On the date on which the President submits to Congress a budget for fiscal year 2017 under section 1105 of title 31, on the date on which the President submits to Congress a budget for fiscal year 2019 under such section, and every 4 years thereafter, 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 manpower requirements plan.

“(b) SCOPE.—A manpower requirements plan submitted under subsection (a) shall include for each mission of the Coast Guard—

“(1) an assessment of all projected mission requirements for the upcoming fiscal year and for each of the 3 fiscal years thereafter;

“(2) the number of active duty, reserve, and civilian personnel assigned or available to fulfill such mission requirements—

“(A) currently; and

“(B) as projected for the upcoming fiscal year and each of the 3 fiscal years thereafter;

“(3) the number of active duty, reserve, and civilian personnel required to fulfill such mission requirements—

“(A) currently; and

“(B) as projected for the upcoming fiscal year and each of the 3 fiscal years thereafter;

“(4) an identification of any capability gaps between mission requirements and mission performance caused by deficiencies in the numbers of personnel available—

“(A) currently; and

“(B) as projected for the upcoming fiscal year and each of the 3 fiscal years thereafter; and

“(5) an identification of the actions the Commandant will take to address capability gaps identified under paragraph (4).

“(c) CONSIDERATION.—In composing a manpower requirements plan for submission under subsection (a), the Commandant shall consider—

“(1) the marine safety strategy required under section 2116 of title 46;

“(2) information on the adequacy of the acquisition workforce included in the most recent report under section 2903 of this title; and

“(3) any other Federal strategic planning effort the Commandant considers appropriate.”.

(b) REQUIREMENT FOR PRIOR AUTHORIZATION OF APPROPRIATIONS.—Section 662 of title 14, United States Code, is amended—

(1) by redesignating such section as section 2701;

(2) by transferring such section to appear before section 2702 of such title (as added by subsection (a) of this section); and

(3) by striking paragraphs (1) through (5) and inserting the following:

“(1) For the operation and maintenance of the Coast Guard, not otherwise provided for.

“(2) For the acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, and for maintenance, rehabilitation, lease, and operation of facilities and equipment.

“(3) For the Coast Guard Reserve program, including operations and maintenance of the program, personnel and training costs, equipment, and services.

“(4) For the environmental compliance and restoration functions of the Coast Guard under chapter 19 of this title.

“(5) For research, development, test, and evaluation of technologies, materials, and human factors directly related to improving the performance of the Coast Guard.

“(6) 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 Alteration of Bridges Program.”.

(c) AUTHORIZATION OF PERSONNEL END STRENGTHS.—Section 661 of title 14, United States Code, is amended—

(1) by redesignating such section as section 2703; and

(2) by transferring such section to appear before section 2704 of such title (as added by subsection (a) of this section).

(d) REPORTS.—

(1) TRANSMISSION OF ANNUAL COAST GUARD AUTHORIZATION REQUEST.—Section 662a of title 14, United States Code, is amended—

(A) by redesignating such section as section 2901;

(B) by transferring such section to appear before section 2904 of such title (as added by subsection (a) of this section); and

(C) in subsection (b)—

(i) in paragraph (1) by striking “described in section 661” and inserting “described in section 2703”; and

(ii) in paragraph (2) by striking “described in section 662” and inserting “described in section 2701”.

(2) CAPITAL INVESTMENT PLAN.—Section 663 of title 14, United States Code, is amended—

(A) by redesignating such section as section 2902; and

(B) by transferring such section to appear after section 2901 of such title (as so redesignated and transferred by paragraph (1) of this subsection).

(3) MAJOR ACQUISITIONS.—Section 569a of title 14, United States Code, is amended—

(A) by redesignating such section as section 2903;

(B) by transferring such section to appear after section 2902 of such title (as so redesignated and transferred by paragraph (2) of this subsection); and

(C) in subsection (c)(2) by striking “of this subchapter”.

(e) ICEBREAKING ON THE GREAT LAKES.—For fiscal years 2016 and 2017, the Commandant of the Coast Guard may use funds made available pursuant to section 2702(2) of title 14, United States Code (as added by subsection (a) of this section) for the selection of a design for and the construction of an icebreaker that is capable of buoy tending to enhance icebreaking capacity on the Great Lakes.

(f) ADDITIONAL SUBMISSIONS.—The Commandant of the Coast Guard shall submit to the Committee on Homeland Security of the House of Representatives—

(1) each plan required under section 2904 of title 14, United States Code, as added by subsection (a) of this section;

(2) each plan required under section 2903(e) of title 14, United States Code, as added by section 206 of this Act;

(3) each plan required under section 2902 of title 14, United States Code, as redesignated by subsection (d) of this section; and

(4) each mission need statement required under section 569 of title 14, United States Code.

SEC. 102. CONFORMING AMENDMENTS.

(a) ANALYSIS FOR TITLE 14.—The analysis for title 14, United States Code, is amended by adding after the item relating to part II the following:

“III. Coast Guard Authorizations and Reports to Congress 2701”.

(b) ANALYSIS FOR CHAPTER 15.—The analysis for chapter 15 of title 14, United States Code, is amended by striking the item relating to section 569a.

(c) ANALYSIS FOR CHAPTER 17.—The analysis for chapter 17 of title 14, United States Code, is amended by striking the items relating to sections 661, 662, 662a, and 663.

(d) ANALYSIS FOR CHAPTER 27.—The analysis for chapter 27 of title 14, United States Code, as added by section 101(a) of this Act, is amended by inserting—

(1) before the item relating to section 2702 the following:

“2701. Requirement for prior authorization of appropriations.”;

and

(2) before the item relating to section 2704 the following:

“2703. Authorization of personnel end strengths.”.

(e) ANALYSIS FOR CHAPTER 29.—The analysis for chapter 29 of title 14, United States Code, as added by section 101(a) of this Act, is amended by inserting before the item relating to section 2904 the following:

“2901. Transmission of annual Coast Guard authorization request.

“2902. Capital investment plan.

“2903. Major acquisitions.”.

(f) MISSION NEED STATEMENT.—Section 569(b) of title 14, United States Code, is amended—

(1) in paragraph (2) by striking “in section 569a(e)” and inserting “in section 2903”; and

(2) in paragraph (3) by striking “under section 663(a)(1)” and inserting “under section 2902(a)(1)”.

TITLE II—COAST GUARD

SEC. 201. VICE COMMANDANT.

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

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

(c) CONFORMING AMENDMENT.—Section 51 of title 14, United States Code, is amended—

(1) in subsection (a) by inserting “admiral or” before “vice admiral,”;

(2) in subsection (b) by inserting “admiral or” before “vice admiral,” each place it appears; and

(3) in subsection (c) by inserting “admiral or” before “vice admiral.”

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

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

(2) shall not be required to be reappointed by reason of the enactment of this Act, including the amendments made by this Act.

SEC. 202. VICE ADMIRALS.

Section 50 of title 14, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

“(1) The President may—

“(A) designate, within the Coast Guard, no more than 5 positions of importance and responsibility that shall be held by officers who, while so serving, shall have the grade of vice admiral, with the pay and allowances of that grade, and shall perform such duties as the Commandant may prescribe (if the President designates 5 such positions, 1 position shall be a Chief of Staff); and

“(B) designate, within the executive branch, other than within the Coast Guard, positions of importance and responsibility that shall be held by officers who, while so serving, shall have the grade of vice admiral, with the pay and allowances of that grade.”; and

(B) in paragraph (3)(A) by striking “under paragraph (1)” and inserting “under paragraph (1)(A)”; and

(2) in subsection (b)(2)—

(A) in subparagraph (B) by striking “and” at the end;

(B) by redesignating subparagraph (C) as subparagraph (D); and

(C) by inserting after subparagraph (B) the following:

“(C) at the discretion of the Secretary, while awaiting orders after being relieved from the position, beginning on the day the officer is relieved from the position, but not for more than 60 days; and”.

SEC. 203. COAST GUARD REMISSION OF INDEBTEDNESS.

(a) IN GENERAL.—Section 461 of title 14, United States Code, is amended to read as follows:

“§ 461. Remission of indebtedness

“The Secretary may have remitted or cancelled any part of a person’s indebtedness to the United States or any instrumentality of the United States if—

“(1) the indebtedness was incurred while the person served on active duty as a member of the Coast Guard; and

“(2) the Secretary determines that remitting or cancelling the indebtedness is in the best interest of the United States.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 13 of title 14, United States Code, is amended by striking the item relating to section 461 and inserting the following:

“461. Remission of indebtedness.”.

SEC. 204. ACQUISITION REFORM.

(a) MINIMUM PERFORMANCE STANDARDS.—Section 572(d)(3) of title 14, United States Code, is amended—

(1) by redesignating subparagraphs (C) through (H) as subparagraphs (E) through (J), respectively;

(2) by redesignating subparagraph (B) as subparagraph (C);

(3) by inserting after subparagraph (A) the following:

“(B) the performance data to be used to determine whether the key performance parameters have been resolved;”;

(4) by inserting after subparagraph (C), as redesignated by paragraph (2) of this subsection, the following:

“(D) the results during test and evaluation that will be required to demonstrate that a capability, asset, or subsystem meets performance requirements;”.

(b) CAPITAL INVESTMENT PLAN.—Section 2902(a)(1) of title 14, United States Code, as redesignated and otherwise amended by this Act, is further amended—

(1) in subparagraph (B) by striking “completion;” and inserting “completion based on the proposed appropriations included in the budget;”;

- (2) in subparagraph (D) by striking “at the projected funding levels;” and inserting “based on the proposed appropriations included in the budget;”.
- (c) DAYS AWAY FROM HOMEPORT.—Not later than 1 year after the date of the enactment of this Act, the Commandant of the Coast Guard shall—
- (1) implement a standard for tracking operational days at sea for Coast Guard cutters that does not include days during which such cutters are undergoing maintenance or repair; and
 - (2) notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the standard implemented under paragraph (1).
- (d) FIXED WING AIRCRAFT FLEET MIX ANALYSIS.—Not later than September 30, 2015, 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 revised fleet mix analysis of Coast Guard fixed wing aircraft.

SEC. 205. AUXILIARY JURISDICTION.

- (a) IN GENERAL.—Section 822 of title 14, United States Code, is amended—
- (1) by striking “The purpose” and inserting the following:

“(a) IN GENERAL.—The purpose”; and
 - (2) by adding at the end the following:

“(b) LIMITATION.—The Auxiliary may conduct a patrol of a waterway, or a portion thereof, only if—

 - “(1) the Commandant has determined such waterway, or portion thereof, is navigable for purposes of the jurisdiction of the Coast Guard; or
 - “(2) a State or other proper authority has requested such patrol pursuant to section 141 of this title or section 13109 of title 46.”.
- (b) NOTIFICATION.—The Commandant of the Coast Guard shall—
- (1) review the waterways patrolled by the Coast Guard Auxiliary in the most recently completed fiscal year to determine whether such waterways are eligible or ineligible for patrol under section 822(b) of title 14, United States Code (as added by subsection (a)); and
 - (2) not later than 180 days after the date of the enactment of this Act, 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 written notification of—
 - (A) any waterways determined ineligible for patrol under paragraph (1); and
 - (B) the actions taken by the Commandant to ensure Auxiliary patrols do not occur on such waterways.

SEC. 206. LONG-TERM MAJOR ACQUISITIONS PLAN.

- Section 2903 of title 14, United States Code, as redesignated and otherwise amended by this Act, is further amended—
- (1) by redesignating subsection (e) as subsection (f); and
 - (2) by inserting after subsection (d) the following:

“(e) LONG-TERM MAJOR ACQUISITIONS PLAN.—Each report under subsection (a) shall include a plan that describes for the upcoming fiscal year, and for each of the 20 fiscal years thereafter—

 - “(1) the numbers and types of cutters and aircraft to be decommissioned;
 - “(2) the numbers and types of cutters and aircraft to be acquired to—
 - “(A) replace the cutters and aircraft identified under paragraph (1); or
 - “(B) address an identified capability gap; and
 - “(3) the estimated level of funding in each fiscal year required to—
 - “(A) acquire the cutters and aircraft identified under paragraph (2);
 - “(B) acquire related command, control, communications, computer, intelligence, surveillance, and reconnaissance systems; and
 - “(C) acquire, construct, or renovate shoreside infrastructure.”.

SEC. 207. COAST GUARD COMMUNITIES.

Section 409 of the Coast Guard Authorization Act of 1998 (14 U.S.C. 639 note) is amended by striking the second sentence and inserting the following: “The Commandant may recognize any other community in a similar manner if the Commandant determines that such community has demonstrated enduring support of the Coast Guard, Coast Guard personnel, and the dependents of Coast Guard personnel.”.

SEC. 208. “POLAR SEA” MATERIEL CONDITION ASSESSMENT AND SERVICE LIFE EXTENSION DECISION.

Section 222 of the Coast Guard and Maritime Transportation Act of 2012 (Public Law 112–213; 126 Stat. 1560) is amended—

(1) by amending subsection (a) to read as follows:
“(a) IN GENERAL.—Not later than 270 days after the date of the enactment of the Coast Guard Authorization Act of 2015, the Secretary of the department in which the Coast Guard is operating shall—

“(1) complete a materiel condition assessment with respect to the Polar Sea;
“(2) make a determination of whether it is cost effective to reactivate the Polar Sea compared with other options to provide icebreaking services as part of a strategy to maintain polar icebreaking services; and

“(3) 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) the assessment required under paragraph (1); and

“(B) written notification of the determination required under paragraph (2).”;

(2) in subsection (b) by striking “analysis” and inserting “written notification”;

(3) by striking subsection (c);

(4) by redesignating subsections (d) through (h) as subsections (c) through (g), respectively;

(5) in subsection (c) (as redesignated by paragraph (4) of this section)—

(A) in paragraph (1)—

(i) in subparagraph (A) by striking “based on the analysis required”;

and

(ii) in subparagraph (C) by striking “analysis” and inserting “written notification”;

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

“(2) DECOMMISSIONING.—If the Secretary makes a determination under subsection (a) that it is not cost effective to reactivate the Polar Sea, then, not later than 180 days after written notification of that determination is submitted under that subsection, the Commandant of the Coast Guard may decommission the Polar Sea.”; and

(C) by amending paragraph (3) to read as follows:

“(3) RESULT OF NO DETERMINATION.—If the Secretary does not make a determination under subsection (a) regarding whether it is cost effective to reactivate the Polar Sea, then the Commandant of the Coast Guard may decommission the Polar Sea.”;

(6) in subsection (d)(1) (as redesignated by paragraph (4) of this section) by striking “analysis” and inserting “written notification”; and

(7) in subsection (e) (as redesignated by paragraph (4) of this section) by striking “in subsection (d)” and inserting “in subsection (c)”.

SEC. 209. REPEAL.

Section 225(b)(2) of the Howard Coble Coast Guard and Maritime Transportation Act of 2014 (Public Law 113–281; 128 Stat. 3039) is repealed.

SEC. 210. TECHNICAL CORRECTIONS TO TITLE 14.

Title 14, United States Code, as amended by this Act, is further amended—

(1) in the analysis for part I by striking the item relating to chapter 19 and inserting the following:

“19. Environmental Compliance and Restoration Program 690”;

(2) in section 46(a) by striking “subsection” and inserting “section”;

(3) in section 47 in the section heading by striking “**commandant**” and inserting “**Commandant**”;

(4) in section 93(f) by striking paragraph (2) and inserting the following:

“(2) LIMITATION.—The Commandant may lease submerged lands and tidelands under paragraph (1) only if—

“(A) the lease is for cash exclusively;

“(B) the lease amount is equal to the fair market value of the use of the leased submerged lands or tidelands for the period during which such lands are leased, as determined by the Commandant;

“(C) the lease does not provide authority to or commit the Coast Guard to use or support any improvements to such submerged lands and tidelands, or obtain goods and services from the lessee; and

“(D) proceeds from the lease are deposited in the Coast Guard Housing Fund established under section 687.”;

(5) in the analysis for chapter 9 by striking the item relating to section 199 and inserting the following:

“199. Marine safety curriculum.”;

(6) in section 427(b)(2) by striking “this chapter” and inserting “chapter 61 of title 10”;

(7) in the analysis for chapter 15 before the item relating to section 571 by striking the following:

“Sec.;

(8) in section 573(c)(3)(A) by inserting “and shall maintain such cutter in class” before the period at the end;

(9) in section 581(5)(B) by striking “\$300,000,000,” and inserting “\$300,000,000.”;

(10) in section 637(c)(3) in the matter preceding subparagraph (A) by inserting “it is” before “any”;

(11) in section 641(d)(3) by striking “Guard, installation” and inserting “Guard installation”;

(12) in section 691(c)(3) by striking “state” and inserting “State”;

(13) in the analysis for chapter 21—

(A) by striking the item relating to section 709 and inserting the following:

“709. Reserve student aviation pilots; Reserve aviation pilots; appointments in commissioned grade.”;

and

(B) by striking the item relating to section 740 and inserting the following:

“740. Failure of selection and removal from an active status.”;

(14) in section 742(c) by striking “subsection” and inserting “subsections”;

(15) in section 821(b)(1) by striking “Chapter 26” and inserting “Chapter 171”;

and

(16) in section 823a(b)(1), by striking “Chapter 26” and inserting “Chapter 171”.

SEC. 211. DIGITAL BOAT PROFILE PILOT PROGRAM.

(a) IN GENERAL.—If, during the 1-year period beginning on the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating determines that there are at least 2 digital boat profile technologies that are commercially available, the Secretary shall establish a pilot program, in accordance with this section, under which digital boat profiles are utilized for—

(1) not less than 2 National Security Cutters;

(2) not less than 4 Fast Response Cutters; and

(3) not less than 4 Medium Endurance Cutters (270 foot).

(b) TIMING.—With respect to the National Security Cutters and Fast Response Cutters participating in the pilot program, a digital boat profile shall be established prior to the commissioning of the cutters.

(c) REPORT.—Not later than 1 year after the establishment of the pilot program, and annually thereafter for the succeeding 4 years, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing—

(1) the implementation of the pilot program; and

(2) the results of the use of digital boat profiles under the pilot program with respect to—

(A) efficient maintenance of the cutters involved; and

(B) the post-delivery warranty management of equipment items, the repair and replacement of which are contractually obligated.

(d) DIGITAL BOAT PROFILE DEFINED.—In this section, the term “digital boat profile” means a commercially available off-the-shelf technology that creates an electronic data source with respect to a vessel that—

(1) provides lifecycle management support, including through the incorporation of systems manuals, schematics, and vessel documentation;

(2) incorporates all manufacturer recommendations and operator best practices;

(3) incorporates the use of real-time analytics of deferred tasks, future tasks, readiness assessments, and budgetary planners;

(4) provides advance electronic notification of upcoming maintenance and inspections to multi-level permission-based recipients on a daily, weekly, or monthly basis;

(5) facilitates oversight for pre-delivery discrepancy reporting and post-delivery warranty management of equipment items, the repair and replacement of which are contractually obligated; and

(6) is accessible by computing devices.

SEC. 212. DISCONTINUANCE OF AN AID TO NAVIGATION.

(a) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall establish a process for the discontinuance of an aid to navigation established, maintained, or operated by the Coast Guard.

(b) **REQUIREMENT.**—The process established under subsection (a) shall include procedures to notify the public of any discontinuance of an aid to navigation described in that subsection.

(c) **CONSULTATION.**—In establishing a process under subsection (a), the Secretary shall consult with and consider any recommendations of the Navigation Safety Advisory Council.

(d) **NOTIFICATION.**—Not later than 30 days after establishing a process under subsection (a), the Secretary shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the process established.

SEC. 213. MISSION PERFORMANCE MEASURES.

Not later than 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an assessment of the efficacy of the Coast Guard's Standard Operational Planning Process with respect to annual mission performance measures.

SEC. 214. COMMUNICATIONS.

(a) **IN GENERAL.**—The Secretary of the department in which the Coast Guard is operating shall establish and carry out a response capabilities pilot program to assess, at not fewer than 2 Coast Guard command centers, the effectiveness of a radio gateway that—

(1) provides for—

(A) multiagency collaboration and interoperability; and

(B) wide-area, secure, and peer-invitation-and-acceptance-based multimedia communications;

(2) is certified by the Department of Defense Joint Interoperability Test Center; and

(3) is composed of commercially available, off-the-shelf technology.

(b) **ASSESSMENT.**—Not later than 1 year after the date of the enactment of this Act, and annually thereafter for the succeeding 4 years, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate an assessment of the pilot program, including the impacts of the program with respect to interagency and Coast Guard response capabilities.

SEC. 215. COAST GUARD GRADUATE MARITIME OPERATIONS EDUCATION.

Not later than 1 year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall establish an education program, for members and employees of the Coast Guard, that—

(1) offers a master's degree in maritime operations;

(2) is relevant to the professional development of such members and employees;

(3) provides resident and distant education options, including the ability to utilize both options; and

(4) to the greatest extent practicable, is conducted using existing academic programs at an accredited public academic institution that—

(A) is located near a significant number of Coast Guard, maritime, and other Department of Homeland Security law enforcement personnel; and

(B) has an ability to simulate operations normally conducted at a command center.

TITLE III—SHIPPING AND NAVIGATION**SEC. 301. TREATMENT OF FISHING PERMITS.**

(a) **IN GENERAL.**—Subchapter I of chapter 313 of title 46, United States Code, is amended by adding at the end the following:

“§ 31310. Treatment of fishing permits

“(a) **LIMITATION ON MARITIME LIENS.**—This chapter—

“(1) does not establish a maritime lien on a fishing permit; and

“(2) does not authorize any civil action to enforce a maritime lien on a fishing permit.

“(b) TREATMENT OF FISHING PERMITS UNDER STATE AND FEDERAL LAW.—A fishing permit—

“(1) is governed solely by the State or Federal law under which it is issued; and

“(2) shall not be treated as part of a vessel, or as an appurtenance or intangible of a vessel, for any purpose under Federal law.

“(c) AUTHORITY OF SECRETARY OF COMMERCE NOT AFFECTED.—Nothing in this section shall be construed as imposing any limitation upon the authority of the Secretary of Commerce—

“(1) to modify, suspend, revoke, or impose a sanction on any fishing permit issued by the Secretary of Commerce; or

“(2) to bring a civil action to enforce such a modification, suspension, revocation, or sanction.

“(d) FISHING PERMIT DEFINED.—In this section the term ‘fishing permit’ means any authorization of a person or vessel to engage in fishing that is issued under State or Federal law.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 31309 the following:

“31310. Treatment of fishing permits.”.

SEC. 302. SURVIVAL CRAFT.

(a) IN GENERAL.—Section 3104 of title 46, United States Code, is amended to read as follows:

“§ 3104. Survival craft

“(a) REQUIREMENT TO EQUIP.—The Secretary shall require that a passenger vessel be equipped with survival craft that ensures that no part of an individual is immersed in water, if—

“(1) such vessel is built or undergoes a major conversion after January 1, 2016; and

“(2) operates in cold waters as determined by the Secretary.

“(b) HIGHER STANDARD OF SAFETY.—The Secretary may revise part 117 or part 180 of title 46, Code of Federal Regulations, as in effect before January 1, 2016, if such revision provides a higher standard of safety than is provided by the regulations in effect on or before the date of the enactment of the Coast Guard Authorization Act of 2015.

“(c) INNOVATIVE AND NOVEL DESIGNS.—The Secretary may, in lieu of the requirements set out in part 117 or part 180 of title 46, Code of Federal Regulations, as in effect on the date of the enactment of the Coast Guard Authorization Act of 2015, allow a passenger vessel to be equipped with a life saving appliance or arrangement of an innovative or novel design that—

“(1) ensures no part of an individual is immersed in water; and

“(2) provides an equal or higher standard of safety than is provided by such requirements as in effect before such date of the enactment.

“(d) BUILT DEFINED.—In this section, the term ‘built’ has the meaning that term has under section 4503(e).”.

(b) REVIEW; REVISION OF REGULATIONS.—

(1) REVIEW.—Not later than December 31, 2015, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a review of—

(A) the number of casualties for individuals with disabilities, children, and the elderly as a result of immersion in water, reported to the Coast Guard over the preceding 30-year period, by vessel type and area of operation;

(B) the risks to individuals with disabilities, children, and the elderly as a result of immersion in water, by passenger vessel type and area of operation;

(C) the effect that carriage of survival craft that ensure that no part of an individual is immersed in water has on—

(i) passenger vessel safety, including stability and safe navigation;

(ii) improving the survivability of individuals, including individuals with disabilities, children, and the elderly; and

(iii) the costs, the incremental cost difference to vessel operators, and the cost effectiveness of requiring the carriage of such survival craft to

address the risks to individuals with disabilities, children, and the elderly;

(D) the efficacy of alternative safety systems, devices, or measures in improving survivability of individuals with disabilities, children, and the elderly; and

(E) the number of small businesses and nonprofit vessel operators that would be affected by requiring the carriage of such survival craft on passenger vessels to address the risks to individuals with disabilities, children, and the elderly.

(2) REVISION.—Based on the review conducted under paragraph (1), the Secretary may revise regulations concerning the carriage of survival craft pursuant to section 3104(c) of title 46, United States Code.

SEC. 303. ENFORCEMENT.

(a) IN GENERAL.—Section 55305(d) of title 46, United States Code, is amended—
(1) by amending paragraph (1) to read as follows:

“(1) Each department or agency that has responsibility for a program under this section shall administer that program consistent with this section and any regulations and guidance issued by the Secretary of Transportation concerning this section.”;

(2) by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following:

“(2)(A) The Secretary, after consulting with the department, agency, organization, or person involved, shall have exclusive authority for determining the applicability of this section to a program of a Federal department or agency, after consulting with the department, agency, organization, or person involved.

“(B) The head of a Federal department or agency shall request the Secretary to determine the applicability of this section to a program of such department or agency if the department or agency is uncertain of such applicability. Not later than 30 days after receiving such a request, the Secretary shall make such determination.

“(C) Subparagraph (B) shall not be construed to limit the authority of the Secretary to make a determination regarding the applicability of this section to a program administered by a Federal department or agency.

“(D) A determination made by the Secretary under this paragraph regarding a program shall remain in effect until the Secretary determines that this section no longer applies to such program.”;

(3) in paragraph (3), as so redesignated, by amending subparagraph (A) to read as follows:

“(A) shall conduct an annual review of the administration of programs subject to the requirements of this section to determine compliance with the requirements of this section.”; and

(4) by adding at the end the following:

“(4) On the date on which the President submits to Congress a budget pursuant to section 1105 of title 31, the Secretary shall make available on the Internet website of the Department of Transportation a report that—

“(A) lists the programs that were subject to determinations made by the Secretary under paragraph (2) in the preceding year; and

“(B) describes the results of the most recent annual review required by paragraph (3)(A), including identification of the departments and agencies that transported cargo in violation of this section and any action the Secretary took under paragraph (3) with respect to each violation.”.

(b) DEADLINE FOR FIRST REVIEW.—The Secretary of Transportation shall complete the first review required under the amendment made by subsection (a)(1)(C) by not later than December 31, 2015.

(c) CONFORMING AMENDMENT.—Section 3511(c) of the Duncan Hunter National Defense Authorization Act for Fiscal Year 2009 (46 U.S.C. 55305 note) is repealed.

SEC. 304. MODEL YEARS FOR RECREATIONAL VESSELS.

(a) IN GENERAL.—Section 4302 of title 46, United States Code is amended by adding at the end the following:

“(e)(1) If in prescribing regulations under this section the Secretary establishes a model year for recreational vessels and associated equipment, such model year shall, except as provided in paragraph (2)—

“(A) begin on June 1 of a year and end on July 31 of the following year; and

“(B) be designated by the year in which it ends.

“(2) Upon the request of a recreational vessel manufacturer to which this chapter applies, the Secretary may alter a model year for a model of recreational vessel of the manufacturer and associated equipment, by no more than 6 months from the model year described in paragraph (1).”.

(b) APPLICATION.—This section shall only apply with respect to recreational vessels and associated equipment constructed or manufactured, respectively, on or after June 1, 2015.

(c) GUIDANCE.—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 publish guidance to implement section 4302(d)(2) of title 46, United States Code.

SEC. 305. MERCHANT MARINER CREDENTIAL EXPIRATION HARMONIZATION.

(a) IN GENERAL.—Except as provided in subsection (c) and not later than 1 year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall establish a process to harmonize the expiration dates of merchant mariner credentials, mariner medical certificates, and radar observer endorsements for individuals applying to the Secretary for a new merchant mariner credential or for renewal of an existing merchant mariner credential.

(b) REQUIREMENTS.—The Secretary shall ensure that the process established under subsection (a)—

(1) does not require an individual to renew a merchant mariner credential earlier than the date on which the individual’s current credential expires; and

(2) results in harmonization of expiration dates for merchant mariner credentials, mariner medical certificates, and radar observer endorsements for all individuals by not later than 6 years after the date of the enactment of this Act.

(c) EXCEPTION.—The process established under subsection (a) does not apply to individuals—

(1) holding a merchant mariner credential with—

(A) an active Standards of Training, Certification, and Watchkeeping endorsement; or

(B) Federal first-class pilot endorsement; or

(2) who have been issued a time-restricted medical certificate.

SEC. 306. MARINE EVENT SAFETY ZONES.

Section 6 of the Ports and Waterways Safety Act (33 U.S.C. 1225) is amended by adding at the end the following:

“(c) MARINE EVENT SAFETY ZONES.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall recover all costs the Coast Guard incurs to enforce a safety zone under this section if such safety zone is established for a marine event conducted under a permit or other authorization by the Coast Guard.

“(2) EXCEPTION.—The Secretary may not recover costs under paragraph (1) from a State or local government.

“(3) TREATMENT OF RECOVERED COSTS.—Costs recovered by the Secretary under this subsection shall be credited to the appropriation for operating expenses of the Coast Guard.

“(4) MARINE EVENT DEFINED.—In this section the term ‘marine event’ means a planned activity of limited duration that by its nature, circumstances, or location, will introduce extra or unusual hazards to the safety of life on the navigable waters of the United States.”.

SEC. 307. TECHNICAL CORRECTIONS.

(a) TITLE 46.—Title 46, United States Code, is amended—

(1) in section 103, by striking “(33 U.S.C. 151).” and inserting “(33 U.S.C. 151(b)).”;

(2) in section 2118—

(A) in subsection (a), in the matter preceding paragraph (1), by striking “title,” and inserting “subtitle.”; and

(B) in subsection (b), by striking “title” and inserting “subtitle.”;

(3) in the analysis for chapter 35—

(A) by adding a period at the end of the item relating to section 3507; and

(B) by adding a period at the end of the item relating to section 3508;

(4) in section 3715(a)(2), by striking “; and” and inserting a semicolon;

(5) in section 8103(b)(1)(A)(iii), by striking “Academy.” and inserting “Academy; and”; and

(6) in section 11113(c)(1)(A)(i), by striking “under this Act”.

(b) GENERAL BRIDGE STATUTES.—

(1) ACT OF MARCH 3, 1899.—The Act of March 3, 1899, popularly known as the Rivers and Harbors Appropriations Act of 1899, is amended—

(A) in section 9 (33 U.S.C. 401), by striking “Secretary of Transportation” each place it appears and inserting “Secretary of the department in which the Coast Guard is operating”; and

- (B) in section 18 (33 U.S.C. 502), by striking “Secretary of Transportation” each place it appears and inserting “Secretary of the department in which the Coast Guard is operating”.
- (2) ACT OF MARCH 23, 1906.—The Act of March 23, 1906, popularly known as the Bridge Act of 1906, is amended—
- (A) in the first section (33 U.S.C. 491), by striking “Secretary of Transportation” and inserting “Secretary of the department in which the Coast Guard is operating”;
- (B) in section 4 (33 U.S.C. 494), by striking “Secretary of Homeland Security” each place it appears and inserting “Secretary of the department in which the Coast Guard is operating”; and
- (C) in section 5 (33 U.S.C. 495), by striking “Secretary of Transportation” each place it appears and inserting “Secretary of the department in which the Coast Guard is operating”.
- (3) ACT OF AUGUST 18, 1894.—Section 5 of the Act entitled “An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved August 18, 1894 (33 U.S.C. 499) is amended by striking “Secretary of Transportation” each place it appears and inserting “Secretary of the department in which the Coast Guard is operating”.
- (4) ACT OF JUNE 21, 1940.—The Act of June 21, 1940, popularly known as the Truman-Hobbs Act, is amended—
- (A) in the first section (33 U.S.C. 511), by striking “Secretary of Transportation” and inserting “Secretary of the department in which the Coast Guard is operating”;
- (B) in section 4 (33 U.S.C. 514), by striking “Secretary of Transportation” and inserting “Secretary of the department in which the Coast Guard is operating”;
- (C) in section 7 (33 U.S.C. 517), by striking “Secretary of Transportation” each place it appears and inserting “Secretary of the department in which the Coast Guard is operating”; and
- (D) in section 13 (33 U.S.C. 523), by striking “Secretary of Transportation” and inserting “Secretary of the department in which the Coast Guard is operating”.
- (5) GENERAL BRIDGE ACT OF 1946.—The General Bridge Act of 1946 is amended—
- (A) in section 502(b) (33 U.S.C. 525(b)), by striking “Secretary of Transportation” and inserting “Secretary of the department in which the Coast Guard is operating”; and
- (B) in section 510 (33 U.S.C. 533), by striking “Secretary of Transportation” each place it appears and inserting “Secretary of the department in which the Coast Guard is operating”.
- (6) INTERNATIONAL BRIDGE ACT OF 1972.—The International Bridge Act of 1972 is amended—
- (A) in section 5 (33 U.S.C. 535c), by striking “Secretary of Transportation” and inserting “Secretary of the department in which the Coast Guard is operating”; and
- (B) in section 8 (33 U.S.C. 535e), by striking “Secretary of Transportation” each place it appears and inserting “Secretary of the department in which the Coast Guard is operating”.

SEC. 308. RECOMMENDATIONS FOR IMPROVEMENTS OF MARINE CASUALTY REPORTING.

Not later than 180 days after the date of the enactment of this Act, the Commandant of the Coast Guard shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the actions the Commandant will take to implement recommendations on improvements to the Coast Guard’s marine casualty reporting requirements and procedures included in—

- (1) the Department of Homeland Security Office of Inspector General report entitled “Marine Accident Reporting, Investigations, and Enforcement in the United States Coast Guard”, released on May 23, 2013; and
- (2) the Towing Safety Advisory Committee report entitled “Recommendations for Improvement of Marine Casualty Reporting”, released on March 26, 2015.

SEC. 309. RECREATIONAL VESSEL ENGINE WEIGHTS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall issue regulations amending Table 4 to Subpart H of Part 183—Weights (Pounds) of Outboard Motor and Related Equipment for Various Boat Horsepower Ratings (33 C.F.R. 183) as appropriate to reflect “Standard 30—Outboard Engine and Related Equipment

Weights” published by the American Boat and Yacht Council, as in effect on the date of the enactment of this Act.

SEC. 310. MERCHANT MARINER MEDICAL CERTIFICATION REFORM.

(a) IN GENERAL.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

“§ 7509. Medical certification by trusted agents

“(a) IN GENERAL.—Notwithstanding any other provision of law and pursuant to regulations prescribed by the Secretary, a trusted agent may issue a medical certificate to an individual who—

- “(1) must hold such certificate to qualify for a license, certificate of registry, or merchant mariner’s document, or endorsement thereto under this part; and
- “(2) is qualified as to sight, hearing, and physical condition to perform the duties of such license, certificate, document, or endorsement, as determined by the trusted agent.

“(b) TRUSTED AGENT DEFINED.—In this section the term ‘trusted agent’ means a medical practitioner certified by the Secretary to perform physical examinations of an individual for purposes of a license, certificate of registry, or merchant mariner’s document under this part.”.

(b) DEADLINE.—Not later than 3 years after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall issue a final rule implementing section 7509 of title 46, United States Code, as added by this section.

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

“7509. Medical certification by trusted agents.”.

SEC. 311. ATLANTIC COAST PORT ACCESS ROUTE STUDY.

Not later than April 1, 2016, the Commandant of the Coast Guard shall conclude the Atlantic Coast Port Access Route Study and submit the results of such study to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 312. CERTIFICATES OF DOCUMENTATION FOR RECREATIONAL VESSELS.

Not later than 180 days after the date of the enactment of this Act, the Secretary of the Department in which the Coast Guard is operating shall issue regulations that—

- (1) make certificates of documentation for recreational vessels effective for 5 years; and
- (2) require the owner of such a vessel—
 - (A) to notify the Coast Guard of each change in the information on which the issuance of the certificate of documentation is based, that occurs before the expiration of the certificate; and
 - (B) apply for a new certificates of documentation for such a vessel if there is any such change.

SEC. 313. PROGRAM GUIDELINES.

Not later than 180 days after the date of the enactment this Act, the Secretary of Transportation shall—

- (1) develop guidelines to implement the program authorized under section 304(a) of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109–241), including specific actions to ensure the future availability of able and credentialed United States licensed and unlicensed seafarers including—
 - (A) incentives to encourage partnership agreements with operators of foreign-flag vessels that carry liquified natural gas, that provide no less than one training billet per vessel for United States merchant mariners in order to meet minimum mandatory sea service requirements;
 - (B) development of appropriate training curricula for use by public and private maritime training institutions to meet all United States merchant mariner license, certification, and document laws and requirements under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978; and
 - (C) steps to promote greater outreach and awareness of additional job opportunities for sea service veterans of the United States Armed Forces; and
- (2) submit such guidelines to the Committee Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 314. REPEALS.

(a) REPEALS, MERCHANT MARINE ACT, 1936.—Sections 601 through 606, 608 through 611, 613 through 616, 802, and 809 of the Merchant Marine Act, 1936 (46 U.S.C. 53101 note) are repealed.

(b) CONFORMING AMENDMENTS.—Chapter 575 of title 46, United States Code, is amended—

(1) in section 57501, by striking “titles V and VI” and inserting “title V” ; and
 (2) in section 57531(a), by striking “titles V and VI” and inserting “title V”.

(c) TRANSFER FROM MERCHANT MARINE ACT, 1936.—

(1) IN GENERAL.—Section 801 of the Merchant Marine Act, 1936 (46 U.S.C. 53101 note) is—

(A) redesignated as section 57522 of title 46, United States Code, and transferred to appear after section 57521 of such title; and

(B) as so redesignated and transferred, is amended—

(i) by striking so much as precedes the first sentence and inserting the following:

“§ 57522. Books and records, balance sheets, and inspection and auditing”;

(ii) by striking “the provision of title VI or VII of this Act” and inserting “this chapter”;

(iii) by striking “That the provisions” and all that follows through “Commission; (2)” ; and

(iv) by redesignating clauses (3) and (4) as clauses (2) and (3), respectively.

(2) CLERICAL AMENDMENT.—The analysis for chapter 575, of title 46, United States Code, is amended by inserting after the item relating to section 57521 the following:

“57522. Books and records, balance sheets, and inspection and auditing.”.

(d) REPEALS, TITLE 46, U.S.C.—Section 8103 of title 46, United States Code, is amended in subsections (c) and (d) by striking “or operating” each place it appears.

TITLE IV—FEDERAL MARITIME COMMISSION

SEC. 401. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Chapter 3 of title 46, United States Code, is amended by adding at the end the following:

“§ 308. Authorization of appropriations

“There is authorized to be appropriated to the Federal Maritime Commission \$24,700,000 for each of fiscal years 2016 and 2017 for the activities of the Commission authorized under this chapter and subtitle IV.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 3 of title 46, United States Code, is amended by adding at the end the following:

“308. Authorization of appropriations.”.

SEC. 402. DUTIES OF THE CHAIRMAN.

Section 301(c)(3)(A) of title 46, United States Code, is amended—

(1) in clause (ii) by striking “units, but only after consultation with the other Commissioners;” and inserting “units (with such appointments subject to the approval of the Commission);”;

(2) in clause (iv) by striking “and” at the end;

(3) in clause (v) by striking the period at the end and inserting “; and”; and

(4) by adding at the end the following:

“(vi) prepare and submit to the President and Congress requests for appropriations for the Commission (with such requests subject to the approval of the Commission).”.

SEC. 403. PROHIBITION ON AWARDS.

Section 307 of title 46, United States Code, is amended—

(1) by striking “The Federal Maritime Commission” and inserting the following:

“(a) IN GENERAL.—The Federal Maritime Commission”; and

(2) by adding at the end the following:

“(b) PROHIBITION.—Notwithstanding subsection (a), the Federal Maritime Commission may not expend any funds appropriated or otherwise made available to it to issue an award, prize, commendation, or other honor to a non-Federal entity.”.

TITLE V—MISCELLANEOUS

SEC. 501. CONVEYANCE OF COAST GUARD PROPERTY IN MARIN COUNTY, CALIFORNIA.

(a) **CONVEYANCE AUTHORIZED.**—The Commandant of the Coast Guard may convey all right, title, and interest of the United States in and to the covered property, upon payment to the United States of the fair market value of the covered property.

(b) **RIGHT OF FIRST REFUSAL.**—The County of Marin, California shall have the right of first refusal with respect to purchase of the covered property under this section.

(c) **SURVEY.**—The exact acreage and legal description of the covered property shall be determined by a survey satisfactory to the Commandant.

(d) **FAIR MARKET VALUE.**—The fair market value of the covered property shall—

- (1) be determined by appraisal; and
- (2) be subject to the approval of the Commandant.

(e) **COSTS OF CONVEYANCE.**—The responsibility for all reasonable and necessary costs, including real estate transaction and environmental documentation costs, associated with a conveyance under this section shall be determined by the Commandant and the purchaser.

(f) **ADDITIONAL TERMS AND CONDITIONS.**—The Commandant may require such additional terms and conditions in connection with a conveyance under this section as the Commandant considers appropriate and reasonable to protect the interests of the United States.

(g) **DEPOSIT OF PROCEEDS.**—Any proceeds received by the United States in a conveyance under this section shall be deposited in the Coast Guard Housing Fund established by section 687 of title 14, United States Code.

(h) **COVERED PROPERTY DEFINED.**—In this section, the term “covered property” means the approximately 32 acres of real property (including all improvements located on the property) that are—

- (1) located at Station Point Reyes in Marin County, California;
- (2) under the administrative control of the Coast Guard; and
- (3) described as “Parcel A, Tract 1”, “Parcel B, Tract 2”, “Parcel C”, and “Parcel D” in the Declaration of Taking (Civil No. C-71-1245 SC) filed June 28, 1971, in the United States District Court for the Northern District of California.

SEC. 502. ELIMINATION OF REPORTS.

(a) **DISTANT WATER TUNA FLEET.**—Section 421 of the Coast Guard and Maritime Transportation Act of 2006 (46 U.S.C. 8103 note) is amended by striking subsection (d).

(b) **ANNUAL UPDATES ON LIMITS TO LIABILITY.**—Section 603(c)(3) of the Coast Guard and Maritime Transportation Act of 2006 (33 U.S.C. 2704 note) is amended by striking “on an annual basis.” and inserting “not later than January 30 of the year following each year in which occurs an oil discharge from a vessel or nonvessel source that results or is likely to result in removal costs and damages (as those terms are defined in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701)) that exceed liability limits established under section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704).”

(c) **INTERNATIONAL BRIDGE ACT OF 1972.**—The International Bridge Act of 1972 is amended by striking section 11 (33 U.S.C. 535h).

SEC. 503. VESSEL DOCUMENTATION.

Not later than 180 days after the date of the enactment this Act, the Comptroller General of the United States shall submit to the Committee on Transportation and Infrastructure of the House and the Committee on Commerce, Science, and Transportation of the Senate, a description of actions that could be taken to—

- (1) improve the efficiency of performance of the functions currently carried out by the National Vessel Documentation Center, including by—
 - (A) transferring such functions to Coast Guard headquarters; and
 - (B) reassigning Coast Guard personnel to better meet the Coast Guard’s vessel documentation mission; and
- (2) strengthen the review of compliance with United States ownership requirements for vessels documented under the laws of the United States.

SEC. 504. CONVEYANCE OF COAST GUARD PROPERTY IN TOK, ALASKA.

(a) **CONVEYANCE AUTHORIZED.**—The Commandant of the Coast Guard may convey all right, title, and interest of the United States in and to the covered property, upon payment to the United States of the fair market value of the covered property.

(b) **RIGHT OF FIRST REFUSAL.**—The Tanana Chiefs’ Conference shall have the right of first refusal with respect to purchase of the covered property under this section.

(c) SURVEY.—The exact acreage and legal description of the covered property shall be determined by a survey satisfactory to the Commandant.

(d) FAIR MARKET VALUE.—The fair market value of the covered property shall be—

- (1) determined by appraisal; and
- (2) subject to the approval of the Commandant.

(e) COSTS OF CONVEYANCE.—The responsibility for all reasonable and necessary costs, including real estate transaction and environmental documentation costs, associated with a conveyance under this section shall be determined by the Commandant and the purchaser.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Commandant may require such additional terms and conditions in connection with a conveyance under this section as the Commandant considers appropriate and reasonable to protect the interests of the United States.

(g) DEPOSIT OF PROCEEDS.—Any proceeds received by the United States from a conveyance under this section shall be deposited in the Coast Guard Housing Fund established under section 687 of title 14, United States Code.

(h) COVERED PROPERTY DEFINED.—

(1) IN GENERAL.—In this section, the term “covered property” means the approximately 3.25 acres of real property (including all improvements located on the property) that are—

- (A) located in Tok, Alaska;
- (B) under the administrative control of the Coast Guard; and
- (C) described in paragraph (2).

(2) DESCRIPTION.—The property described in this paragraph is the following:

(A) Lots 11, 12 and 13, block “G”, Second Addition to Hartsell Subdivision, Section 20, Township 18 North, Range 13 East, Copper River Meridian, Alaska as appears by Plat No. 72-39 filed in the Office of the Recorder for the Fairbanks Recording District of Alaska, bearing seal dated 25 September 1972, all containing approximately 1.25 Acres and commonly known as 2-PLEX – Jackie Circle, Units A and B.

(B) Beginning at a point being the SE corner of the SE $\frac{1}{4}$ of the SE $\frac{1}{4}$ Section 24, Township 18 North, Range 12 East, Copper River Meridian, Alaska; thence running westerly along the south line of said SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ 260 feet; thence northerly parallel to the east line of said SE $\frac{1}{4}$ of the NE $\frac{1}{4}$ 335 feet; thence easterly parallel to the south line 260 feet; then south 335 feet along the east boundary of Section 24 to the point of beginning; all containing approximately 2.0 acres and commonly known as 4-PLEX – West “C” and Willow, Units A, B, C and D.

SEC. 505. SAFE VESSEL OPERATION IN THE GREAT LAKES.

The Howard Coble Coast Guard and Maritime Transportation Act of 2014 (Public Law 113–281) is amended—

(1) in section 610, by—

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

“SEC. 610. SAFE VESSEL OPERATION IN THE GREAT LAKES.”;

(B) striking “existing boundaries and any future expanded boundaries of the Thunder Bay National Marine Sanctuary and Underwater Preserve” and inserting “boundaries of any national marine sanctuary that preserves shipwrecks or maritime heritage in the Great Lakes”; and

(C) by inserting before the period at the end the following: “, unless the designation documents for such sanctuary do not allow taking up or discharging ballast water in such sanctuary”; and

(2) in the table of contents in section 2, by striking the item relating to such section and inserting the following:

“Sec. 610. Safe vessel operation in the Great Lakes.”.

SEC. 506. USE OF VESSEL SALE PROCEEDS.

(a) AUDIT.—The Comptroller General of the United States shall conduct an audit of funds credited in each fiscal year after fiscal year 2004 to the Vessel Operations Revolving Fund that are attributable to the sale of obsolete vessels in the National Defense Reserve Fleet that were scrapped or sold under sections 57102, 57103, and 57104 of title 46, United States Code, including—

(1) a complete accounting of all vessel sale proceeds attributable to the sale of obsolete vessels in the National Defense Reserve Fleet that were scrapped or sold under sections 57102, 57103 and 57104 of title 46, United States Code, in each fiscal year after fiscal year 2004;

(2) the annual apportionment of proceeds accounted for under paragraph (1) among the uses authorized under section 308704 of title 54, United States Code, in each fiscal year after fiscal year 2004, including—

(A) for National Maritime Heritage Grants, including a list of all annual National Maritime Heritage Grant grant and subgrant awards that identifies the respective grant and subgrant recipients and grant and subgrant amounts;

(B) for the preservation and presentation to the public of maritime heritage property of the Maritime Administration;

(C) to the United States Merchant Marine Academy and State maritime academies, including a list of annual awards; and

(D) for the acquisition, repair, reconditioning, or improvement of vessels in the National Defense Reserve Fleet; and

(3) an accounting of proceeds, if any, attributable to the sale of obsolete vessels in the National Defense Reserve Fleet that were scrapped or sold under sections 57102, 57103, and 57104 of title 46, United States Code, in each fiscal year after fiscal year 2004, that were expended for uses not authorized under section 308704 of title 54, United States Code.

(b) SUBMISSION TO CONGRESS.—Not later than 180 days after the date of enactment this Act, the Comptroller General shall submit the audit conducted in subsection (a) to the Committee on Armed Services, the Committee on Natural Resources, and the Committee on Transportation and Infrastructure of the House and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 507. FISHING VESSEL AND FISH TENDER VESSEL CERTIFICATION.

Section 4503 of title 46, United States Code, is amended—

(1) in subsection (c), by adding at the end the following: “Subsection (a) does not apply to a fishing vessel or fish tender vessel described in subsection (d)(6), if the vessel complies with an alternative safety compliance program established under that subsection for such a vessel.”; and

(2) in subsection (d), by adding at the end the following:

“(6) The Secretary shall establish an alternative safety compliance program for fishing vessels or fish tender vessels (or both) that are at least 50 feet overall in length, and not more than 79 feet overall in length, and built after July 1, 2013.”.

SEC. 508. NATIONAL ACADEMY OF SCIENCES COST COMPARISON.

(a) COST COMPARISON.—The Secretary of the department in which the Coast Guard is operating shall seek to enter into an arrangement with the National Academy of Sciences under which the Academy, by no later than 180 days after the date of the enactment of this Act, 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 comparison of the costs incurred by the Federal Government for each of the following alternatives:

(1) Transferring the *Polar Sea* to a non-governmental entity at no cost, and leasing back the vessel beginning on the date on which the Coast Guard certifies that the vessel is capable of the breaking out and missions described in subsection (c)(1).

(2) The reactivation and operation by the Coast Guard of the *Polar Sea* to an operational level at which the vessel is capable of such breaking out and missions.

(3) Acquiring and operating a new icebreaker through the Coast Guard’s acquisition process that is capable of such breaking out and missions.

(4) Construction by a non-Federal entity of an icebreaker capable of such breaking out and missions, that will be leased by the Federal Government and operated using a Coast Guard crew.

(5) Construction by a non-Federal entity of an icebreaker capable of such breaking out and missions, that will be leased by the Federal Government and operated by a crew of non-Federal employees.

(6) The acquisition of services from a non-Federal entity to perform such breaking out and missions.

(b) INCLUDED COSTS.—For purposes of subsection (a), the cost of each alternative includes costs incurred by the Federal Government for—

(1) the lease or operation and maintenance of the vessel concerned;

(2) disposal of such vessel at the end of the useful life of the vessel;

(3) retirement and other benefits for Federal employees who operate such vessel; and

(4) interest payments assumed to be incurred for Federal capital expenditures.

(c) ASSUMPTIONS.—For purposes of comparing the costs of such alternatives, the Academy shall assume that—

(1) each vessel under consideration is—

(A) capable of breaking out of McMurdo Station, and conducting Coast Guard missions in the United States territory in the Arctic (as that term is defined in section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111)); and

(B) operated for a period of 20 years;

(2) the acquisition of services and the operation of each vessel begin on the same date; and

(3) the periods for conducting Coast Guard missions in the Arctic are of equal lengths.

SEC. 509. PENALTY WAGES.

(a) FOREIGN AND INTERCOASTAL VOYAGES.—Section 10313(g) of title 46, United States Code, is amended—

(1) in paragraph (2)—

(A) by striking “all claims in a class action suit by seamen” and inserting “each claim by a seaman”; and

(B) by striking “the seamen” and inserting “the seaman”; and

(2) in paragraph (3)—

(A) by striking “class action”; and

(B) in subparagraph (B), by striking “, by a seaman who is a claimant in the suit,” and inserting “by the seaman”.

(b) COASTWISE VOYAGES.—Section 10504(c) of such title is amended—

(1) in paragraph (2)—

(A) by striking “all claims in a class action suit by seamen” and inserting “each claim by a seaman”; and

(B) by striking “the seamen” and inserting “the seaman”; and

(2) in paragraph (3)—

(A) by striking “class action”; and

(B) in subparagraph (B), by striking “, by a seaman who is a claimant in the suit,” and inserting “by the seaman”.

SEC. 510. RECOURSE FOR NONCITIZENS.

Section 30104 of title 46, United States Code, is amended—

(1) by inserting “(a) IN GENERAL.—” before the first sentence; and

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

“(b) RESTRICTION ON RECOVERY FOR NONRESIDENT ALIENS EMPLOYED ON FOREIGN PASSENGER VESSELS.—A claim for damages or expenses relating to personal injury, illness, or death of a seaman who is a citizen of a foreign nation, arising during or from the engagement of the seaman by or for a passenger vessel duly registered under the laws of a foreign nation, may not be brought under the laws of the United States if—

“(1) such seaman was not a permanent resident alien of the United States at the time the claim arose;

“(2) the injury, illness, or death arose outside the territorial waters of the United States; and

“(3) the seaman or the seaman’s personal representative has or had a right to seek compensation for the injury, illness, or death in, or under the laws of—

“(A) the nation in which the vessel was registered at the time the claim arose; or

“(B) the nation in which the seaman maintained citizenship or residency at the time the claim arose.”.

PURPOSE OF LEGISLATION

H.R. 1987, the Coast Guard Authorization Act of 2015, as amended, authorizes \$8.7 billion in discretionary funding for the Coast Guard for each of the fiscal years 2016 and 2017. The bill authorizes the end-of-year strength for active duty military personnel at 43,000 for each of the fiscal years 2016 and 2017. The bill also authorizes \$24.7 million for the Federal Maritime Commission (FMC) in each of the fiscal years 2016 and 2017. Finally, the bill makes several reforms to Coast Guard authorities and laws governing shipping and navigation.

BACKGROUND AND NEED FOR LEGISLATION

COAST GUARD

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

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

As one of the five Armed Services, the Coast Guard also maintains defense readiness to operate as a specialized service in the Navy upon the declaration of war or when the President directs. The Coast Guard is composed of approximately 40,000 military personnel, 7,500 reservists, and 8,300 civilian employees. The Coast Guard or its predecessors have defended the Nation in every war since 1790.

In fiscal year 2014, the Coast Guard responded to over 17,500 search and rescue cases saving over 3,400 lives, conducted over 8,600 security boardings of vessels entering U.S. ports, inspected over 12,500 U.S. flagged commercial vessels to ensure safety and security requirements were met, maintained over 51,000 aids to navigation, and interdicted over 3,500 undocumented migrants and 140 metric tons of illegal drugs.

H.R. 1987, the Coast Guard Authorization Act of 2015, as amended, authorizes the Coast Guard for the next two years at fiscally responsible levels to carry out these missions, while helping to replace and modernize the Coast Guard's aging assets in a cost effective manner, enhancing oversight, and reducing inefficiencies to save taxpayer dollars.

Pursuant to section 101 of the Howard Coble Coast Guard and Maritime Transportation Act of 2014 (P.L. 113-281), the activities of the Coast Guard are authorized through fiscal year (FY) 2015 at \$8.7 billion. H.R. 1987, as amended, authorizes \$8.7 billion in discretionary funds for the Coast Guard for each of the fiscal years 2016 and 2017.

Investment in Coast Guard capabilities

The Committee has long had concerns about the adequacy of capital investment in Coast Guard assets and infrastructure. Enforcing federal laws in, under, over the high seas and waters subject to the jurisdiction of the United States is a complicated task requiring a workforce that is highly trained in many areas from marine and aviation operations to marine safety. It also requires a substantial number of physical assets from cutters and aircraft, to buoys and shoreside facilities. The Coast Guard and GAO have both done estimates of what is required in annual Coast Guard capital investment. These estimates range from \$1.5 to more than

\$2.0 billion depending on whether the goal is to maintain existing capability or to achieve capabilities closer to those imagined in the 2005 Mission Need Statement (MNS), or in the approved acquisition program of record. In recent years, administration budget requests have fallen woefully short of even meeting minimum needs and appropriations have only been able to make up a fraction of the shortfall. In fiscal year 2016, the President is requesting \$1 billion for the Coast Guard's Acquisition, Construction, and Improvement (AC&I) account. This represents a cut of over \$200 million or 17 percent from the FY 2015 enacted level.

Section 215 of P.L. 113–281 requires the submission of a revised MNS which explains how each major acquisition program addresses identified mission hour gaps, and describes the missions the Coast Guard will be unable to fully achieve for each gap identified. The Committee will do oversight based on this MNS when it is submitted in July 2015. Pending that updated information, H.R. 1987 authorizes the Coast Guard's AC&I account at \$1.5 billion for each of the fiscal years 2016 and 2017, approximately \$500 million more than the President's FY 2016 request. The Committee believes long-term funding at this level will allow the Coast Guard to maintain current mission capability. However, the Committee acknowledges that even at the level of capital funding proposed in this authorization, certain Coast Guard missions simply will not be done or will be done at an operations tempo far short of what is needed to adequately carry them out. The Committee looks forward to continuing to work with the Coast Guard for the remainder for the 114th Congress to determine how to better align missions and assets under current budget constraints and to identify those missions which may be best handled by other entities.

As mentioned, section 215 of P.L. 113–281 requires the Coast Guard to update its 2005 MNS which provides the underlying justification for its asset recapitalization program. H.R. 1987, as amended, builds on that requirement by adding a review of Coast Guard manpower needs. Without a sufficient number of trained servicemembers operating assets, readiness and mission performance suffers. Without trained Coast Guard inspectors and environmental responders, maritime safety and environmental response regulations have no real world effect. The Committee believes these documents will assist in our oversight and our efforts to improve Coast Guard mission performance.

FEDERAL MARITIME COMMISSION

The FMC is the independent federal agency responsible for regulating the U.S. international ocean transportation system for the benefit of U.S. exporters, importers, and consumers. P.L. 113–281 authorized activities of the FMC through FY 2015. H.R. 1987, as amended, reauthorizes the FMC through FY 2017 at currently authorized levels and includes several reforms to the administrative procedures of the FMC to improve public accountability.

MARITIME TRANSPORTATION

The maritime sector of our national transportation system is essential to our economy and vital to our national security. The U.S. maritime industry currently employs more than 260,000 Americans providing nearly \$29 billion in annual wages. There are more than

40,000 commercial vessels currently flying the American flag. The vast majority of these vessels are engaged in domestic commerce, moving over 100 million passengers and \$400 billion worth of goods between ports in the United States on an annual basis. Each year, the U.S. maritime industry accounts for over \$100 billion in economic output.

Beyond the important contributions to our economy, a healthy maritime industry is vital to our national security. Throughout our history, the military has relied on U.S. flagged commercial vessels crewed by American Merchant Mariners to carry troops, weapons, and supplies to the battlefield. During Operations Enduring Freedom and Iraqi Freedom, U.S. flagged commercial vessels transported 63 percent of all military cargos moved to Afghanistan and Iraq. Since the United States cannot rely on foreign vessels and crews to provide for its national security, it is critical to maintain a robust fleet of U.S. flagged vessels, a large cadre of skilled American mariners, and a strong shipyard industrial base.

However, over the last 35 years, the number of U.S. flagged vessels sailing in the international trade has dropped from 850 to less than 100. In the same period, the United States has lost over 300 shipyards and thousands of American maritime-related jobs. Preserving and strengthening our Nation's maritime industry is vital to our economic and national security.

H.R. 1987, as amended, improves the enforcement U.S. cargo preference laws to ensure that cargo financed by the American taxpayers is transported on U.S. flagged vessels crewed with U.S. mariners. The bill also encourages job growth in the U.S. maritime sector by reducing several regulatory burdens on small business.

HEARINGS

On February 25, 2015, the Subcommittee on Coast Guard and Maritime Transportation held a hearing to examine the FY 2016 budget requests for the Coast Guard, the FMC, and the Maritime Administration. On April 15, 2015, the Subcommittee held a hearing to review Coast Guard mission execution.

LEGISLATIVE HISTORY AND CONSIDERATION

On April 23, 2015, Subcommittee on Coast Guard and Maritime Transportation Chairman Duncan Hunter introduced for himself, Subcommittee Ranking Member John Garamendi, and Transportation and Infrastructure Committee Chairman Bill Shuster and Ranking Member Peter DeFazio, H.R. 1987, the Coast Guard Authorization Act of 2015. On April 30, 2015, the Committee met in open session to consider H.R. 1987, and ordered the bill, as amended, reported favorably to the House of Representatives by voice vote with a quorum present.

Amendments were offered in Committee by Representatives Hunter, Brown, and Hahn. Representative Hunter offered a manager's amendment which was adopted by voice vote. The amendment made technical changes to the bill and added provisions to improve a training program for U.S. mariners; audit the proceeds from the sale of vessels in the National Defense Reserve Fleet; convey a parcel of excess Coast Guard property in Alaska at fair market value; ensure the safe operation of vessels on the Great Lakes;

conduct a cost comparison between constructing and leasing a new polar icebreaker; and amend classification requirements for certain commercial fishing vessels. Representative Brown offered an amendment, which was adopted by voice vote, to cap penalty wages for mariners in individual suits and clarify recourse to sue in U.S. courts for foreign citizens injured while working on foreign flagged cruise vessels operating in international waters. Representative Hahn offered and withdrew an amendment regarding benefits for World War II merchant marine veterans.

COMMITTEE 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 record 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. There were no record votes taken in connection with consideration of H.R. 1987.

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.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

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.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

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. 1987, as amended, from the Director of the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 14, 2015.

Hon. BILL SHUSTER,
*Chairman, Committee on Transportation and Infrastructure,
U.S. House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1987, the Coast Guard Authorization Act of 2015.

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

Sincerely,

KEITH HALL.

Enclosure.

H.R. 1987—Coast Guard Authorization Act of 2015

Summary: H.R. 1987 would authorize appropriations totaling \$17.5 billion, primarily for ongoing operations of the United States Coast Guard (USCG) and the Federal Maritime Commission (FMC) over the 2016–2017 period. The bill would amend laws that govern the activities of USCG, FMC, and the Maritime Administration within the Department of Transportation. Assuming appropriation of the specified amounts, CBO estimates that implementing the legislation would cost \$16.6 billion over the 2016–2020 period.

H.R. 1987 would expand the authority of USCG to cancel federal debts to include those who incurred debt as an officer on active duty in the Coast Guard. Based on information provided by USCG, CBO estimates that enacting this provision would reduce offsetting receipts that are treated as increases in direct spending by less than \$500,000 over the 2016–2025 period. (The loss of offsetting receipts are treated as increases in direct spending.) Because enacting this legislation would increase direct spending, pay-as-you-go procedures apply; however, the effect on direct spending would be insignificant in each year and over the 2016–2025 period. Enacting H.R. 1987 would not affect revenues.

H.R. 1987 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA).

H.R. 1987 would impose private-sector mandates, as defined in UMRA, on sponsors of marine events and manufacturers of small boats. Based on information from USCG and industry experts, CBO estimates that the cost of the mandates would fall below the annual threshold in UMRA for private-sector mandates (\$154 million in 2015, adjusted for inflation).

Estimated Cost to the Federal Government: The estimated budgetary impact of H.R. 1987 is shown in the following table. The costs of this legislation fall within budget functions 050 (national defense) and 400 (transportation).

| | By fiscal year, in millions of dollars— | | | | | |
|--|---|-------|-------|------|------|-----------|
| | 2016 | 2017 | 2018 | 2019 | 2020 | 2016–2020 |
| CHANGES IN SPENDING SUBJECT TO APPROPRIATION | | | | | | |
| United States Coast Guard | | | | | | |
| Authorization Level | 8,704 | 8,704 | 0 | 0 | 0 | 17,408 |
| Estimated Outlays | 5,761 | 7,225 | 2,098 | 984 | 520 | 16,588 |
| Federal Maritime Commission | | | | | | |
| Authorization Level | 25 | 25 | 0 | 0 | 0 | 49 |
| Estimated Outlays | 23 | 24 | 2 | 0 | 0 | 49 |
| Total | | | | | | |
| Authorization Level | 8,729 | 8,729 | 0 | 0 | 0 | 17,458 |
| Estimated Outlays | 5,784 | 7,249 | 2,100 | 984 | 520 | 16,637 |

Note: Details may not sum to totals because of rounding.

Basis of estimate: For this estimate, CBO assumes that H.R. 1987 will be enacted near the end of fiscal year 2015 and that the amounts authorized by the bill will be appropriated for each year. Estimated outlays are based on historical spending patterns for authorized activities.

United States Coast Guard

H.R. 1987 would authorize the appropriation of \$8.7 billion for ongoing USCG activities for each of fiscal years 2016 and 2017. In

2015 the USCG received an appropriation of \$8.4 billion. Specifically, the bill would authorize the appropriation of \$17.4 billion for USCG operations including about \$14 billion for operations and maintenance, \$3.1 billion for capital acquisitions, \$280 million for reserve training, \$40 million for research programs, and \$33 million for environmental compliance. Among the new USCG responsibilities in the bill, H.R. 1987 would direct USCG to:

- Submit various reports to the Congress, including a 20-year acquisition plan, an implementation plan for using software to manage boat maintenance, and a manpower requirements plan;
- Establish a pilot program to assess USCG communications during response activities;
- Authorize the conveyance of property in California and Alaska at fair market value; and
- Recover the costs of providing safety zones around private marine events that are permitted or authorized by the Coast Guard.

Assuming appropriation of the amounts specified in the bill, CBO estimates that implementing the USCG provisions of H.R. 1987 would cost \$16.6 billion over the 2016–2020 period. Based on information from the USCG, CBO expects that the property conveyances authorized in H.R. 1987 would have no significant effect on the budget.

Federal Maritime Commission

H.R. 1987 would authorize the appropriation of nearly \$25 million, annually for 2016 and 2017 for the operations of the FMC. The agency received an appropriation of \$26 million in 2015. The FMC regulates shipping activities in the United States. CBO estimates that implementing those provisions would cost \$49 million over the 2016–2020 period, assuming appropriation of the authorized amounts.

Pay-as-you-go considerations: Enacting H.R. 1987 would reduce offsetting receipts (which are treated as increases in direct spending). The legislation would authorize the USCG to cancel debt owed to the federal government that was incurred by an officer of the Coast Guard while on active duty. Under current law, USCG may waive the debt incurred by enlisted members of the Coast Guard, and the legislation would expand the eligible group to include officers. Those debts primarily arise from administrative overpayments. CBO estimates that the effect of this provision on direct spending would be insignificant in any year and over the 2016–2025 period.

Estimated impact on state, local, and tribal governments: H.R. 1987 contains no intergovernmental mandates as defined in UMRA and would benefit state and local governments by, among other things, authorizing the conveyance of land, at fair market value, to Marin County, California, and by clarifying that federal law does not preempt state regulation of fishing permits under certain conditions.

Estimated impact on the private-sector: H.R. 1987 would impose private-sector mandates as defined in UMRA. Based on information from USCG and industry experts, CBO estimates that the aggregate annual cost of the mandates would fall below the annual

threshold in UMRA for private-sector mandates (\$154 million in 2015, adjusted for inflation).

The bill would require sponsors of marine events requiring a permit or USCG authorization to pay the USCG for the cost of providing a safety zone for such an event. Based on information from USCG, CBO expects that the requirement would apply to a limited number of sponsors annually.

The bill also would impose a mandate on manufacturers of small boats by requiring those manufacturers to use updated engine weights when conducting stability and floatation tests. According to information from industry experts, most small boats sold in the United States already use the updated engine weights.

Estimate prepared by: Federal Costs: Martin von Gnechten; Impact on State, Local, and Tribal Governments: Melissa Merrell; Impact on the Private Sector: Amy Petz.

Estimate approved by: H. Samuel Papenfuss, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

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 sufficient funds for the activities of the Coast Guard and Federal Maritime Commission, make the operations of Coast Guard more efficient, and improve the safety and productivity of the marine transportation system.

ADVISORY OF EARMARKS

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. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

DUPLICATION OF FEDERAL PROGRAMS

Pursuant to section 3(g) of H. Res. 5, 114th Cong. (2015), the Committee finds that no provision of H.R. 1987, as amended, establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, 114th Cong. (2015), the Committee estimates that enacting H.R. 1987 specifically directs the completion of a specific rule making within the meaning of section 551 of title 5, United States Code. Section 309 of H.R. 1987 requires the Secretary of the department in which the Coast Guard is operating to amend existing regulations concerning the incorpo-

ration by reference of standards for recreational vessel engine weights. Section 310 of H.R. 1987 requires the Secretary of the department in which the Coast Guard is operating to carry out a rulemaking to reform merchant mariner medical certification. Section 312 of H.R. 1987 requires the Secretary of the department in which the Coast Guard is operating to carry out a rulemaking to reform the issuance of certificates of documentation for recreational vessels.

FEDERAL MANDATE STATEMENT

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

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 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. 1987, as amended, does not preempt any state, local, or tribal law.

ADVISORY COMMITTEE STATEMENT

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

APPLICABILITY OF LEGISLATIVE BRANCH

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

SECTION-BY-SECTION ANALYSIS OF LEGISLATION

TITLE I—AUTHORIZATION

Section 101. Authorizations

This section authorizes \$8.7 billion in discretionary funds for the Coast Guard for each of the fiscal years 2016 and 2017. This is the same level of funding that was authorized for the Coast Guard in section 101 of P.L. 113-281. It also authorizes an end-of-year strength for active duty Coast Guard personnel of 43,000 and sets military training student loads for each of the fiscal years 2016 and 2017.

The President's budget for FY 2016 includes a request to transfer an undefined amount of money from an undefined source within the Department of Homeland Security to the Coast Guard to complete detailed design of the Offshore Patrol Cutter (OPC). The Committee is very concerned with this erratic approach to budgeting. This approach is especially troubling for the OPC as the need for the cutter has been well and thoroughly documented and the

requirements for which have been widely and extensively vetted. Failure to enter into a contract for detailed design of the OPC before the end of FY 2016 will significantly increase the cost and substantially delay this vital acquisition. The Committee is very concerned that further delays in the initiation of the procurement will only exacerbate existing gaps in Coast Guard mission capabilities. This section authorizes sufficient funds within the Coast Guard's AC&I account to enter into a contract for detailed design of the OPC in FY 2016. The Committee expects the Coast Guard to ensure, to the maximum extent practicable, that it awards a contract for detailed design of the OPC at the earliest possible date.

The Committee is concerned with the adequacy of Coast Guard icebreaking capability on the Great Lakes. In recent winters, the percentage of ice cover on the Great Lakes has approached record levels and the Coast Guard has struggled to adequately keep shipping lanes open. From December 2013 to May 2014, 7 million fewer tons were carried by U.S. flagged vessels on the Great Lakes, costing the economy an estimated \$700 million and 4,000 jobs. This section clarifies that funds authorized in the bill may be used to construct an icebreaker capable of buoy tending on the Great Lakes.

The other Armed Services are currently required to provide Congress with a manpower requirements plan that justifies requested end strengths against mission requirements. The Coast Guard does not currently provide Congress with a similar plan. This section would improve oversight of the Service's mission performance by requiring the Coast Guard to provide Congress a plan for building and maintaining the force structure it needs to effectively carry out its missions.

Sec. 102. Conforming Amendments

This section makes conforming and technical changes to title 14, United States Code.

TITLE II—COAST GUARD

Sec. 201. Vice Commandant

The Coast Guard is the only Armed Service with a vice service chief that does not have the rank of a four star flag or general officer. This section would change the rank of the Vice Commandant of the Coast Guard from vice admiral to admiral to align the leadership structure of the Coast Guard to that of the other Armed Services. This change will enable the Vice Commandant to better represent the Coast Guard and the Commandant during frequent interactions with counterparts in the other Armed Services.

Sec. 202. Vice admirals

The Coast Guard is currently the only Armed Service without a chief of staff. The position was discontinued in 2011 and many of the responsibilities were assumed by the Vice Commandant. This has diluted the focus of the Vice Commandant from his traditional duties as the vice service chief. This section authorizes the Coast Guard to reinstate the position of Chief of Staff.

This section also authorizes the President to appoint additional Coast Guard vice admirals to positions in the executive branch.

The Chairman of the Joint Chiefs of Staff has requested the appointment of Coast Guard officers to serve on the Joint Staff, but limitations on the number of Coast Guard vice admirals under current law prohibits the Service from fulfilling this pressing national security request.

Sec. 203. Coast Guard remission of indebtedness

This section ensures that members of the Coast Guard are not held liable for administrative errors that result in overpayments of pay and benefits. Members of the other Armed Services currently receive similar protections.

Sec. 204. Acquisition reform

This section enacts recommendations made by the Government Accountability Office (GAO) to improve the performance of new assets acquired by the Coast Guard, as well as oversight of the Service's acquisition process. This section requires the Coast Guard to establish the performance data that will be used to evaluate a new asset prior to testing the asset and to determine the performance thresholds that have to be met during testing. The section further requires the Coast Guard to provide additional information to Congress to ensure better oversight of the Service's multi-year, multi-billion dollar major asset recapitalization effort.

Sec. 205. Auxiliary jurisdiction.

This section clarifies the jurisdiction of the Coast Guard Auxiliary

Sec. 206. Long term major acquisitions plan.

Under current law, the Navy provides Congress with a long-term plan for its shipbuilding requirements. The Coast Guard does not conduct a similar long-term planning effort for its major assets. This section would improve oversight of the Coast Guard's effort to recapitalize its major assets by requiring the Service to develop a long-term plan for its acquisition needs and the funding levels to support them.

Sec. 207. Coast Guard communities

This section removes administrative barriers in the Coast Guard's program to recognize communities that have supported the Service. The Committee expects that whenever the Service designates a new Coast Guard Community, it will notify the Committee, as well as the Member of Congress representing such community prior to such designation.

Sec. 208. POLAR SEA materiel condition assessment and service life extension decision

The POLAR SEA is one of the Coast Guard's and the Nation's two polar class heavy icebreakers. Since it suffered a major engine casualty in June 2010, the icebreaker has not been operational. In October 2011, the Coast Guard placed the POLAR SEA in commissioned, inactive service and cannibalized many of its parts to help reactivate its sister ship, the POLAR STAR.

Section 222 of the Coast Guard and Maritime Transportation Act of 2012 (P.L. 112-213) required the Coast Guard to conduct a busi-

ness case analysis of the options for, and costs associated with, reactivation of the POLAR SEA. The section further required the Service to make a determination based on the analysis of whether to reactivate or decommission the icebreaker.

In November 2013, the Service completed the analysis and estimated the reactivation would cost approximately \$99 million to provide 7 to 10 years of service. Although it completed the analysis nearly two years ago, the Service has refused to make a determination concerning the icebreaker's future. The Service is currently spending \$8 million to stabilize and preserve the POLAR SEA and is requesting an additional \$6 million in its FY 2016 budget request to conduct a materiel condition assessment of the icebreaker. Under the timeline put forward by the Coast Guard, a determination to reactivate or decommission the icebreaker will not be made before completion of the assessment in late 2016. In the meantime, the POLAR SEA continues to deteriorate and the United States is left with only one functioning polar class heavy icebreaker.

This section sets a deadline of 270 days for the Coast Guard to complete and submit to Congress its assessment of the condition of the POLAR SEA and its determination of whether it is cost effective to reactivate or decommission the icebreaker.

Sec. 209. Repeal

This section continues a limitation in current law on the authority of the Coast Guard to reassign certain aviation assets.

Sec. 210. Technical corrections

This section makes technical and clarifying changes to title 14, United States Code.

Sec. 211. Digital boat profile

This section authorizes the Coast Guard to conduct a pilot program to test the effectiveness of commercially available technologies to track and improve the maintenance and readiness of its cutter fleet.

Sec. 212. Discontinuance of an aid to navigation

This section requires the Coast Guard to establish and implement a process that ensures adequate public notification when removing a physical aid to navigation.

Sec. 213. Mission performance measures

This section requires the GAO to assess the metrics the Coast Guard uses to evaluate its mission performance, as well as the process the Service uses to establish such metrics.

Sec. 214. Communications

This section authorizes the Coast Guard to conduct a pilot program to test the effectiveness of commercially available technologies to improve communications during response activities.

Sec. 215. Coast Guard graduate maritime operations education

This section authorizes the Coast Guard to establish a graduate education program at an existing public academic institution to im-

prove the professional development of servicemembers and civilian employees.

TITLE III—SHIPPING AND NAVIGATION

Sec. 301. Treatment of fishing permits

This section clarifies that a fishing permit is not an appurtenance to a vessel and therefore not subject to a maritime lien.

Sec. 302. Survival craft

This section would phase-in a requirement to carry out-of-water survival craft by passenger vessels operating in certain waters. Under this section, the Coast Guard may revise regulations concerning the carriage of survival craft after a review of factors regarding out-of-water survival craft.

Sec. 303. Enforcement

This section would improve the oversight and enforcement of cargo preference laws. Nothing in this section changes the amount of government impelled cargo subject to transportation on U.S. flag vessels under existing law. It merely establishes improved procedures to assist in the understanding and implementation of current law by federal government agencies.

Sec. 304. Model years for recreational vessels

The Coast Guard's current regulatory definition of model year for recreational vessels is inconsistent with industry practice and interferes with the marketplace. This section revises the definition of model year for new recreational vessels and provides industry with appropriate discretion to market their products.

Sec. 305. Merchant mariner credential expiration harmonization

The Coast Guard requires American mariners to apply for and carry several documents to work aboard vessels. These documents often expire at different times requiring the mariner and their employers to lose days of work to satisfy renewal requirements. This section would alleviate this administrative burden and lost productivity by requiring the Coast Guard to harmonize the expiration of merchant mariner credentials, radar observer endorsements, and medical certificates for certain mariners.

Sec. 306. Marine event safety zones

Each year, the Coast Guard spends a significant amount of its time and taxpayer funds to ensure the safety of waterways around privately held events. While Coast Guard presence is important to ensure public safety, the event itself is not open to the public and often does not provide a public benefit. To defray the cost on the taxpayer, this section authorizes the Coast Guard to recover costs it incurs from the enforcement of safety zones around privately held events that are not open to the public. Most state and local law enforcement agencies have similar authority to recover costs associated with providing public safety services to private events.

Sec. 307. Technical corrections

This section makes technical corrections to shipping and navigation law.

Sec. 308. Recommendations for improvements of marine casualty reporting

The Department of Homeland Security Inspector General and the Coast Guard's Towing Safety Advisory Committee recently provided the Service with recommendations to modernize and improve its marine casualty reporting program. This section would require the Coast Guard to notify the Committee of the actions it is taking to implement these recommendations.

Sec. 309. Recreational vessel engine weights

It has been more than 20 years since the Coast Guard updated the references it provides manufacturers to use to determine the weight of engines when conducting floatation tests of its new products. Today's engines are considerably heavier than those built in 1984. Using the outdated Coast Guard references for engine weight could result in less floatation being added to the recreational vessel than is required to avoid swamping or sinking. This section would require the Coast Guard to update its references to recreational vessel engine weights to ensure accurate vessel floatation tests by manufacturers and improve recreational vessel safety.

Sec 310. Merchant mariner medical certification reform

In order to work on a vessel, American mariners are required to meet certain medical and physical fitness standards established by the Coast Guard. To certify that they meet such standards, mariners are required to take a form developed by the Coast Guard to their doctor, have the doctor fill it out, and submit it to the Coast Guard for review and certification. Coast Guard employees with limited medical training, having never met the mariner or medically treated the mariner, and without a thorough understanding of the mariner's medical history, make a medical fitness determination based solely on the information included on the form. This centralized process creates substantial administrative burden on the mariner and often leads to delays in processing mariner medical certificates.

Since 1927, the Federal Aviation Administration has had a system in place to certify the medical and physical fitness of pilots that relies on government certified private physicians to examine pilots and empowers them to issue medical certificates. This efficient system has not undermined safety, nor resulted in the delays and administrative burdens inherent in the Coast Guard's system of medical certification.

This section would require the Coast Guard to certify private physicians to make medical fitness determinations of merchant mariners. Nothing in this section is intended to compel the Coast Guard to terminate its current process of conducting medical certification or make changes to current medical fitness requirements for mariners.

Sec. 311. Atlantic coast port access route study

The Coast Guard is currently conducting an Atlantic Coast Port Access Route Study in order to assist the Department of Interior's Bureau of Ocean Energy Management's, as well as stakeholders', understanding the impacts to navigation safety from the construction of certain offshore renewable energy projects. The Committee is concerned that the citing of these projects could pose hazards to safe navigation, especially projects built in or near vessel traffic routes. This section would require the Coast Guard to complete its Atlantic Coast Port Access Route Study by April 2016 and provide a copy to the Committee.

Sec. 312. Certificates of documentation for recreational vessels

While Coast Guard certificates of documentation (COD) are not required for recreational vessels, many owners elect to document their vessels to facilitate passage into foreign ports and to preclude them from having to abide by state registration requirements. However, the Coast Guard requires CODs be renewed on an annual basis and does not allow owners to carry them in electronic form. This presents an unnecessary administrative burden on vessel owners. This section would require the Coast Guard to develop a COD for recreational vessels that is effective for five years.

Sec. 313. Program guidelines

Section 304(a) of the Coast Guard and Maritime Transportation Act of 2006 (P.L. 109–241) requires the Secretary of Transportation to implement a program to promote the transportation of liquefied natural gas on U.S. flag vessels. In the nine years since this provision was enacted, the Secretary has failed to issue guidelines to implement this program. This section sets a deadline for the Secretary to develop such guidelines. It further requires that the guidelines include provisions to improve the training of U.S. mariners on liquefied natural gas vessels.

Sec. 314. Repeals

This section repeals inoperative provisions of the Merchant Marine Act of 1936.

TITLE IV—FEDERAL MARITIME COMMISSION

Sec. 401. Authorization

This section authorizes \$24.7 million in funds for the activities of the Federal Maritime Commission (FMC) for fiscal years 2016 and 2017. This is the same level of funding that was authorized for the FMC in section 401 of P.L. 113–281.

Sec. 402. Duties of the chairman

This section would reform certain administrative procedures of the FMC to improve accountability. Specifically, this section ensures that all Commissioners have the opportunity to review hiring decisions and FMC annual budget submissions.

Sec. 403. Prohibition on awards

For the past few years the Chairman of the FMC has spent staff time and taxpayer resources to recognize private companies with

Earth Day Awards. The FMC has no statutory or regulatory authority over environmental protection or restoration. This section would prohibit the FMC from continuing to expend taxpayer dollars on superfluous awards for non-federal entities.

TITLE V—MISCELLANEOUS

Sec. 501. Conveyance of Coast Guard property in Marin County, California

This section would authorize the Coast Guard to provide the County of Marin, California the right of first refusal in the conveyance at fair market value of property under its administrative control in Point Reyes, California. The Committee expects the Coast Guard to notify the County of its right of first refusal as soon as practicable after completion of the appraisal required under this section. The Committee also expects this appraisal to meet federal standards, including the Uniform Appraisal Standards for Federal Land Acquisitions. Finally, the Committee expects the Coast Guard will provide the County at least one year after notifying it of its right of first refusal to enter into a contract for the sale of the property.

Sec. 502. Elimination of reports

This section would eliminate two outdated and duplicative reports and modify the frequency of another report.

Sec. 503. Vessel documentation

This section requires the GAO to provide recommendations to Congress to improve the performance of functions carried out by the Coast Guard's National Vessel Documentation Center, including compliance with laws governing U.S. ownership requirements for certain vessels.

Sec. 504. Conveyance of Coast Guard property in Tok, Alaska

This section would authorize the Coast Guard to provide the Tanana Chiefs Council, a nonprofit intertribal consortium of federally recognized Alaska tribes, the right of first refusal in the conveyance at fair market value of property under its administrative control Tok, Alaska.

Sec. 505. Safe vessel operation in the Great Lakes

This section would bar the Coast Guard and the Environmental Protection Agency from prohibiting the uptake or discharge of ballast water from a vessel operating in certain National Marine Sanctuaries located in the Great Lakes if such uptake and discharge meets all federal and state requirements and the designation documents for the Marine Sanctuary do not prohibit such uptake and discharge.

Sec. 506. Use of vessel sale proceeds

This section would require the GAO to conduct and submit to the Committee an audit of the proceeds from the sale of vessels in the National Defense Reserve Fleet.

Sec. 507. Fishing vessel and fish tender vessel certification

This section would authorize an alternative compliance program as substitute for classification of certain commercial fishing vessels.

Sec. 508. National Academy of Sciences Cost Comparison.

This section would authorize the National Academy of Sciences to conduct and submit to the Committee a comparison of the costs associated with constructing or leasing a new polar class ice-breaker, as well as reactivating the Coast Guard Cutter POLAR SEA.

Sec. 509. Penalty wages

Current law provides that if a vessel owner does not pay a seaman what the seaman is owed under his employment contract without sufficient cause, the vessel owner must pay the seaman two days' wages for each day the owner does not pay the seaman the contractual amount. In the case of a class action suit brought by seamen who serve on cruise ships, the total amount of the penalty is limited to 10 times the amount of wages owed. This section caps the penalty amount at 10 times the amount of wages owed for any seaman serving on a cruise ship, regardless of whether the relief is sought in a class action.

Sec. 510. Recourse for noncitizens

This section clarifies that a foreign citizen mariner may file a personal injury lawsuit in a U.S. court under four circumstances: (1) if the accident occurred in U.S. waters; (2) if the accident occurred aboard a U.S. flagged vessel; (3) no matter where the accident occurred, if the claimant was a permanent resident alien of the United States at the time of the accident; or (4) no matter where the accident occurred, if the claimant does not have a right to bring suit in his country of residence or the flag state of the vessel from which the claim arose.

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, and existing law in which no change is proposed is shown in roman):

TITLE 14, UNITED STATES CODE

| | |
|--|-------------|
| Part | Sec. |
| I. Regular Coast Guard | 1 |
| II. Coast Guard Reserve and Auxiliary | 701 |
| III. Coast Guard Authorizations and Reports to Congress | 2701 |

PART I—REGULAR COAST GUARD

| | |
|---|----------|
| Chapter | |
| 1 Establishment and duties | 1 |
| * * * * * | |

| | |
|---|-------------|
| [19 Coast Guard Environmental Compliance and Restoration Program | 690] |
| 19 Environmental Compliance and Restoration Program | 690 |
| * * * * * | |

CHAPTER 3—COMPOSITION AND ORGANIZATION

Sec.

41. Grades and ratings.

* * * * *

199. Marine safety curriculum.

§ 41. Grades and ratings

In the Coast Guard there shall be [an admiral,] *admirals (two)*; 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.

* * * * *

§ 46. Retirement of Commandant

- (a) A Commandant who is not reappointed shall be retired with the grade of admiral at the expiration of the appointed term, except as provided in [subsection] *section* 51(d) of this title.
- (b) A Commandant who is retired for physical disability shall be placed on the retired list with the grade of admiral.
- (c) An officer who is retired prior to the expiration of his term, while serving as Commandant, may, in the discretion of the President, be retired with the grade of admiral.

§ 47. Vice [commandant] Commandant; 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 section 51(d) of this title.

§ 50. Vice admirals

- (a)[(1) The President may designate no more than 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 such duties as the Commandant may prescribe.]

(1) *The President may—*

(A) *designate, within the Coast Guard, no more than 5 positions of importance and responsibility that shall be held by officers who, while so serving, shall have the grade of vice admiral, with the pay and allowances of that grade, and shall perform such duties as the Commandant may prescribe (if the President designates 5 such positions, 1 position shall be a Chief of Staff); and*

(B) *designate, within the executive branch, other than within the Coast Guard, positions of importance and responsibility that shall be held by officers who, while so serving, shall have the grade of vice admiral, with the pay and allowances of that grade.*

(2) 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 any such position an officer of the Coast Guard who is serving on active duty above the grade of captain. The Commandant shall make recommendations for such appointments.

(3)(A) Except as provided in subparagraph (B), one of the vice admirals designated **under paragraph (1)** *under paragraph (1)(A)* 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 and shall serve as the principal advisor to the Commandant on these issues.

(B) The requirements of subparagraph (A) do not apply to such vice admiral 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 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 that 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) *at the discretion of the Secretary, while awaiting orders after being relieved from the position, beginning on the day the officer is relieved from the position, but not for more than 60 days; and*

[(C)] (D) 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 or office to carry out effectively the duties and responsibilities of that position or office.

§ 51. Retirement

(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 2½ 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 2½ 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) while being processed for physical disability retirement, beginning on the day of the processing and ending on the day that officer is retired, but not for more than 180 days; and

(2) while awaiting retirement, beginning on the day that officer is relieved from the position of Commandant, Vice Commandant, or Vice Admiral and ending on the day before the officer's retirement, but not for more than 60 days.

* * * * *

CHAPTER 5—FUNCTIONS AND POWERS

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§ 93. Commandant; general powers

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

(1) maintain water, land, and air patrols, and ice-breaking facilities;

(2) establish and prescribe the purpose of, change the location of, consolidate, discontinue, re-establish, maintain, operate, and repair Coast Guard shore establishments;

(3) assign vessels, aircraft, vehicles, aids to navigation, equipment, appliances, and supplies to Coast Guard districts and shore establishments, and transfer any of the foregoing from one district or shore establishment to another;

(4) conduct experiments and investigate, or cause to be investigated, plans, devices, and inventions relating to the performance of any Coast Guard function, including research, de-

velopment, test, or evaluation related to intelligence systems and capabilities;

(5) conduct any investigations or studies that may be of assistance to the Coast Guard in the performance of any of its powers, duties, or functions;

(6) collect, publish, and distribute information concerning Coast Guard operations;

(7) conduct or make available to personnel of the Coast Guard, and to eligible spouses as defined under section 542, such specialized training and courses of instruction, including correspondence courses and the textbooks, manuals, and other materials required as part of such training or course of instruction, as may be necessary or desirable for the good of the service;

(8) design or cause to be designed, cause to be constructed, accept as gift, or otherwise acquire patrol boats and other small craft, equip, operate, maintain, supply, and repair such patrol boats, other small craft, aircraft, and vehicles, and subject to applicable regulations under subtitle I of title 40 and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) dispose of them;

(9) acquire, accept as gift, maintain, repair, and discontinue aids to navigation, appliances, equipment, and supplies;

(10) equip, operate, maintain, supply, and repair Coast Guard districts and shore establishments;

(11) establish, equip, operate, and maintain shops, depots, and yards for the manufacture and construction of aids to navigation, equipment, apparatus, vessels, vehicles, and aircraft not normally or economically obtainable from private contractors, and for the maintenance and repair of any property used by the Coast Guard;

(12) accept and utilize, in times of emergency in order to save life or protect property, such voluntary services as may be offered to the Coast Guard;

(13) rent or lease, under such terms and conditions as are deemed advisable, for a period not exceeding five years, such real property under the control of the Coast Guard as may not be required for immediate use by the Coast Guard, the monies received from any such rental or lease, less amount of expenses incurred (exclusive of governmental personal services), to be deposited in the fund established under section 687;

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

(15) establish, install, abandon, re-establish, reroute, operate, maintain, repair, purchase, or lease such telephone and telegraph lines and cables, together with all facilities, apparatus, equipment, structures, appurtenances, accessories, and supplies used or useful in connection with the installation, operation, maintenance, or repair of such lines and cables, including telephones in residences leased or owned by the Government of the United States when appropriate to assure effi-

cient response to extraordinary operational contingencies of a limited duration, and acquire such real property rights of way, easements, or attachment privileges as may be required for the installation, operation, and maintenance of such lines, cables, and equipment;

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

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

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

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

(A) the cooperative agreements shall each provide for the parties to contribute funds or services on a matching basis to defray the costs of such programs, projects, and activities under the agreement; and

(B) a person providing voluntary services under this subsection shall not be considered a Federal employee except for purposes of chapter 81 of title 5, United States Code, with respect to compensation for work-related injuries, and chapter 171 of title 28, United States Code, with respect to tort claims;

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

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

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

(23) rent or lease, under such terms and conditions as are considered by the Secretary to be advisable, commercial vehicles to transport the next of kin of eligible retired Coast Guard

military personnel to attend funeral services of the service member at a national cemetery; and

(24) after informing the Secretary, make such recommendations to the Congress relating to the Coast Guard as the Commandant considers appropriate.

(b)(1) Notwithstanding subsection (a)(13), a lease described in paragraph (2) of this subsection may be for a term of up to 20 years.

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

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

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

(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)(3) 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.

(e) OPERATION AND MAINTENANCE OF COAST GUARD ASSETS AND FACILITIES.—All authority, including programmatic budget author-

ity, for the operation and maintenance of Coast Guard vessels, aircraft, systems, aids to navigation, infrastructure, and other assets or facilities shall be allocated to and vested in the Coast Guard and the department in which the Coast Guard is operating.

(f) LEASING OF TIDELANDS AND SUBMERGED LANDS.—

(1) AUTHORITY.—The Commandant may lease under subsection (a)(13) submerged lands and tidelands under the control of the Coast Guard without regard to the limitation under that subsection with respect to lease duration.

[(2) LIMITATION.—The Commandant may lease submerged lands and tidelands under paragraph (1) only if—

[(A) lease payments are—

[(i) received exclusively in the form of cash;

[(ii) equal to the fair market value of the use of the leased submerged lands or tidelands for the period during which such lands are leased, as determined by the Commandant; and

[(iii) deposited in the fund established under section 687; and

[(B) the lease does not provide authority to or commit the Coast Guard to use or support any improvements to such submerged lands or tidelands, or obtain goods or services from the lessee.]

(2) LIMITATION.—*The Commandant may lease submerged lands and tidelands under paragraph (1) only if—*

(A) the lease is for cash exclusively;

(B) the lease amount is equal to the fair market value of the use of the leased submerged lands or tidelands for the period during which such lands are leased, as determined by the Commandant;

(C) the lease does not provide authority to or commit the Coast Guard to use or support any improvements to such submerged lands and tidelands, or obtain goods and services from the lessee; and

(D) proceeds from the lease are deposited in the Coast Guard Housing Fund established under section 687.

CHAPTER 9—COAST GUARD ACADEMY

Sec.

181. Administration of Academy.

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[199. Marine Safety curriculum.]

199. *Marine safety curriculum.*

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CHAPTER 11—PERSONNEL

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§ 427. Prohibition of certain involuntary administrative separations

(a) IN GENERAL.—Except as provided in subsection (b), the Secretary may not authorize the involuntary administrative separation of a covered individual based on a determination that the covered individual is unsuitable for deployment or other assignment due to

a medical condition of the covered individual considered by a Physical Evaluation Board during an evaluation of the covered individual that resulted in the covered individual being determined to be fit for duty.

(b) REEVALUATION.—

(1) IN GENERAL.—The Secretary may require a Physical Evaluation Board to reevaluate any covered individual if the Secretary determines there is reason to believe that a medical condition of the covered individual considered by a Physical Evaluation Board during an evaluation of the covered individual renders the covered individual unsuitable for continued duty.

(2) RETIREMENTS AND SEPARATIONS.—A covered individual who is determined, based on a reevaluation under paragraph (1), to be unfit to perform the duties of the covered individual's office, grade, rank, or rating may be retired or separated for physical disability under [this chapter] *chapter 61 of title 10*.

(c) COVERED INDIVIDUAL DEFINED.—In this section, the term "covered individual" means any member of the Coast Guard who has been determined by a Physical Evaluation Board, pursuant to a physical evaluation by that board, to be fit for duty.

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

Sec.

[461. Remission of indebtedness of enlisted members upon discharge.]

461. *Remission of indebtedness.*

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[§ 461. Remission of indebtedness of enlisted members upon discharge]

[If he considers it in the best interest of the United States, the Secretary may have remitted or canceled any part of an enlisted member's indebtedness to the United States or any of its instrumentalities remaining unpaid before or at the time of, that member's honorable discharge.]

§ 461. *Remission of indebtedness*

The Secretary may have remitted or cancelled any part of a person's indebtedness to the United States or any instrumentality of the United States if—

- (1) the indebtedness was incurred while the person served on active duty as a member of the Coast Guard; and*
- (2) the Secretary determines that remitting or cancelling the indebtedness is in the best interest of the United States.*

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CHAPTER 15—ACQUISITIONS

Sec.

561. Acquisition directorate.

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[569a. Major acquisitions.]

SUBCHAPTER II—IMPROVED ACQUISITION PROCESS AND PROCEDURES

【Sec.】

571. Identification of major system acquisitions.

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SUBCHAPTER III—DEFINITIONS

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SUBCHAPTER I—GENERAL PROVISIONS

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§ 569. Mission need statement

(a) IN GENERAL.—On the date on which the President submits to Congress a budget for fiscal year 2016 under section 1105 of title 31, on the date on which the President submits to Congress a budget for fiscal year 2019 under such section, and every 4 years thereafter, 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 an integrated major acquisition mission need statement.

(b) DEFINITIONS.—In this section, the following definitions apply:

(1) INTEGRATED MAJOR ACQUISITION MISSION NEED STATEMENT.—The term “integrated major acquisition mission need statement” means a document that—

(A) identifies current and projected gaps in Coast Guard mission capabilities using mission hour targets;

(B) explains how each major acquisition program addresses gaps identified under subparagraph (A) if funded at the levels provided for such program in the most recently submitted capital investment plan; and

(C) describes the missions the Coast Guard will not be able to achieve, by fiscal year, for each gap identified under subparagraph (A).

(2) MAJOR ACQUISITION PROGRAM.—The term “major acquisition program” has the meaning given that term 【in section 569a(e)】 *in section 2903*.

(3) CAPITAL INVESTMENT PLAN.—The term “capital investment plan” means the plan required 【under section 663(a)(1)】 *under section 2902(a)(1)*.

SUBCHAPTER II—IMPROVED ACQUISITION PROCESS AND PROCEDURES

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§ 572. Acquisition

(a) IN GENERAL.—The Commandant may not establish a Level 1 or Level 2 acquisition project or program until the Commandant—

(1) clearly defines the operational requirements for the project or program;

(2) establishes the feasibility of alternatives;

(3) develops an acquisition project or program baseline;

(4) produces a life-cycle cost estimate; and

(5) assesses the relative merits of alternatives to determine a preferred solution in accordance with the requirements of this section.

(b) **SUBMISSION REQUIRED BEFORE PROCEEDING.**—Any Coast Guard Level 1 or Level 2 acquisition project or program 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 or asset to be acquired under the proposed acquisition project or program.

(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 project or program baseline and acquisition unit cost for the capability or asset to be acquired under the project or program.

(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.

(c) **ANALYSIS OF ALTERNATIVES.**—

(1) **IN GENERAL.**—The Coast Guard may not acquire an experimental or technically immature capability or asset or implement a Level 1 or Level 2 acquisition project or program, unless it has prepared an analysis of alternatives for the capability or asset to be acquired in the concept and technology development phase of the acquisition process for the capability or asset.

(2) **REQUIREMENTS.**—The analysis of alternatives shall be prepared 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 and has no financial interest in any part of the acquisition project or program that is the subject of the analysis. At a minimum, the analysis of alternatives shall include—

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

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

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

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

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

(F) a calculation of life-cycle costs including—

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

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

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

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

(v) such additional measures as the Commandant or the Secretary of the department in which the Coast Guard is operating determines to be necessary for appropriate evaluation of the capability or asset; and

(G) the business case for each viable alternative.

(d) TEST AND EVALUATION MASTER PLAN.—

(1) IN GENERAL.—For any Level 1 or Level 2 acquisition project or program the Chief Acquisition Officer must approve a test and evaluation master plan specific to the acquisition project or program for the capability, asset, or subsystems of the capability or asset and intended to minimize technical, cost, and schedule risk as early as practicable in the development of the project or program.

(2) TEST AND EVALUATION STRATEGY.—The master plan shall—

(A) set forth an integrated test and evaluation strategy that will verify that capability-level or asset-level and subsystem-level design and development, including performance and supportability, have been sufficiently proven before the capability, asset, or subsystem 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 THE MASTER PLAN.—At a minimum, the master plan shall identify—

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

(B) the performance data to be used to determine whether the key performance parameters have been resolved;

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

(D) the results during test and evaluation that will be required to demonstrate that a capability, asset, or subsystem meets performance requirements;

[(C)] *(E) specific development test and evaluation phases and the scope of each phase;*

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

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

[(F)] *(H) operational test and evaluation phases;*

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

- [(H)] (J) the Government entity or independent entity that will perform the test, evaluation, assessment, modeling, and simulation activities.
- (4) UPDATE.—The Chief Acquisition Officer must approve an updated master plan whenever there is a revision to project or program test and evaluation strategy, scope, or phasing.
- (5) LIMITATION.—The Coast Guard may not—
- (A) proceed beyond that phase of the acquisition process that entails approving the supporting acquisition of a capability or asset before the master plan is approved by the Chief Acquisition Officer; or
- (B) award any production contract for a capability, asset, or subsystem for which a master plan is required under this subsection before the master plan is approved by the Chief Acquisition Officer.
- (e) LIFE-CYCLE COST ESTIMATES.—
- (1) 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 or more years, and to ensure that these estimates are considered in decisions to develop or produce new or enhanced capabilities and assets.
- (2) 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 project or program.
- (3) REQUIRED UPDATES.—For each Level 1 or Level 2 acquisition project or program the Commandant shall require that life-cycle cost estimates shall be updated before each milestone decision is concluded and the project or program enters a new acquisition phase.

§ 573. Preliminary development and demonstration

- (a) IN GENERAL.—The Commandant shall ensure that developmental test and evaluation, operational test and evaluation, life-cycle cost estimates, and the development and demonstration requirements applied by this chapter to acquisition projects and programs are met to confirm that the projects or programs meet the requirements identified in the mission-analysis and affordability assessment prepared under section 571(a)(2), the operational requirements developed under section 572(a)(1) and the following development and demonstration objectives:
- (1) To demonstrate that the design, manufacturing, and production solution is based upon a stable, producible, and cost-effective product design.
- (2) To ensure that the product capabilities meet contract specifications, acceptable operational performance requirements, and system security requirements.
- (3) To ensure that the product design is mature enough to commit to full production and deployment.
- (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 subsystems of the capability or asset in accordance with the master plan prepared for the capability or asset under section 572(d)(1).

(2) USE OF THIRD PARTIES.—The Commandant shall ensure that the Coast Guard uses independent third parties with expertise in testing and evaluating the capabilities or assets and the subsystems 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 master plan.

(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 subsystems 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 subsystems concerned and to the 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 concerns are corrected or mitigated. The report shall also include an explanation of the actions that will be taken to correct or mitigate the safety concerns, the date by which those actions will be taken, and the adequacy of current funding to correct or mitigate the safety concerns.

(5) ASSET ALREADY IN LOW, INITIAL, OR FULL-RATE PRODUCTION.—If operational test and evaluation of a capability or asset already in low, initial, or full-rate production identifies a safety concern with the capability or asset or any subsystems 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 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 capabili-

ties or assets and subsystems 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 subsystems 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 subsystems of the capabilities or assets and in previously produced capabilities or assets and subsystems.

(c) TECHNICAL CERTIFICATION.—

(1) IN GENERAL.—The Commandant shall ensure that any Level 1 or Level 2 acquisition project or program is certified by the technical authority of the Coast Guard after review by an independent third party with capabilities in the mission area, asset, or particular asset component.

(2) TEMPEST TESTING.—The Commandant shall—

(A) 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 the Coast Guard Authorization Act of 2010 to be tested in accordance with TEMPEST standards and communications security (comsec) standards by an independent third party that is authorized by the Federal Government to perform such testing; and

(B) certify that the assets meet all applicable TEMPEST requirements.

(3) CUTTER CLASSIFICATION.—

(A) IN GENERAL.—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 the Coast Guard Authorization Act of 2010 to be classed by the American Bureau of Shipping before final acceptance *and shall maintain such cutter in class*.

(4) 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.

(5) AIRCRAFT AIRWORTHINESS.—The Commandant shall cause all aircraft and aircraft engines acquired by the Coast Guard and delivered after the date of enactment of the Coast Guard Authorization Act of 2010 to be assessed for airworthiness by an independent third party with expertise in aircraft and aircraft engine certification before final acceptance.

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SUBCHAPTER III—DEFINITIONS

§ 581. Definitions

In this chapter:

(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) CHIEF ACQUISITION OFFICER.—The term “Chief Acquisition Officer” means the officer appointed under section 56 of this title.

(3) COMMANDANT.—The term “Commandant” means the Commandant of the Coast Guard.

(4) 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.

(5) 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,]~~ \$300,000,000, but greater than \$100,000,000.

(6) 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.

(7) PROJECT OR PROGRAM MANAGER DEFINED.—The term “project or program manager” means an individual designated—

(A) to develop, produce, and deploy a new asset to meet identified operational requirements; and

(B) to manage cost, schedule, and performance of the acquisition, project, or program.

(8) SAFETY CONCERN.—The term “safety concern” means any hazard associated with a capability or asset or a subsystem 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 subsystem or any hazard associated with the capability, asset, or subsystem that is likely to cause major damage to the capability, asset, or subsystem during the course of its normal operation by a typical Coast Guard user.

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

- (A) the testing of a capability or asset and the subsystems 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.

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

- (A) the testing of a capability or asset and the subsystems 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 subsystems for use by typical Coast Guard users to conduct those missions for which the capability or asset and subsystems are intended to be used; and
- (B) the evaluation of the results of such testing.

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CHAPTER 17—ADMINISTRATION

Sec.
631. Delegation of powers by the Secretary.

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- 【661. Authorization of personnel end strengths.
- 【662. Requirement for prior authorization of appropriations.
- 【662a. Transmission of annual Coast Guard authorization request.
- 【663. Capital investment plan.】

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

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

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

(b) The person in command of an authorized vessel or authorized aircraft and all persons acting under that person’s direction shall be indemnified from any penalties or actions for damages for firing at or into a vessel pursuant to subsection (a). If any person is killed or wounded by the firing, and the person in command of the authorized vessel or authorized aircraft or any person acting pursu-

ant to their orders is prosecuted or arrested therefor, they shall be forthwith admitted to bail.

(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;
- (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) *it is* any other vessel or aircraft on government non-commercial 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.

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§ 641. Disposal of certain material

(a) The Commandant subject to applicable regulations under subtitle I of title 40 and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41 may dispose of, with or without charge, to the Coast Guard Auxiliary, including any incorporated unit thereof, to the sea-scout service of the Boy Scouts of America, and to any public body or private organization not organized for profit having an interest therein for historical or other special reasons, such obsolete or other material as may not be needed for the Coast Guard.

(b) The Commandant may, under regulations prescribed by the Secretary, sell apparatus or equipment manufactured by or in use in the Coast Guard, which is not readily procurable in the open market. The money received from such sale shall be deposited in the Treasury to the credit of the current appropriation from which purchase of similar apparatus or equipment is authorized.

(c)(1) The Commandant may—

- (A) provide for the sale of recyclable materials that the Coast Guard holds;
- (B) provide for the operation of recycling programs at Coast Guard installations; and
- (C) designate Coast Guard installations that have qualified recycling programs for the purposes of subsection (d)(2).

(2) Recyclable materials shall be sold in accordance with sections 541–555 of title 40, except that the Commandant may conduct sales of materials for which the proceeds of sale will not exceed \$5,000 under regulations prescribed by the Commandant.

(d)(1) Proceeds from the sale of recyclable materials at a Coast Guard installation shall be credited to funds available for operations and maintenance at that installation in amounts sufficient to cover operations, maintenance, recycling equipment, and overhead costs for processing recyclable materials at the installation.

(2) If, after funds are credited, a balance remains available to a Coast Guard installation and the installation has a qualified recycling program, not more than 50 percent of that balance may be used at the installation for projects for pollution abatement, energy conservation, and occupational safety and health activities. The

cost of the project may not be greater than 50 percent of the amount permissible for a minor construction project.

(3) The remaining balance available to a Coast [Guard, installation] *Guard installation* may be transferred to the Coast Guard Morale, Welfare, and Recreation Program.

(e) If the balance available to the Coast Guard installation under this section at the end of a fiscal year is in excess of \$200,000, the amount of that excess shall be deposited in the general fund of the Treasury as offsetting receipts of the Department in which the Coast Guard is operating and ascribed to Coast Guard activities.

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CHAPTER 19—ENVIRONMENTAL COMPLIANCE AND RESTORATION PROGRAM

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§ 691. Environmental Compliance and Restoration Program

(a) The Secretary shall carry out a program of environmental compliance and restoration at current and former Coast Guard facilities.

(b) Program goals include:

(1) Identifying, investigating, and cleaning up contamination from hazardous substances and pollutants.

(2) Correcting other environmental damage that poses an imminent and substantial danger to the public health or welfare or to the environment.

(3) Demolishing and removing unsafe buildings and structures, including buildings and structures at former Coast Guard facilities.

(4) Preventing contamination from hazardous substances and pollutants at current Coast Guard facilities.

(c)(1) The Secretary shall respond to releases of hazardous substances and pollutants—

(A) at each Coast Guard facility the United States owns, leases, or otherwise possesses;

(B) at each Coast Guard facility the United States owned, leased, or otherwise possessed when the actions leading to contamination from hazardous substances or pollutants occurred; and

(C) on each vessel the Coast Guard owns or operates.

(2) Paragraph (1) of this subsection does not apply to a removal or remedial action when a potentially responsible person responds under section 122 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9622).

(3) The Secretary shall pay a fee or charge imposed by a [state] *State* authority for permit services for disposing of hazardous substances or pollutants from Coast Guard facilities to the same extent that nongovernmental entities are required to pay for permit services. This paragraph does not apply to a payment that is the responsibility of a lessee, contractor, or other private person.

(d) The Secretary may agree with another Federal agency for that agency to assist in carrying out the Secretary's responsibilities under this chapter. The Secretary may enter into contracts, cooperative agreements, and grant agreements with State and local gov-

ernments to assist in carrying out the Secretary's responsibilities under this chapter. Services that may be obtained under this subsection include identifying, investigating, and cleaning up off-site contamination that may have resulted from the release of a hazardous substance or pollutant at a Coast Guard facility.

(e) Section 119 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9619) applies to response action contractors that carry out response actions under this chapter. The Coast Guard shall indemnify response action contractors to the extent that adequate insurance is not generally available at a fair price at the time the contractor enters into the contract to cover the contractor's reasonable, potential, long-term liability.

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

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CHAPTER 21—COAST GUARD RESERVE

SUBCHAPTER A

GENERAL

Sec. * * * * *

701. Organization.

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[709. Reserve student aviation pilots; reserve aviation pilots; appointments in commissioned grade.]

709. Reserve student aviation pilots; Reserve aviation pilots; appointments in commissioned grade.

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SUBCHAPTER B

COMMISSIONED OFFICERS

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[740. Failure of selection and removal from active status.]

740. Failure of selection and removal from an active status.

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SUBCHAPTER B—COMMISSIONED OFFICERS

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§ 742. Maximum ages for retention in an active status

(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes 60 years of age unless on active duty. If not qualified for retirement, a Reserve officer shall be discharged effective upon the day the officer becomes 60 years of age unless on active duty.

(b) A Reserve officer on active duty shall, if qualified, be retired effective upon the day the officer become 62 years of age. If not qualified for retirement, a Reserve officer on active duty shall be discharged effective upon the day the officer becomes 62 years of age.

(c) Notwithstanding [subsection] *subsections* (a) and (b), the Secretary may authorize the retention of a Reserve rear admiral or rear admiral (lower half) in an active status not longer than the day on which the officer concerned becomes 64 years of age.

(d) For purposes of this section, “active duty” does not include active duty for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status.

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CHAPTER 23—COAST GUARD AUXILIARY

§ 821. Administration of the Coast Guard Auxiliary

(a) The Coast Guard Auxiliary is a nonmilitary organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (to be known as the “Auxiliary headquarters unit”), districts, regions, divisions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.

(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 822, at all times be deemed to be an instrumentality of the United States, for purposes of the following:

(1) [Chapter 26] *Chapter 171* of title 28 (popularly known as the Federal Tort Claims Act).

(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).

(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).

(5) Chapter 311 of title 46 (known as the Public Vessels Act).

(6) Other matters related to noncontractual civil liability.

(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law in accordance with policies established by the Commandant.

(d)(1) Except as provided in paragraph (2), personal property of the auxiliary shall not be considered property of the United States.

(2) The Secretary may treat personal property of the auxiliary as property of the United States—

(A) for the purposes of—

- (i) the statutes and matters referred to in paragraphs (1) through (6) of subsection (b); and
- (ii) section 641 of this title; and

(B) as otherwise provided in this chapter.

(3) The Secretary may reimburse the Auxiliary, and each organizational element and unit of the Auxiliary, for necessary expenses of operation, maintenance, and repair or replacement of personal property of the Auxiliary.

(4) In this subsection, the term “personal property of the Auxiliary” means motor boats, yachts, aircraft, radio stations, motorized vehicles, trailers, or other equipment that is under the administrative jurisdiction of the Coast Guard Auxiliary or an organizational element or unit of the Auxiliary and that is used solely for the purposes described in this subsection.

§ 822. Purpose of the Coast Guard Auxiliary

【The purpose】 (a) *IN GENERAL.*—*The purpose* of the Auxiliary is to assist the Coast Guard as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.

(b) *LIMITATION.*—*The Auxiliary may conduct a patrol of a waterway, or a portion thereof, only if—*

(1) *the Commandant has determined such waterway, or portion thereof, is navigable for purposes of the jurisdiction of the Coast Guard; or*

(2) *a State or other proper authority has requested such patrol pursuant to section 141 of this title or section 13109 of title 46.*

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§ 823a. Members of the Auxiliary; status

(a) Except as otherwise provided in this chapter, a member of the Coast Guard Auxiliary shall not be considered to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, Federal employee benefits, ethics, conflicts of interest, and other similar criminal or civil statutes and regulations governing the conduct of Federal employees. However, nothing in this subsection shall constrain the Commandant from prescribing standards for the conduct and behavior of members of the Auxiliary.

(b) A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:

(1) **【Chapter 26】** *Chapter 171* of title 28 (popularly known as the Federal Tort Claims Act).

(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).

(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).

(5) Chapter 311 of title 46 (known as the Public Vessels Act).

(6) Other matters related to noncontractual civil liability.

(7) Compensation for work injuries under chapter 81 of title 5.

(8) The resolution of claims relating to damage to or loss of personal property of the member incident to service under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721).

(9) On or after January 1, 2001, section 651 of Public Law 104-208.

(c) A member of the Auxiliary, while assigned to duty, shall be deemed to be a person acting under an officer of the United States or an agency thereof for purposes of section 1442(a)(1) of title 28.

* * * * *

PART III—

| | | |
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CHAPTER 27—

- Sec.
 2701. Requirement for prior authorization of appropriations.
 2702. Authorization of appropriations.
 2703. Authorization of personnel end strengths.
 2704. Authorized levels of military strength and training.

§ [662.] 2701. Requirement for prior authorization of appropriations

Amounts may be appropriated to or for the use of the Coast Guard for the following matters only if the amounts have been authorized by law after December 31, 1976:

- 【(1) For the operation and maintenance of the Coast Guard.
 - 【(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore or offshore establishments, vessels, or aircraft, including equipment related to the aids, establishments, vessels, or aircraft.
 - 【(3) For altering obstructive bridges.
 - 【(4) For research, development, test, or evaluation related to intelligence systems and capabilities or a matter referred to in clauses (1)–(3).
 - 【(5) For environmental compliance and restoration at Coast Guard facilities.】
- (1) *For the operation and maintenance of the Coast Guard, not otherwise provided for.*
- (2) *For the acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, and for maintenance, rehabilitation, lease, and operation of facilities and equipment.*
- (3) *For the Coast Guard Reserve program, including operations and maintenance of the program, personnel and training costs, equipment, and services.*
- (4) *For the environmental compliance and restoration functions of the Coast Guard under chapter 19 of this title.*

(5) *For research, development, test, and evaluation of technologies, materials, and human factors directly related to improving the performance of the Coast Guard.*

(6) *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 Alteration of Bridges Program.*

§ 2702. Authorization of appropriations

Funds are authorized to be appropriated for each of fiscal years 2016 and 2017 for necessary expenses of the Coast Guard as follows:

(1) *For the operation and maintenance of the Coast Guard, not otherwise provided for—*

(A) \$6,981,036,000 for fiscal year 2016; and

(B) \$6,981,036,000 for fiscal year 2017.

(2) *For the acquisition, construction, renovation, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, and for maintenance, rehabilitation, lease, and operation of facilities and equipment—*

(A) \$1,546,448,000 for fiscal year 2016; and

(B) \$1,546,448,000 for fiscal year 2017.

(3) *For the Coast Guard Reserve program, including operations and maintenance of the program, personnel and training costs, equipment, and services—*

(A) \$140,016,000 for fiscal year 2016; and

(B) \$140,016,000 for fiscal year 2017.

(4) *For the environmental compliance and restoration functions of the Coast Guard under chapter 19 of this title—*

(A) \$16,701,000 for fiscal year 2016; and

(B) \$16,701,000 for fiscal year 2017.

(5) *To the Commandant of the Coast Guard for research, development, test, and evaluation of technologies, materials, and human factors directly related to improving the performance of the Coast Guard's mission with respect to search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, and for maintenance, rehabilitation, lease, and operation of facilities and equipment—*

(A) \$19,890,000 for fiscal year 2016; and

(B) \$19,890,000 for fiscal year 2017.

§ [661.] 2703. Authorization of personnel end strengths

(a) For each fiscal year, Congress shall authorize the strength for active duty personnel of the Coast Guard as of the end of that fiscal year. Amounts may be appropriated for a fiscal year to or for the use of active duty personnel of the Coast Guard only if the end strength for active duty personnel for that fiscal year has been authorized by law. If at the end of any fiscal year there is in effect a declaration of war or national emergency, the President may defer the effectiveness of any end-strength limitation with respect to that fiscal year prescribed by law for any military or civilian component of the Coast Guard, for a period not to exceed 6 months after the end of the war or termination of the national emergency.

(b)(1) Congress shall authorize the average military training student loads for the Coast Guard for each fiscal year. That authorization is required for student loads for the following individual training categories:

- (A) Recruit and specialized training.
- (B) Flight training.
- (C) Professional training in military and civilian institutions.
- (D) Officer acquisition training.

(2) Amounts may be appropriated for a fiscal year for use in training military personnel of the Coast Guard in the categories referred to in paragraph (1) only if the average student loads for the Coast Guard for that fiscal year have been authorized by law.

§ 2704. 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 43,000 for each of fiscal years 2016 and 2017.

(b) *MILITARY TRAINING STUDENT LOADS* The Coast Guard is authorized average military training student loads for each of fiscal years 2016 and 2017 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.

CHAPTER 29—

Sec.

2901. Transmission of annual Coast Guard authorization request.

2902. Capital investment plan.

2903. Major acquisitions.

2904. Manpower requirements plan.

§ [662a.] 2901. Transmission of annual Coast Guard authorization request

(a) IN GENERAL.—Not later than 30 days after the date on which the President submits to Congress a budget for a fiscal year pursuant to section 1105 of title 31, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a Coast Guard authorization request with respect to such fiscal year.

(b) COAST GUARD AUTHORIZATION REQUEST DEFINED.—In this section, the term “Coast Guard authorization request” means a proposal for legislation that, with respect to the Coast Guard for the relevant fiscal year—

- (1) recommends end strengths for personnel for that fiscal year, as [described in section 661] *described in section 2703*;
- (2) recommends authorizations of appropriations for that fiscal year, including with respect to matters [described in section 662] *described in section 2701*; and
- (3) addresses any other matter that the Secretary determines is appropriate for inclusion in a Coast Guard authorization bill.

§ [663.] 2902. Capital investment plan

(a) IN GENERAL.—On the date on which the President submits to Congress a budget pursuant to section 1105 of title 31, 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—

(1) a capital investment plan for the Coast Guard that identifies for each capital asset for which appropriations are proposed in that budget—

(A) the proposed appropriations included in the budget;

(B) the total estimated cost of **[completion;]** *completion based on the proposed appropriations included in the budget;*

(C) projected funding levels for each fiscal year for the next 5 fiscal years or until project completion, whichever is earlier;

(D) an estimated completion date **[at the projected funding levels;]** *based on the proposed appropriations included in the budget;* and

(E) an acquisition program baseline, as applicable; and

(2) a list of each unfunded priority for the Coast Guard.

(b) UNFUNDED PRIORITY DEFINED.—In this section, the term “unfunded priority” means a program or mission requirement that—

(1) has not been selected for funding in the applicable proposed budget;

(2) is necessary to fulfill a requirement associated with an operational need; and

(3) the Commandant would have recommended for inclusion in the applicable proposed budget had additional resources been available or had the requirement emerged before the budget was submitted.

§ [569a.] 2903. Major acquisitions

(a) IN GENERAL.—In conjunction with the transmittal by the President to Congress of the budget of the United States for fiscal year 2014 and biennially thereafter, the Secretary 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 report on the status of all major acquisition programs.

(b) INFORMATION TO BE INCLUDED.—Each report under subsection (a) shall include for each major acquisition program—

(1) a statement of the Coast Guard’s mission needs and performance goals relating to such program, including a justification for any change to those needs and goals subsequent to a report previously submitted under this section;

(2) a justification explaining how the projected number and capabilities of assets acquired under such program meet applicable mission needs and performance goals;

(3) an identification of any and all mission hour gaps, accompanied by an explanation of how and when the Coast Guard will close those gaps;

(4) an identification of any changes with respect to such program, including—

- (A) any changes to the timeline for the acquisition of each new asset and the phaseout of legacy assets; and
 - (B) any changes to—
 - (i) the costs of new assets or legacy assets for that fiscal year or future fiscal years; or
 - (ii) the total acquisition cost;
 - (5) a justification explaining how any change to such program fulfills the mission needs and performance goals of the Coast Guard;
 - (6) a description of how the Coast Guard is planning for the integration of each new asset acquired under such program into the Coast Guard, including needs related to shore-based infrastructure and human resources;
 - (7) an identification of how funds in the applicable fiscal year's budget request will be allocated, including information on the purchase of specific assets;
 - (8) a projection of the remaining operational lifespan and life-cycle cost of each legacy asset that also identifies any anticipated resource gaps;
 - (9) a detailed explanation of how the costs of legacy assets are being accounted for within such program; and
 - (10) an annual performance comparison of new assets to legacy assets.
- (c) **ADEQUACY OF ACQUISITION WORKFORCE.**—Each report under subsection (a) shall—
- (1) include information 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) specify the number of officers, members, and employees of the Coast Guard currently and planned to be assigned to each position designated under section 562(c) **[of this subchapter]**; and
 - (3) identify positions that are or will be understaffed and actions that will be taken to correct such understaffing.
- (d) **CUTTERS NOT MAINTAINED IN CLASS.**—Each report under subsection (a) shall identify which, if any, Coast Guard cutters that have been issued a certificate of classification by the American Bureau of Shipping have not been maintained in class, with an explanation detailing the reasons why the cutters have not been maintained in class.
- (e) **LONG-TERM MAJOR ACQUISITIONS PLAN.**—Each report under subsection (a) shall include a plan that describes for the upcoming fiscal year, and for each of the 20 fiscal years thereafter—
- (1) the numbers and types of cutters and aircraft to be decommissioned;
 - (2) the numbers and types of cutters and aircraft to be acquired to—
 - (A) replace the cutters and aircraft identified under paragraph (1); or
 - (B) address an identified capability gap; and
 - (3) the estimated level of funding in each fiscal year required to—
 - (A) acquire the cutters and aircraft identified under paragraph (2);

(B) acquire related command, control, communications, computer, intelligence, surveillance, and reconnaissance systems; and

(C) acquire, construct, or renovate shoreside infrastructure.

[(e)] (f) MAJOR ACQUISITION PROGRAM DEFINED.—In this section, the term “major acquisition program” means an ongoing acquisition undertaken by the Coast Guard with a life-cycle cost estimate greater than or equal to \$300,000,000.

§ 2904. Manpower requirements plan

(a) IN GENERAL.—On the date on which the President submits to Congress a budget for fiscal year 2017 under section 1105 of title 31, on the date on which the President submits to Congress a budget for fiscal year 2019 under such section, and every 4 years thereafter, 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 manpower requirements plan.

(b) SCOPE.—A manpower requirements plan submitted under subsection (a) shall include for each mission of the Coast Guard—

(1) an assessment of all projected mission requirements for the upcoming fiscal year and for each of the 3 fiscal years thereafter;

(2) the number of active duty, reserve, and civilian personnel assigned or available to fulfill such mission requirements—

(A) currently; and

(B) as projected for the upcoming fiscal year and each of the 3 fiscal years thereafter;

(3) the number of active duty, reserve, and civilian personnel required to fulfill such mission requirements—

(A) currently; and

(B) as projected for the upcoming fiscal year and each of the 3 fiscal years thereafter;

(4) an identification of any capability gaps between mission requirements and mission performance caused by deficiencies in the numbers of personnel available—

(A) currently; and

(B) as projected for the upcoming fiscal year and each of the 3 fiscal years thereafter; and

(5) an identification of the actions the Commandant will take to address capability gaps identified under paragraph (4).

(c) CONSIDERATION.—In composing a manpower requirements plan for submission under subsection (a), the Commandant shall consider—

(1) the marine safety strategy required under section 2116 of title 46;

(2) information on the adequacy of the acquisition workforce included in the most recent report under section 2903 of this title; and

(3) any other Federal strategic planning effort the Commandant considers appropriate.

* * * * *

**SECTION 409 OF THE COAST GUARD AUTHORIZATION
ACT OF 1998**

SEC. 409. COAST GUARD CITY, USA.

The Commandant of the Coast Guard may recognize the community of Grand Haven, Michigan, as "Coast Guard City, USA". [If the Commandant desires to recognize any other community in the same manner or any other community requests such recognition from the Coast Guard, the Commandant shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives 90 days prior to approving such recognition.] *Commandant may recognize any other community in a similar manner if the Commandant determines that such community has demonstrated enduring support of the Coast Guard, Coast Guard personnel, and the dependents of Coast Guard personnel.*

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**COAST GUARD AND MARITIME TRANSPORTATION ACT
OF 2012**

* * * * *

TITLE II—COAST GUARD

* * * * *

SEC. 222. COAST GUARD POLAR ICEBREAKERS.

[(a) **IN GENERAL.**—The Secretary of the department in which the Coast Guard is operating shall conduct a business case analysis of the options for and costs of reactivating and extending the service life of the Polar Sea until at least September 30, 2022, to maintain United States polar icebreaking capabilities and fulfill the Coast Guard's high latitude mission needs, as identified in the Coast Guard's July 2010, High Latitude Study Mission Analysis Report, during the Coast Guard's recapitalization of its polar class icebreaker fleet. The analysis shall include—

[(1) an assessment of the current condition of the Polar Sea;

[(2) a determination of the Polar Sea's operational capabilities with respect to fulfilling the Coast Guard's high latitude operating requirements if renovated and reactivated;

[(3) a detailed estimate of costs with respect to reactivating and extending the service life of the Polar Sea;

[(4) a life cycle cost estimate with respect to operating and maintaining the Polar Sea for the duration of its extended service life; and

[(5) a determination of whether it is cost-effective to reactivate the Polar Sea compared with other options to provide icebreaking services as part of a strategy to maintain polar icebreaking services.]

(a) IN GENERAL.—Not later than 270 days after the date of the enactment of the Coast Guard Authorization Act of 2015, the Secretary of the department in which the Coast Guard is operating shall—

(1) *complete a materiel condition assessment with respect to the Polar Sea;*

(2) *make a determination of whether it is cost effective to reactivate the Polar Sea compared with other options to provide icebreaking services as part of a strategy to maintain polar icebreaking services; and*

(3) *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) the assessment required under paragraph (1); and

(B) written notification of the determination required under paragraph (2).

(b) RESTRICTIONS.—The Secretary shall not remove any part of the Polar Sea until the Secretary submits the **[analysis]** *written notification* required under subsection (a).

[(c) DEADLINE.—Not later than 270 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the analysis required under subsection (a).**]**

[(d)] (c) REQUIREMENT FOR REACTIVATION OF POLAR SEA.—

(1) SERVICE LIFE EXTENSION PLAN.—

(A) IN GENERAL.—If the Secretary determines **[based on the analysis required]** under subsection (a) that it is cost-effective to reactivate the Polar Sea compared with other options to provide icebreaking services, the Secretary shall develop a service life extension plan for such reactivation, including a timetable for such reactivation.

(B) UTILIZATION OF EXISTING RESOURCES.—In the development of the plan required under subparagraph (A), the Secretary shall utilize to the greatest extent practicable recent plans, studies, assessments, and analyses regarding the Coast Guard's icebreakers and high latitude mission needs and operating requirements.

(C) SUBMISSION.—The Secretary shall submit the plan required under subparagraph (A), if so required, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than 180 days after the submission of the **[analysis]** *written notification* required under subsection (a).

[(2) DECOMMISSIONING.—If the analysis required under subsection (a) is submitted in accordance with subsection (c) and the Secretary determines under subsection (a)(5) that it is not cost-effective to reactivate the Polar Sea, then not later than 180 days after the date on which the analysis is required to be submitted under subsection (c) the Commandant of the Coast Guard may decommission the Polar Sea.**]**

[(3) RESULT OF NO DETERMINATION.—If in the analysis submitted under this section the Secretary does not make a determination under subsection (a)(5) regarding whether it is cost effective to reactivate the Polar Sea, then—

[(A) the Commandant of the Coast Guard may decommission the Polar Sea; or

[(B) the Secretary may make such determination, not later than 90 days after the date of the enactment of Howard Coble Coast Guard and Maritime Transportation Act of 2014, and take actions in accordance with this subsection as though such determination was made in the analysis previously submitted.]

(2) *DECOMMISSIONING.*—*If the Secretary makes a determination under subsection (a) that it is not cost effective to reactivate the Polar Sea, then, not later than 180 days after written notification of that determination is submitted under that subsection, the Commandant of the Coast Guard may decommission the Polar Sea.*

(3) *RESULT OF NO DETERMINATION.*—*If the Secretary does not make a determination under subsection (a) regarding whether it is cost effective to reactivate the Polar Sea, then the Commandant of the Coast Guard may decommission the Polar Sea.*

[(e)] (d) STRATEGIES.—

(1) IN GENERAL.—Not later than 180 days after the date on which the [analysis] *written notification* required under subsection (a) is submitted, 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) unless the Secretary makes a determination under this section that it is cost effective to reactivate the Polar Sea, a bridging strategy for maintaining the Coast Guard’s polar icebreaking services until at least September 30, 2024;

(B) a strategy to meet the Coast Guard’s Arctic ice operations needs through September 30, 2050; and

(C) a strategy to meet the Coast Guard’s Antarctic ice operations needs through September 30, 2050

(2) REQUIREMENT.—The strategies required under paragraph (1) shall include a business case analysis comparing the leasing and purchasing of icebreakers to maintain the needs and services described in that paragraph.

[(f)] (e) RESTRICTION.—Except as provided [in subsection (d)] *in subsection (c)*, the Commandant of the Coast Guard may not—

(1) transfer, relinquish ownership of, dismantle, or recycle the Polar Sea or Polar Star;

(2) change the current homeport of either of the vessels; or

(3) expend any funds—

(A) for any expenses directly or indirectly associated with the decommissioning of either of the vessels, including expenses for dock use or other goods and services;

(B) for any personnel expenses directly or indirectly associated with the decommissioning of either of the vessels, including expenses for a decommissioning officer;

(C) for any expenses associated with a decommissioning ceremony for either of the vessels;

(D) to appoint a decommissioning officer to be affiliated with either of the vessels; or

(E) to place either of the vessels in inactive status.

[(g)] (f) DEFINITION.—For purposes of this section—

(1) the term “Polar Sea” means Coast Guard Cutter Polar Sea (WAGB 11); and

(2) the term “Polar Star” means Coast Guard Cutter Polar Star (WAGB 10).

[(h)] (g) REPEAL.—This section shall cease to have effect on September 30, 2022.

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HOWARD COBLE COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2014

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SEC. 2. TABLE OF CONTENTS.

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TITLE VI—MISCELLANEOUS

* * * * *

[Sec. 610. Safe vessel operation in Thunder Bay.]
Sec. 610. Safe vessel operation in the Great Lakes.

* * * * *

SEC. 225. AVIATION CAPABILITY.

(a) **IN GENERAL.**—The Secretary of the department in which the Coast Guard is operating may—

- (1) request and accept through a direct military-to-military transfer under section 2571 of title 10, United States Code, such H-60 helicopters as may be necessary to establish a year-round operational capability in the Coast Guard’s Ninth District; and
- (2) use funds provided under section 101 of this Act to convert such helicopters to Coast Guard MH-60T configuration.

(b) **PROHIBITION.**—

(1) **IN GENERAL.**—The Coast Guard may not—

- (A) close a Coast Guard air facility that was in operation on November 30, 2014; or
- (B) retire, transfer, relocate, or deploy an aviation asset from an air facility described in subparagraph (A) for the purpose of closing such facility.

[(2) **SUNSET.**—This subsection is repealed effective January 1, 2016.]

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SEC. 610. SAFE VESSEL OPERATION IN [THUNDER BAY] THE GREAT LAKES.

The Secretary of the department in which the Coast Guard is operating and the Administrator of the Environmental Protection Agency may not prohibit a vessel operating within the [existing boundaries and any future expanded boundaries of the Thunder Bay National Marine Sanctuary and Underwater Preserve] boundaries of any national marine sanctuary that preserves shipwrecks or maritime heritage in the Great Lakes from taking up or discharging ballast water to allow for safe and efficient vessel operation if the uptake or discharge meets all Federal and State ballast water management requirements that would apply if the area were not a ma-

rine sanctuary, unless the designation documents for such sanctuary do not allow taking up or discharging ballast water in such sanctuary.

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TITLE 46, UNITED STATES CODE

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Subtitle I—General

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CHAPTER 1—DEFINITIONS

* * * * *

§ 103. Boundary Line

In this title, the term “Boundary Line” means a line established under section 2(b) of the Act of February 19, 1895 [(33 U.S.C. 151).] (33 U.S.C. 151(b)).

CHAPTER 3—FEDERAL MARITIME COMMISSION

Sec.

301. General organization.

* * * * *

308. Authorization of appropriations.

§ 301. General organization

(a) ORGANIZATION.—The Federal Maritime Commission is an independent establishment of the United States Government.

(b) COMMISSIONERS.—

(1) COMPOSITION.—The Commission is composed of 5 Commissioners, appointed by the President by and with the advice and consent of the Senate. Not more than 3 Commissioners may be appointed from the same political party.

(2) TERMS.—The term of each Commissioner is 5 years. When the term of a Commissioner ends, the Commissioner may continue to serve until a successor is appointed and qualified, but for a period not to exceed one year. Except as provided in paragraph (3), no individual may serve more than 2 terms.

(3) VACANCIES.—A vacancy shall be filled in the same manner as the original appointment. An individual appointed to fill a vacancy is appointed only for the unexpired term of the individual being succeeded. An individual appointed to fill a vacancy may serve 2 terms in addition to the remainder of the term for which the predecessor of that individual was appointed.

(4) CONFLICTS OF INTEREST.—

(A) LIMITATION ON RELATIONSHIPS WITH REGULATED ENTITIES.—A Commissioner may not have a pecuniary interest in, hold an official relation to, or own stocks or bonds

of any entity the Commission regulates under chapter 401 of this title.

(B) LIMITATION ON OTHER ACTIVITIES.—A Commissioner may not engage in another business, vocation, or employment.

(5) REMOVAL.—The President may remove a Commissioner for inefficiency, neglect of duty, or malfeasance in office.

(c) CHAIRMAN.—

(1) DESIGNATION.—The President shall designate one of the Commissioners as Chairman.

(2) GENERAL AUTHORITY.—The Chairman is the chief executive and administrative officer of the Commission. In carrying out the duties and powers of the Commission (other than under paragraph (3)), the Chairman is subject to the policies, regulatory decisions, findings, and determinations of the Commission.

(3) PARTICULAR DUTIES.—

(A) IN GENERAL.—The Chairman shall—

(i) appoint and supervise officers and employees of the Commission;

(ii) appoint the heads of major organizational [units, but only after consultation with the other Commissioners;] *units (with such appointments subject to the approval of the Commission);*

(iii) distribute the business of the Commission among personnel and organizational units;

(iv) supervise the expenditure of money for administrative purposes; [and]

(v) assign Commission personnel, including Commissioners, to perform duties and powers delegated by the Commission under section 304 of this title[.]; and

(vi) *prepare and submit to the President and Congress requests for appropriations for the Commission (with such requests subject to the approval of the Commission).*

(B) NONAPPLICATION.—Subparagraph (A) (other than clause (v)) does not apply to personnel employed regularly and full-time in the offices of Commissioners other than the Chairman.

(4) DELEGATION.—The Chairman may designate officers and employees under the Chairman's jurisdiction to perform duties and powers of the Chairman, subject to the Chairman's supervision and direction.

(d) SEAL.—The Commission shall have a seal which shall be judicially recognized.

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§ 307. Expenditures

[The Federal Maritime Commission] (a) *IN GENERAL.*—*The Federal Maritime Commission may make such expenditures as are necessary in the performance of its functions from funds appropriated or otherwise made available to it, which appropriations are authorized.*

(b) *PROHIBITION.*—*Notwithstanding subsection (a), the Federal Maritime Commission may not expend any funds appropriated or*

otherwise made available to it to issue an award, prize, commendation, or other honor to a non-Federal entity.

§ 308. Authorization of appropriations

There is authorized to be appropriated to the Federal Maritime Commission \$24,700,000 for each of fiscal years 2016 and 2017 for the activities of the Commission authorized under this chapter and subtitle IV.

Subtitle II—Vessels and Seamen

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PART A—GENERAL PROVISIONS

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CHAPTER 21—GENERAL

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§ 2118. Establishment of equipment standards

(a) In establishing standards for approved equipment required on vessels subject to part B of this [title,] *subtitle*, 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] *subtitle* 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

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CHAPTER 31—GENERAL

* * * * *

§ 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 the date that is 30 months after the date on which the report described in subsection (c) is submitted, if—

- [(1) it was approved by the Secretary before January 1, 2010; and
- [(2) it is in serviceable condition.

[(c) REPORT.—Not later than 180 days after the date of enactment of this subsection, 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 the carriage of survival craft that ensures no part of an individual is immersed in water, which shall include—

- [(1) the number of casualties, by vessel type and area of operation, as the result of immersion in water reported to the Coast Guard for each of fiscal years 1991 through 2011;
- [(2) the effect the carriage of such survival craft has on—
 - [(A) vessel safety, including stability and safe navigation; and
 - [(B) survivability of individuals, including persons with disabilities, children, and the elderly;
- [(3) the efficacy of alternative safety systems, devices, or measures;
- [(4) the cost and cost effectiveness of requiring the carriage of such survival craft on vessels; and
- [(5) the number of small businesses and nonprofit entities that would be affected by requiring the carriage of such survival craft on vessels.]

§ 3104. Survival craft

(a) *REQUIREMENT TO EQUIP.*—The Secretary shall require that a passenger vessel be equipped with survival craft that ensures that no part of an individual is immersed in water, if—

- (1) such vessel is built or undergoes a major conversion after January 1, 2016; and
- (2) operates in cold waters as determined by the Secretary.

(b) *HIGHER STANDARD OF SAFETY.*—The Secretary may revise part 117 or part 180 of title 46, Code of Federal Regulations, as in effect before January 1, 2016, if such revision provides a higher standard of safety than is provided by the regulations in effect on or before the date of the enactment of the Coast Guard Authorization Act of 2015.

(c) *INNOVATIVE AND NOVEL DESIGNS.*—The Secretary may, in lieu of the requirements set out in part 117 or part 180 of title 46, Code of Federal Regulations, as in effect on the date of the enactment of the Coast Guard Authorization Act of 2015, allow a passenger vessel to be equipped with a life saving appliance or arrangement of an innovative or novel design that—

- (1) ensures no part of an individual is immersed in water; and
- (2) provides an equal or higher standard of safety than is provided by such requirements as in effect before such date of the enactment.

(d) *BUILT DEFINED.*—In this section, the term “built” has the meaning that term has under section 4503(e).

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CHAPTER 35—CARRIAGE OF PASSENGERS

Sec.
3501. Number of passengers.

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3507. Passenger vessel security and safety requirements.
3508. Crime scene preservation training for passenger vessel crewmembers.

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CHAPTER 37—CARRIAGE OF LIQUID BULK DANGEROUS CARGOES

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§ 3715. Lightering

(a) A vessel may transfer oil or hazardous material in a port or place subject to the jurisdiction of the United States, when the cargo has been transferred from another vessel on the navigable waters of the United States or in the marine environment, only if—

- (1) the transfer was conducted consistent with regulations prescribed by the Secretary;
- (2) both the delivering and receiving vessels had on board, at the time of transfer, a certificate of inspection or a certificate of compliance, as would have been required under section 3710 or 3711 of this title, had the transfer taken place in a port or place subject to the jurisdiction of the United States[; and];
- (3) the delivering and the receiving vessel had on board at the time of transfer, a certificate of financial responsibility as would have been required under section 1016 of the Oil Pollution Act of 1990, had the transfer taken place in a place subject to the jurisdiction of the United States;
- (4) the delivering and the receiving vessel had on board at the time of transfer, evidence that each vessel is operating in compliance with section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)); and
- (5) the delivering and the receiving vessel are operating in compliance with section 3703a of this title.

(b) The Secretary shall prescribe regulations to carry out subsection (a) of this section. The regulations shall include provisions on—

- (1) minimum safe operating conditions, including sea state, wave height, weather, proximity to channels or shipping lanes, and other similar factors;
- (2) the prevention of spills;
- (3) equipment for responding to a spill;
- (4) the prevention of any unreasonable interference with navigation or other reasonable uses of the high seas, as those uses are defined by treaty, convention, or customary international law;
- (5) the establishment of lightering zones; and
- (6) requirements for communication and prearrival messages.

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CHAPTER 43—RECREATIONAL VESSELS

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§ 4302. Regulations

(a) The Secretary may prescribe regulations—

(1) establishing minimum safety standards for recreational vessels and associated equipment, and establishing procedures and tests required to measure conformance with those standards, with each standard—

(A) meeting the need for recreational vessel safety; and

(B) being stated, insofar as practicable, in terms of performance;

(2) requiring the installation, carrying, or use of associated equipment (including fuel systems, ventilation systems, electrical systems, sound-producing devices, firefighting equipment, lifesaving devices, signaling devices, ground tackle, life and grab-rails, and navigational equipment) on recreational vessels and classes of recreational vessels subject to this chapter, and prohibiting the installation, carrying, or use of associated equipment that does not conform with safety standards established under this section; and

(3) requiring or permitting the display of seals, labels, plates, insignia, or other devices for certifying or evidencing compliance with safety regulations and standards of the United States Government for recreational vessels and associated equipment.

(b) Each regulation prescribed under this section shall specify an effective date that is not earlier than 180 days from the date the regulation was published, unless the Secretary finds that there exists a recreational vessel safety hazard so critical as to require an earlier effective date. However, this period may not be more than 24 months for cases involving, in the discretion of the Secretary, major product design, retooling, or major changes in the manufacturing process.

(c) In prescribing regulations under this section, the Secretary shall, among other things—

(1) consider the need for and the extent to which the regulations will contribute to recreational vessel safety;

(2) consider relevant available recreational vessel safety standards, statistics, and data, including public and private research, development, testing, and evaluation;

(3) not compel substantial alteration of a recreational vessel or item of associated equipment that is in existence, or the construction or manufacture of which is begun before the effective date of the regulation, but subject to that limitation may require compliance or performance, to avoid a substantial risk of personal injury to the public, that the Secretary considers appropriate in relation to the degree of hazard that the compliance will correct; and

(4) consult with the National Boating Safety Advisory Council established under section 13110 of this title about the considerations referred to in clauses (1)–(3) of this subsection.

(d) Section 8903 of this title does not apply to a vessel being operated for bona fide dealer demonstrations provided without fee to business invitees. However, if on the basis of substantial evidence, the Secretary decides under this section that requiring vessels so operated to be under the control of licensed individuals is necessary for boating safety, then the Secretary may prescribe regulations requiring the licensing of individuals controlling these vessels in the

same manner as provided in chapter 89 of this title for individuals in control of vessels carrying passengers for hire.

(e)(1) *If in prescribing regulations under this section the Secretary establishes a model year for recreational vessels and associated equipment, such model year shall, except as provided in paragraph (2)—*

(A) *begin on June 1 of a year and end on July 31 of the following year; and*

(B) *be designated by the year in which it ends.*

(2) *Upon the request of a recreational vessel manufacturer to which this chapter applies, the Secretary may alter a model year for a model of recreational vessel of the manufacturer and associated equipment, by no more than 6 months from the model year described in paragraph (1).*

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CHAPTER 45—UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

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

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

(1) meets all survey and classification requirements prescribed by the American Bureau of Shipping or another similarly qualified organization approved by the Secretary; and

(2) has on board a certificate issued by the American Bureau of Shipping or that other organization evidencing compliance with this subsection.

(b) This section applies to a fish processing vessel to which this chapter applies that—

(1) is built after July 27, 1990; or

(2) undergoes a major conversion completed after that date.

(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 is built after July 1, 2013. *Subsection (a) does not apply to a fishing vessel or fish tender vessel described in subsection (d)(6), if the vessel complies with an alternative safety compliance program established under that subsection for such a vessel.*

(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, 2013; and

(C) is 25 years of age or older.

(2) A fishing vessel, fish processing vessel, or fish tender vessel built before July 1, 2013, that undergoes a major conversion completed after the later of July 1, 2013, or the date the Secretary establishes standards for an alternate safety compliance program, shall comply with such an alternative safety compliance program

that is developed in cooperation with the commercial fishing industry and prescribed by the Secretary.

(3) Alternative safety compliance programs may be developed for purposes of paragraph (1) for specific regions and fisheries.

(4) Notwithstanding paragraph (1), vessels owned by a person that owns more than 30 vessels subject to that paragraph are not required to meet the alternate safety compliance requirements of that paragraph until January 1, 2030, if that owner enters into a compliance agreement with the Secretary that provides for a fixed schedule for all of the vessels owned by that person to meet requirements of that paragraph by that date and the vessel owner is meeting that schedule.

(5) 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, 2012, 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.

(6) *The Secretary shall establish an alternative safety compliance program for fishing vessels or fish tender vessels (or both) that are at least 50 feet overall in length, and not more than 79 feet overall in length, and built after July 1, 2013.*

(e) For the purposes of this section, the term “built” means, with respect to a vessel, that the vessel’s construction has reached any of the following stages:

(1) The vessel’s keel is laid.

(2) Construction identifiable with the vessel has begun and assembly of that vessel has commenced comprising of at least 50 metric tons or one percent of the estimated mass of all structural material, whichever is less.

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PART E—MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS

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

Sec.
7501. Duplicates.

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7509. *Medical certification by trusted agents.*

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§ 7509. *Medical certification by trusted agents*

(a) *IN GENERAL.—Notwithstanding any other provision of law and pursuant to regulations prescribed by the Secretary, a trusted agent may issue a medical certificate to an individual who—*

(1) must hold such certificate to qualify for a license, certificate of registry, or merchant mariner’s document, or endorsement thereto under this part; and

(2) is qualified as to sight, hearing, and physical condition to perform the duties of such license, certificate, document, or endorsement, as determined by the trusted agent.

(b) *TRUSTED AGENT DEFINED.*—In this section the term “trusted agent” means a medical practitioner certified by the Secretary to perform physical examinations of an individual for purposes of a license, certificate of registry, or merchant mariner’s document under this part.

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PART F—MANNING OF VESSELS

CHAPTER 81—GENERAL

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§ 8103. Citizenship and Navy Reserve requirements

(a) Except as otherwise provided in this title, only a citizen of the United States may serve as master, chief engineer, radio officer, or officer in charge of a deck watch or engineering watch on a documented vessel.

(b)(1) Except as otherwise provided in this section, on a documented vessel—

(A) each unlicensed seaman must be—

(i) a citizen of the United States;

(ii) an alien lawfully admitted to the United States for permanent residence; or

(iii) a foreign national who is enrolled in the United States Merchant Marine [Academy.] *Academy*; and

(B) not more than 25 percent of the total number of unlicensed seamen on the vessel may be aliens lawfully admitted to the United States for permanent residence.

(2) Paragraph (1) of this subsection does not apply to—

(A) a yacht;

(B) a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)); and

(C) a fishing vessel fishing outside of the exclusive economic zone.

(3) The Secretary may waive a citizenship requirement under this section, other than a requirement that applies to the master of a documented vessel, with respect to—

(A) an offshore supply vessel or other similarly engaged vessel of less than 1,600 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 operates from a foreign port;

(B) a mobile offshore drilling unit or other vessel engaged in support of exploration, exploitation, or production of offshore mineral energy resources operating beyond the water above the outer Continental Shelf (as that term is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)); and

(C) any other vessel if the Secretary determines, after an investigation, that qualified seamen who are citizens of the United States are not available.

(c) On each departure of a vessel (except a passenger vessel) for which a construction **【or operating】** differential subsidy has been granted, all of the seamen of the vessel must be citizens of the United States.

(d)(1) On each departure of a passenger vessel for which a construction **【or operating】** differential subsidy has been granted, at least 90 percent of the entire complement (including licensed individuals) must be citizens of the United States.

(2) An individual not required by this subsection to be a citizen of the United States may be engaged only if the individual has a declaration of intention to become a citizen of the United States or other evidence of admission to the United States for permanent residence. An alien may be employed only in the steward's department of the passenger vessel.

(e) If a documented vessel is deprived for any reason of the services of an individual (except the master and the radio officer) when on a foreign voyage and a vacancy consequently occurs, until the vessel's return to a port at which in the most expeditious manner a replacement who is a citizen of the United States can be obtained, an individual not a citizen of the United States may serve in—

(1) the vacancy; or

(2) a vacancy resulting from the promotion of another individual to fill the original vacancy.

(f) A person employing an individual in violation of this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of \$500 for each individual so employed.

(g) A deck or engineer officer employed on a vessel on which an operating differential subsidy is paid, or employed on a vessel (except a vessel of the Coast Guard or Saint Lawrence Seaway Development Corporation) owned or operated by the Department of Transportation or by a corporation organized or controlled by the Department, if eligible, shall be a member of the Navy Reserve Reserve.

(h) The President may—

(1) suspend any part of this section during a proclaimed national emergency; and

(2) when the needs of commerce require, suspend as far and for a period the President considers desirable, subsection (a) of this section for crews of vessels of the United States documented for foreign trade.

(i)(1) Except as provided in paragraph (3) of this subsection, each unlicensed seaman on a fishing, fish processing, or fish tender vessel that is engaged in the fisheries in the navigable waters of the United States or the exclusive economic zone must be—

(A) a citizen of the United States;

(B) an alien lawfully admitted to the United States for permanent residence;

(C) any other alien allowed to be employed under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

(D) an alien allowed to be employed under the immigration laws of the Commonwealth of the Northern Mariana Islands if the vessel is permanently stationed at a port within the Commonwealth and the vessel is engaged in the fisheries within the exclusive economic zone surrounding the Commonwealth or another United States territory or possession.

(2) Not more than 25 percent of the unlicensed seamen on a vessel subject to paragraph (1) of this subsection may be aliens referred to in clause (C) of that paragraph.

(3) This subsection does not apply to a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)).

(j) RIDING GANG MEMBER.—This section does not apply to an individual who is a riding gang member.

(k) CREW REQUIREMENTS FOR LARGE PASSENGER VESSELS.—

(1) CITIZENSHIP AND NATIONALITY.—Each unlicensed seaman on a large passenger vessel shall be—

(A) a citizen of the United States;

(B) an alien lawfully admitted to the United States for permanent residence;

(C) an alien allowed to be employed in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including an alien crewman described in section 101(a)(15)(D)(i) of that Act (8 U.S.C. 1101(a)(15)(D)(i)), who meets the requirements of paragraph (3)(A) of this subsection; or

(D) a foreign national who is enrolled in the United States Merchant Marine Academy.

(2) PERCENTAGE LIMITATION FOR ALIEN SEAMEN.—Not more than 25 percent of the unlicensed seamen on a vessel described in paragraph (1) of this subsection may be aliens referred to in subparagraph (B) or (C) of that paragraph.

(3) SPECIAL RULES FOR CERTAIN UNLICENSED SEAMEN.—

(A) QUALIFICATIONS.—An unlicensed seaman described in paragraph (1)(C) of this subsection—

(i) shall have been employed, for a period of not less than 1 year, on a passenger vessel under the same common ownership or control as the vessel described in paragraph (1) of this subsection, as certified by the owner or managing operator of such vessel to the Secretary;

(ii) shall have no record of material disciplinary actions during such employment, as verified in writing by the owner or managing operator of such vessel to the Secretary;

(iii) shall have successfully completed a United States Government security check of the relevant domestic and international databases, as appropriate, or any other national security-related information or database;

(iv) shall have successfully undergone an employer background check—

(I) for which the owner or managing operator provides a signed report to the Secretary that de-

scribes the background checks undertaken that are reasonably and legally available to the owner or managing operator including personnel file information obtained from such seaman and from databases available to the public with respect to the seaman;

(II) that consisted of a search of all information reasonably available to the owner or managing operator in the seaman's country of citizenship and any other country in which the seaman receives employment referrals, or resides;

(III) that is kept on the vessel and available for inspection by the Secretary; and

(IV) the information derived from which is made available to the Secretary upon request; and

(v) may not be a citizen or temporary or permanent resident of a country designated by the United States as a sponsor of terrorism or any other country that the Secretary, in consultation with the Secretary of State and the heads of other appropriate United States agencies, determines to be a security threat to the United States.

(B) RESTRICTIONS.—An unlicensed seaman described in paragraph (1)(C) of this subsection—

(i) may be employed only in the steward's department of the vessel; and

(ii) may not perform watchstanding, automated engine room duty watch, or vessel navigation functions.

(C) STATUS, DOCUMENTATION, AND EMPLOYMENT.—An unlicensed seaman described in subparagraph (C) or (D) of paragraph (1) of this subsection—

(i) is deemed to meet the nationality requirements necessary to qualify for a merchant mariners document notwithstanding the requirements of part 12 of title 46, Code of Federal Regulations;

(ii) is deemed to meet the proof-of-identity requirements necessary to qualify for a merchant mariners document, as prescribed under regulations promulgated by the Secretary, if the seaman possesses—

(I) an unexpired passport issued by the government of the country of which the seaman is a citizen or subject; and

(II) an unexpired visa issued to the seaman, as described in paragraph (1)(C);

(iii) shall, if eligible, be issued a merchant mariners document with an appropriate annotation reflecting the restrictions of subparagraph (B) of this paragraph; and

(iv) may be employed for a period of service on board not to exceed 36 months in the aggregate as a non-immigrant crewman described in section 101(a)(15)(D)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(D)(i)) on vessels engaged in domestic voyages notwithstanding the departure requirements and time limitations of such section and

section 252 of the Immigration and Nationality Act (8 U.S.C. 1282) and the regulations and rules promulgated thereunder.

(4) **MERCHANT MARINER'S DOCUMENT REQUIREMENTS NOT AFFECTED.**—This subsection shall not be construed to affect any requirement under Federal law that an individual must hold a merchant mariner's document.

(5) **DEFINITIONS.**—In this subsection:

(A) **STEWARD'S DEPARTMENT.**—The term “steward's department” means the department that includes entertainment personnel and all service personnel, including wait staff, housekeeping staff, and galley workers, as defined in the vessel security plan approved by the Secretary pursuant to section 70103(c) of this title.

(B) **LARGE PASSENGER VESSEL.**—The term “large passenger vessel” means a vessel of more than 70,000 gross tons, as measured under section 14302 of this title, with capacity for at least 2,000 passengers and documented with a coastwise endorsement under chapter 121 of this title.

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PART G—MERCHANT SEAMEN PROTECTION AND RELIEF

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CHAPTER 103—FOREIGN AND INTERCOASTAL VOYAGES

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§ 10313. Wages

(a) A seaman's entitlement to wages and provisions begins when the seaman begins work or when specified in the agreement required by section 10302 of this title for the seaman to begin work or be present on board, whichever is earlier.

(b) Wages are not dependent on the earning of freight by the vessel. When the loss or wreck of the vessel ends the service of a seaman before the end of the period contemplated in the agreement, the seaman is entitled to wages for the period of time actually served. The seaman shall be deemed a destitute seaman under section 11104 of this title. This subsection applies to a fishing or whaling vessel but not a yacht.

(c) When a seaman who has signed an agreement is discharged improperly before the beginning of the voyage or before one month's wages are earned, without the seaman's consent and without the seaman's fault justifying discharge, the seaman is entitled to receive from the master or owner, in addition to wages earned, one month's wages as compensation.

(d) A seaman is not entitled to wages for a period during which the seaman—

(1) unlawfully failed to work when required, after the time fixed by the agreement for the seaman to begin work; or

(2) lawfully was imprisoned for an offense, unless a court hearing the case otherwise directs.

(e) After the beginning of the voyage, a seaman is entitled to receive from the master, on demand, one-half of the balance of wages

earned and unpaid at each port at which the vessel loads or delivers cargo during the voyage. A demand may not be made before the expiration of 5 days from the beginning of the voyage, not more than once in 5 days, and not more than once in the same port on the same entry. If a master does not comply with this subsection, the seaman is released from the agreement and is entitled to payment of all wages earned. Notwithstanding a release signed by a seaman under section 10312 of this title, a court having jurisdiction may set aside, for good cause shown, the release and take action that justice requires. This subsection does not apply to a fishing or whaling vessel or a yacht.

(f) At the end of a voyage, the master shall pay each seaman the balance of wages due the seaman within 24 hours after the cargo has been discharged or within 4 days after the seaman is discharged, whichever is earlier. When a seaman is discharged and final payment of wages is delayed for the period permitted by this subsection, the seaman is entitled at the time of discharge to one-third of the wages due the seaman.

(g)(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** *each claim by a seaman* 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** *the seaman* 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~~ed~~, by a seaman who is a claimant in the suit, *by the seaman* of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.

(h) Subsections (f) and (g) of this section do not apply to a fishing or whaling vessel or a yacht.

(i) This section applies to a seaman on a foreign vessel when in a harbor of the United States. The courts are available to the seaman for the enforcement of this section.

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CHAPTER 105—COASTWISE VOYAGES

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§ 10504. Wages

(a) After the beginning of a voyage, a seaman is entitled to receive from the master, on demand, one-half of the balance of wages earned and unpaid at each port at which the vessel loads or delivers cargo during the voyage. A demand may not be made before the expiration of 5 days from the beginning of the voyage, not more than once in 5 days, and not more than once in the same port on the same entry. If a master does not comply with this subsection,

the seaman is released from the agreement required by section 10502 of this title and is entitled to payment of all wages earned. Notwithstanding a release signed by a seaman under section 10312 of this title, a court having jurisdiction may set aside, for good cause shown, the release and take action that justice requires. This subsection does not apply to a fishing or whaling vessel or a yacht.

(b) The master shall pay a seaman the balance of wages due the seaman within 2 days after the termination of the agreement required by section 10502 of this title or when the seaman is discharged, whichever is earlier.

(c)(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]** *each claim by a seaman* 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]** *the seaman* 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,]** *by the seaman* of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.

(d) Subsections (b) and (c) of this section do not apply to:

(1) a vessel engaged in coastwise commerce.

(2) a yacht.

(3) a fishing vessel.

(4) a whaling vessel.

(e) This section applies to a seaman on a foreign vessel when in harbor of the United States. The courts are available to the seaman for the enforcement of this section.

(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.

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CHAPTER 111—PROTECTION AND RELIEF

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§ 11113. Treatment of abandoned seafarers

(a) ABANDONED SEAFARERS FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury a separate account to be known as the Abandoned Seafarers Fund.

(2) AUTHORIZED USES.—Amounts in the Fund may be appropriated to the Secretary for use—

(A) to pay necessary support of a seafarer—

(i) who—

(I) was paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)), or for whom the Secretary has requested parole under such section; and

(II) is involved in an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of law by the Coast Guard; or

(ii) who—

(I) is physically present in the United States;

(II) the Secretary determines was abandoned in the United States; and

(III) has not applied for asylum under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) to reimburse a vessel owner or operator for the costs of necessary support of a seafarer who has been paroled into the United States to facilitate an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of law by the Coast Guard, if—

(i) the vessel owner or operator is not convicted of a criminal offense related to such matter; or

(ii) the Secretary determines that reimbursement is appropriate.

(3) CREDITING OF AMOUNTS TO FUND.—

(A) IN GENERAL.—Except as provided in subparagraph

(B), there shall be credited to the Fund the following:

(i) Penalties deposited in the Fund under section 9 of the Act to Prevent Pollution from Ships (33 U.S.C. 1908).

(ii) Amounts reimbursed or recovered under subsection (c).

- (B) LIMITATION.—Amounts may be credited to the Fund under subparagraph (A) only if the unobligated balance of the Fund is less than \$5,000,000.
- (4) REPORT REQUIRED.—On the date on which the President submits each budget for a fiscal year pursuant to section 1105 of title 31, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that describes—
- (A) the amounts credited to the Fund under paragraph (2) for the preceding fiscal year; and
- (B) amounts in the Fund that were expended for the preceding fiscal year.
- (b) LIMITATION.—Nothing in this section shall be construed—
- (1) to create a private right of action or any other right, benefit, or entitlement to necessary support for any person; or
- (2) to compel the Secretary to pay or reimburse the cost of necessary support.
- (c) REIMBURSEMENT; RECOVERY.—
- (1) IN GENERAL.—A vessel owner or operator shall reimburse the Fund an amount equal to the total amount paid from the Fund for necessary support of a seafarer, if—
- (A) the vessel owner or operator—
- (i) during the course of an investigation, reporting, documentation, or adjudication of any matter [under this Act] that the Coast Guard referred to a United States attorney or the Attorney General, fails to provide necessary support of a seafarer who was paroled into the United States to facilitate the investigation, reporting, documentation, or adjudication; and
- (ii) subsequently is—
- (I) convicted of a criminal offense related to such matter; or
- (II) required to reimburse the Fund pursuant to a court order or negotiated settlement related to such matter; or
- (B) the vessel owner or operator abandons a seafarer in the United States, as determined by the Secretary based on substantial evidence.
- (2) ENFORCEMENT.—If a vessel owner or operator fails to reimburse the Fund under paragraph (1) within 60 days after receiving a written, itemized description of reimbursable expenses and a demand for payment, the Secretary may—
- (A) proceed in rem against the vessel on which the seafarer served in the Federal district court for the district in which the vessel is found; and
- (B) withhold or revoke the clearance required under section 60105 for the vessel and any other vessel operated by the same operator (as that term is defined in section 2(9)(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(9)(a)) as the vessel on which the seafarer served.
- (3) OBTAINING CLEARANCE.—A vessel may obtain clearance from the Secretary after it is withheld or revoked under paragraph (2)(B) if the vessel owner or operator—

- (A) reimburses the Fund the amount required under paragraph (1); or
- (B) provides a bond, or other evidence of financial responsibility, sufficient to meet the amount required to be reimbursed under paragraph (1).
- (4) NOTIFICATION REQUIRED.—The Secretary shall notify the vessel at least 72 hours before taking any action under paragraph (2)(B).
- (d) DEFINITIONS.—In this section:
 - (1) ABANDONS; ABANDONED.—Each of the terms “abandons” and “abandoned” means—
 - (A) a vessel owner’s or operator’s unilateral severance of ties with a seafarer; or
 - (B) a vessel owner’s or operator’s failure to provide necessary support of a seafarer.
 - (2) FUND.—The term “Fund” means the Abandoned Seafarers Fund established under this section.
 - (3) NECESSARY SUPPORT.—The term “necessary support” means normal wages and expenses the Secretary considers reasonable for lodging, subsistence, clothing, medical care (including hospitalization), repatriation, and any other support the Secretary considers to be appropriate.
 - (4) SEAFARER.—The term “seafarer” means an alien crew member who is employed or engaged in any capacity on board a vessel subject to the jurisdiction of the United States.
 - (5) VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The term “vessel subject to the jurisdiction of the United States” has the meaning given that term in section 70502(c), except that it does not include a vessel that is—
 - (A) owned, or operated under a bareboat charter, by the United States, a State or political subdivision thereof, or a foreign nation; and
 - (B) not engaged in commerce.

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Subtitle III—Maritime Liability

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CHAPTER 301—GENERAL LIABILITY PROVISIONS

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§ 30104. Personal injury to or death of seamen

(a) *IN GENERAL.*—A seaman injured in the course of employment or, if the seaman dies from the injury, the personal representative of the seaman may elect to bring a civil action at law, with the right of trial by jury, against the employer. Laws of the United States regulating recovery for personal injury to, or death of, a railway employee apply to an action under this section.

(b) *RESTRICTION ON RECOVERY FOR NONRESIDENT ALIENS EMPLOYED ON FOREIGN PASSENGER VESSELS.*—A claim for damages or expenses relating to personal injury, illness, or death of a seaman who is a citizen of a foreign nation, arising during or from the engagement of the seaman by or for a passenger vessel duly registered

under the laws of a foreign nation, may not be brought under the laws of the United States if—

(1) such seaman was not a permanent resident alien of the United States at the time the claim arose;

(2) the injury, illness, or death arose outside the territorial waters of the United States; and

(3) the seaman or the seaman’s personal representative has or had a right to seek compensation for the injury, illness, or death in, or under the laws of—

(A) the nation in which the vessel was registered at the time the claim arose; or

(B) the nation in which the seaman maintained citizenship or residency at the time the claim arose.

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CHAPTER 313—COMMERCIAL INSTRUMENTS AND MARITIME LIENS

SUBCHAPTER I—GENERAL

Sec.
31301. Definitions.

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31310. Treatment of fishing permits.

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SUBCHAPTER I—GENERAL

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§ 31310. Treatment of fishing permits

(a) LIMITATION ON MARITIME LIENS.—This chapter—

(1) does not establish a maritime lien on a fishing permit; and

(2) does not authorize any civil action to enforce a maritime lien on a fishing permit.

(b) TREATMENT OF FISHING PERMITS UNDER STATE AND FEDERAL LAW.—A fishing permit—

(1) is governed solely by the State or Federal law under which it is issued; and

(2) shall not be treated as part of a vessel, or as an appurtenance or intangible of a vessel, for any purpose under Federal law.

(c) AUTHORITY OF SECRETARY OF COMMERCE NOT AFFECTED.—Nothing in this section shall be construed as imposing any limitation upon the authority of the Secretary of Commerce—

(1) to modify, suspend, revoke, or impose a sanction on any fishing permit issued by the Secretary of Commerce; or

(2) to bring a civil action to enforce such a modification, suspension, revocation, or sanction.

(d) FISHING PERMIT DEFINED.—In this section the term “fishing permit” means any authorization of a person or vessel to engage in fishing that is issued under State or Federal law.

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Subtitle V—Merchant Marine

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PART D—PROMOTIONAL PROGRAMS

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CHAPTER 553—PASSENGER AND CARGO PREFERENCES

SUBCHAPTER I—GENERAL

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§ 55305. **Cargoes procured, furnished, or financed by the United States Government**

(a) DEFINITION.—In this section, the term “privately-owned commercial vessel of the United States” does not include a vessel that, after September 21, 1961, was built or rebuilt outside the United States or documented under the laws of a foreign country, until the vessel has been documented under the laws of the United States for at least 3 years.

(b) MINIMUM TONNAGE.—When the United States Government procures, contracts for, or otherwise obtains for its own account, or furnishes to or for the account of a foreign country, organization, or persons without provision for reimbursement, any equipment, materials, or commodities, or provides financing in any way with Federal funds for the account of any persons unless otherwise exempted, within or without the United States, or advances funds or credits, or guarantees the convertibility of foreign currencies in connection with the furnishing or obtaining of the equipment, materials, or commodities, the appropriate agencies shall take steps necessary and practicable to ensure that at least 50 percent of the gross tonnage of the equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) which may be transported on ocean vessels is transported on privately-owned commercial vessels of the United States, to the extent those vessels are available at fair and reasonable rates for commercial vessels of the United States, in a manner that will ensure a fair and reasonable participation of commercial vessels of the United States in those cargoes by geographic areas.

(c) WAIVERS.—The President, the Secretary of Defense, or Congress (by concurrent resolution or otherwise) may waive this section temporarily by—

(1) declaring the existence of an emergency justifying a waiver; and

(2) notifying the appropriate agencies of the waiver.

(d) PROGRAMS OF OTHER AGENCIES.—

【(1) Each department or agency that has responsibility for a program under this section shall administer that program with respect to this section under regulations and guidance issued by the Secretary of Transportation. The Secretary, after consulting with the department or agency or organization or person involved, shall have the sole responsibility for determining if a program is subject to the requirements of this section.】

(1) *Each department or agency that has responsibility for a program under this section shall administer that program consistent with this section and any regulations and guidance issued by the Secretary of Transportation concerning this section.*

(2)(A) *The Secretary, after consulting with the department, agency, organization, or person involved, shall have exclusive authority for determining the applicability of this section to a program of a Federal department or agency, after consulting with the department, agency, organization, or person involved.*

(B) *The head of a Federal department or agency shall request the Secretary to determine the applicability of this section to a program of such department or agency if the department or agency is uncertain of such applicability. Not later than 30 days after receiving such a request, the Secretary shall make such determination.*

(C) *Subparagraph (B) shall not be construed to limit the authority of the Secretary to make a determination regarding the applicability of this section to a program administered by a Federal department or agency.*

(D) *A determination made by the Secretary under this paragraph regarding a program shall remain in effect until the Secretary determines that this section no longer applies to such program.*

[(2)] (3) The Secretary—

[(A) shall conduct an annual review of the administration of programs determined pursuant to paragraph (1) as subject to the requirements of this section;]

(A) shall conduct an annual review of the administration of programs subject to the requirements of this section to determine compliance with the requirements of this section;

(B) *may direct agencies to require the transportation on United States-flagged vessels of cargo shipments not otherwise subject to this section in equivalent amounts to cargo determined to have been shipped on foreign carriers in violation of this section;*

(C) *may impose on any person that violates this section, or a regulation prescribed under this section, a civil penalty of not more than \$25,000 for each violation willfully and knowingly committed, with each day of a continuing violation following the date of shipment to be a separate violation; and*

(D) *may take other measures as appropriate under the Federal Acquisition Regulations issued pursuant to section 25(c)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)(1) or contract with respect to each violation.*

(4) On the date on which the President submits to Congress a budget pursuant to section 1105 of title 31, the Secretary shall make available on the Internet website of the Department of Transportation a report that—

(A) lists the programs that were subject to determinations made by the Secretary under paragraph (2) in the preceding year; and

(B) describes the results of the most recent annual review required by paragraph (3)(A), including identification of

the departments and agencies that transported cargo in violation of this section and any action the Secretary took under paragraph (3) with respect to each violation.

(e) SECURITY OF GOVERNMENT-IMPELLED CARGO.—

(1) In order to ensure the safety of vessels and crewmembers transporting equipment, materials, or commodities under this section, the Secretary of Transportation shall direct each department or agency (except the Department of Defense), when responsible for the carriage of such equipment, materials, or commodities, to reimburse, subject to the availability of appropriations, the owners or operators of vessels of the United States carrying such equipment, materials, or commodities for the cost of providing armed personnel aboard such vessels if the vessels are transiting high-risk waters.

(2) In this subsection, the term “high-risk waters” means waters so designated by the Commandant of the Coast Guard in the maritime security directive issued by the Commandant and in effect on the date on which an applicable voyage begins, if the Secretary of Transportation—

(A) determines that an act of piracy occurred in the 12-month period preceding the date the voyage begins; or

(B) in such period, issued an advisory warning that an act of piracy is possible in such waters.

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PART F—GOVERNMENT-OWNED MERCHANT VESSELS

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CHAPTER 575—CONSTRUCTION, CHARTER, AND SALE OF VESSELS

SUBCHAPTER I—GENERAL

Sec.

57501. Completion of long-range program.

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SUBCHAPTER II—CHARTERS

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57522. Books and records, balance sheets, and inspection and auditing.

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SUBCHAPTER I—GENERAL

§ 57501. Completion of long-range program

Whenever the Secretary of Transportation determines that the objectives and policies declared in sections 50101 and 50102 of this title cannot be fully realized within a reasonable time under [titles V and VI] *title V* of the Merchant Marine Act, 1936, and the President approves the determination, the Secretary, in accordance with this chapter, shall complete the long-range program described in section 50102 of this title.

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SUBCHAPTER II—CHARTERS

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§ 57522. Books and records, balance sheets, and inspection and auditing

Every contract executed by the Secretary of Transportation under this chapter shall contain provisions requiring (1) that the contractor and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by, the contractor, to keep its books, records, and accounts, relating to the maintenance, operation, and servicing of the vessels, services, routes, and lines covered by the contract, in such form and under such regulations as may be prescribed by the Secretary of Transportation: Provided, that the contractor and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by the contractor, to file, upon notice from the Secretary of Transportation, balance sheets, profit and loss statements, and such other statements of financial operations, special report, memoranda of any facts and transactions, which in the opinion of the Secretary of Transportation affect the financial results in, the performance of, or transactions or operations under, such contract; (2) that the Secretary of Transportation shall be authorized to examine and audit the books, records, and accounts of all persons referred to in this section whenever he may deem it necessary or desirable; and (3) that upon the willful failure or refusal of any person described in this section to comply with the contract provisions required by this section, the Secretary of Transportation shall have the right to rescind the contract, and upon such rescission the United States shall be relieved of all further liability on such contract.

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SUBCHAPTER III—MISCELLANEOUS

§ 57531. Construction and charter of vessels for unsuccessful routes

(a) **IN GENERAL.**—If the Secretary of Transportation finds that a trade route determined to be essential under section 50103 of this title cannot be successfully developed and maintained and the Secretary's replacement program cannot be achieved under private operation of the trade route by a citizen of the United States with vessels documented under chapter 121 of this title, without further aid by the United States Government in addition to the financial aid authorized under [titles V and VI] *title V* of the Merchant Marine Act, 1936, the Secretary, without advertisement or competition, may—

- (1) have constructed, in private shipyards or in navy yards, vessels of the types necessary for the trade route; and
- (2) demise charter those new vessels to the operator of vessels of the United States established on the trade route.

(b) **AMOUNT OF CHARTER HIRE.**—

- (1) **IN GENERAL.**—The annual charter hire under subsection (a) shall be at least 4 percent of the price (referred to in this section as the "foreign cost") at which the vessel would be sold

if constructed under title V of the Merchant Marine Act, 1936, plus—

(A) a percentage of the depreciated foreign cost computed annually determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the Government with remaining periods to maturity comparable to the term of the charter, adjusted to the nearest one-eighth percent; and

(B) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs.

(2) DEPRECIATION.—Depreciation under paragraph (1)(A) shall be based on—

(A) a 25-year life for dry-cargo and passenger vessels; and

(B) a 20-year life for tankers and other bulk liquid carrier vessels.

(c) OPTION TO PURCHASE.—The charter may contain an option to the charterer to purchase the vessels from the Secretary of Transportation within 5 years after delivery under the charter, on the same terms and conditions as provided in title V of the Merchant Marine Act, 1936, for the purchase of new vessels from the Secretary. However—

(1) the purchase price shall be the foreign cost less depreciation to the date of purchase based on the useful life specified in subsection (b)(2);

(2) the required cash payment payable at the time of the purchase shall be 25 percent of the purchase price;

(3) the charter may provide that any part of the charter hire paid in excess of the minimum charter hire provided for in this section may be credited against the cash payment payable at the time of the purchase;

(4) the balance of the purchase price shall be paid within the remaining years of useful life (as specified in subsection (b)(2)) after the date of delivery of the vessel under the charter and in approximately equal annual installments, except that the first installment, which shall be payable on the next ensuing anniversary date of the delivery under the charter, shall be a proportionate part of the annual installment; and

(5) interest shall be payable on the unpaid balances from the date of purchase, at a rate not less than—

(A) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the Government with remaining periods to maturity comparable to the average maturities of the loans, adjusted to the nearest one-eighth percent; plus

(B) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs.

(d) OPERATION OF VESSEL.—

(1) PERMISSIBLE VOYAGES.—The charter shall provide for operation of the vessel exclusively—

(A) in foreign trade;

(B) on a round-the-world voyage;

(C) on a round voyage from the west coast of the United States to a European port that includes an intercoastal port of the United States;

(D) on a round voyage from the Atlantic coast of the United States to the Orient that includes an intercoastal port of the United States; or

(E) on a voyage in foreign trade on which the vessel may stop at Hawaii or an island territory or possession of the United States.

(2) DOMESTIC TRADE.—The charter shall provide if the vessel is operated in domestic trade on any of the services specified in paragraph (1), the charterer will pay annually to the Secretary of Transportation that proportion of $\frac{1}{25}$ of the difference between the domestic and foreign cost of the vessel as the gross revenue derived from the domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year.

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SECTION 3511 OF THE DUNCAN HUNTER NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2009

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SEC. 3511. TRANSPORTATION IN AMERICAN VESSELS OF GOVERNMENT PERSONNEL AND CERTAIN CARGOES

(a) [Omitted—amendatory]

(b) [Omitted—amendatory]

[(c) REGULATIONS.—The Secretary of Transportation shall prescribe such rules as are necessary to carry out section 55305(d) of title 46, United States Code. The Secretary may prescribe interim rules necessary to carry out section 55305(d) of such title. An interim rule prescribed under this subsection shall remain in effect until superseded by a final rule.]

(d) [Omitted—amendatory]

PORTS AND WATERWAYS SAFETY ACT

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ports and Waterways Safety Act".

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SEC. 6. WATERFRONT SAFETY.

(a) IN GENERAL.—The Secretary may take such action as is necessary to—

(1) prevent damage to, or the destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to such waters; and

(2) protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss. Such action may include, but need not be limited to—

(A) establishing procedures, measures, and standards for the handling, loading, unloading, storage, stowage, and movement on the structure (including the emergency removal, control, and disposition) of explosives or other dangerous articles and substances, including oil or hazardous material as those terms are defined in section 4417a of the Revised Statutes, as amended;

(B) prescribing minimum safety equipment requirements for the structure to assure adequate protection from fire, explosion, natural disaster, and other serious accidents or casualties;

(C) establishing water or waterfront safety zones, or other measures for limited, controlled, or conditional access and activity when necessary for the protection of any vessel, structure, waters, or shore area; and

(D) establishing procedures for examination to assure compliance with the requirements prescribed under this section.

(b) STATE LAW.—Nothing contained in this section, with respect to structures, prohibits a State or political subdivision thereof from prescribing higher safety equipment requirements or safety standards than those which may be prescribed by regulations hereunder.

(c) MARINE EVENT SAFETY ZONES.—

(1) IN GENERAL.—*Except as provided in paragraph (2), the Secretary shall recover all costs the Coast Guard incurs to enforce a safety zone under this section if such safety zone is established for a marine event conducted under a permit or other authorization by the Coast Guard.*

(2) EXCEPTION.—*The Secretary may not recover costs under paragraph (1) from a State or local government.*

(3) TREATMENT OF RECOVERED COSTS.—*Costs recovered by the Secretary under this subsection shall be credited to the appropriation for operating expenses of the Coast Guard.*

(4) MARINE EVENT DEFINED.—*In this section the term "marine event" means a planned activity of limited duration that by its nature, circumstances, or location, will introduce extra or un-*

usual hazards to the safety of life on the navigable waters of the United States.

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ACT OF MARCH 3, 1899

CHAPT. 425.—AN ACT Making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

* * * * *

SEC. 9. It shall not be lawful to construct or commence the construction of any bridge, causeway, dam, or dike over or in any port, roadstead, haven, harbor, canal, navigable river, or other navigable water of the United States until the consent of Congress to the building of such structures shall have been obtained and until the plans for (1) the bridge or causeway shall have been submitted to and approved by the [Secretary of Transportation] *Secretary of the department in which the Coast Guard is operating*, or (2) the dam or dike shall have been submitted to and approved by the Chief of Engineers and Secretary of the Army. However, such structures may be built under authority of the legislature of a State across rivers and other waterways the navigable portions of which lie wholly within the limits of a single State, provided the location and plans thereof are submitted to and approved by the [Secretary of Transportation] *Secretary of the department in which the Coast Guard is operating* or by the Chief of Engineers and Secretary of the Army before construction is commenced. When plans for any bridge or other structure have been approved by the [Secretary of Transportation] *Secretary of the department in which the Coast Guard is operating* or by the Chief of Engineers and Secretary of the Army, it shall not be lawful to deviate from such plans either before or after completion of the structure unless modification of said plans has previously been submitted to and received the approval of the [Secretary of Transportation] *Secretary of the department in which the Coast Guard is operating* or the Chief of Engineers and the Secretary of the Army. The approval required by this section of the location and plans or any modification of plans of any bridge or causeway does not apply to any bridge or causeway over waters that are not subject to the ebb and flow of the tide and that are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

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SEC. 18. (a) That whenever the [Secretary of Transportation] *Secretary of the department in which the Coast Guard is operating* shall have good reason to believe that any railroad or other bridge now constructed, or which may hereafter be constructed, over any of the navigable waterways of the United States is an unreasonable obstruction to the free navigation of such waters on account of insufficient height, width of span, or otherwise, or where there is difficulty in passing the draw opening or the draw span of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the said Secretary, first giving the parties reasonable opportunity to be heard, to give notice to the persons or corporations owning

or controlling such bridge so to alter the same as to render navigation through or under it reasonably free, easy, and unobstructed; and in giving such notice he shall specify the changes that are required to be made, and shall prescribe in each case a reasonable time in which to make them. If at the end of such time the alteration has not been made, the **【Secretary of Transportation】** *Secretary of the department in which the Coast Guard is operating* shall forthwith notify the United States district attorney for the district in which such bridge is situated, to the end that the criminal proceedings hereinafter mentioned may be taken. If the persons, corporation, or association owning or controlling any railroad or other bridge shall, after receiving notice to that effect, as hereinbefore required, from the **【Secretary of Transportation】** *Secretary of the department in which the Coast Guard is operating*, and within the time prescribed by him willfully fail or refuse to remove the same or to comply with the lawful order of the **【Secretary of Transportation】** *Secretary of the department in which the Coast Guard is operating* in the premises, such persons, corporation, or association shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding five thousand dollars, and every month such persons, corporation, or association shall remain in default in respect to the removal or alteration of such bridge shall be deemed a new offense, and subject the persons, corporation, or association so offending to the penalties above prescribed.

(b) No owner or operator of any bridge, drawbridge, or causeway shall endanger, unreasonably obstruct, or make hazardous the free navigation of any navigable water of the United States by reason of the failure to keep the bridge, drawbridge, or causeway and any accessory works in proper repair.

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

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ACT OF MARCH 23, 1906

AN ACT To regulate the construction of bridges over navigable waters.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when, hereafter, authority is granted by Congress to any persons to construct and maintain a bridge across or over any of the navigable waters of the United States, such bridge shall not be built or commenced until the plans and specifications for its construction, together with such drawings of the proposed construction and such map of the proposed location as may be required for a full understanding of the subject, have been submitted to the [Secretary of Transportation] *Secretary of the department in which the Coast Guard is operating* for the Secretary's approval, nor until the Secretary shall have approved such plans and specifications and the location of such bridge and accessory works; and when the plans for any bridge to be constructed under the provisions of this Act have been approved by the Secretary it shall not be lawful to deviate from such plans, either before or after completion of the structure, unless the modification of such plans has previously been submitted to and received the approval of the Secretary. This section shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

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SEC. 4. That no bridge erected or maintained under the provisions of this Act shall at any time unreasonably obstruct the free navigation of the waters over which it is constructed, and if any bridge erected in accordance with the provisions of this Act shall, in the opinion of the [Secretary of Homeland Security] *Secretary of the department in which the Coast Guard is operating*, at any time unreasonably obstruct such navigation, either on account of insufficient height, width of span, or otherwise, or if there be difficulty in passing the draw opening or the drawspan of such bridge by rafts, steamboats, or other water craft, it shall be the duty of the [Secretary of Homeland Security] *Secretary of the department in which the Coast Guard is operating*, after giving the parties interested reasonable opportunity to be heard, to notify the persons owning or controlling such bridge to so alter the same as to render navigation through or under it reasonably free, easy, and unobstructed, stating in such notice the changes required to be made, and prescribing in each case a reasonable time in which to make such changes, and if at the end of the time so specified the changes so required have not been made, the persons owning or controlling such bridge shall be deemed guilty of a violation of this Act; and all such alterations shall be made and all such obstructions shall be removed at the expense of the persons owning or operating said bridge. The persons owning or operating any such bridge shall maintain, at their own expense, such lights and other signals thereon as the Secretary of Commerce and Labor shall prescribe. If the bridge shall be constructed with a draw, then the draw shall be opened promptly by the persons owning or operating such bridge upon reasonable signal for the passage of boats and other water craft.

SEC. 5. (a) That any persons who shall willfully fail or refuse to comply with the lawful order of the **【Secretary of Transportation】** *Secretary of the department in which the Coast Guard is operating* or the Chief of Engineers, made in accordance with the provisions of this Act, shall be deemed guilty of a misdemeanor and on conviction thereof shall be punished in any court of competent jurisdiction by a fine not exceeding five thousand dollars, and every month such persons shall remain in default shall be deemed a new offense and subject such persons to additional penalties therefor; and in addition to the penalties above described the **【Secretary of Transportation】** *Secretary of the department in which the Coast Guard is operating* and the Chief of Engineers may, upon refusal of the persons owning or controlling any such bridge and accessory works to comply with any lawful order issued by the **【Secretary of Transportation】** *Secretary of the department in which the Coast Guard is operating* or Chief of Engineers in regard thereto, cause the removal of such bridge and accessory works at the expense of the persons owning or controlling such bridge, and suit for such expense may be brought in the name of the United States against such persons, and recovery had for such expense in any court of competent jurisdiction; and the removal of any structures erected or maintained in violation of the provisions of this Act or the order or direction of the **【Secretary of Transportation】** *Secretary of the department in which the Coast Guard is operating* or Chief of Engineers made in pursuance thereof may be enforced by injunction, mandamus, or other summary process, upon application to the circuit court in the district in which such structure may, in whole or in part, exist, and proper proceedings to this end may be instituted under the direction of the Attorney-General of the United States at the request of the **【Secretary of Transportation】** *Secretary of the department in which the Coast Guard is operating*; and in case of any litigation arising from any obstruction or alleged obstruction to navigation created by the construction of any bridge under this Act, the cause or question arising may be tried before the circuit court of the United States in any district which any portion of said obstruction or bridge touches.

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

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SECTION 5 OF THE ACT OF AUGUST 18, 1894

AN ACT Making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

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SEC. 5. (a) That it shall be the duty of all persons owning, operating, and tending the drawbridges now built, or which may hereafter be built across the navigable rivers and other waters of the United States, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the [Secretary of Transportation] *Secretary of the department in which the Coast Guard is operating* the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, as provided in such regulations, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than two thousand dollars nor less one thousand dollars, or by imprisonment (in the case of a natural person) for not exceeding one year, or by both such fine and imprisonment, in the discretion of the court: Provided, That the proper action to enforce the provisions of this subsection may be commenced before any commissioner, judge, or court of the United States, and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: Provided further, That whenever, in the opinion of the [Secretary of Transportation] *Secretary of the department in which the Coast Guard is operating*, the public interests require it, he may make rules and regulations to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law, and any willful violation thereof shall be punished as hereinbefore provided. Any rules and regulations made in pursuance of this section shall, to the extent practical and feasible, provide for regularly scheduled openings of drawbridges during seasons of the year, and during times of the day, when scheduled openings would help reduce motor vehicle traffic delays and congestion on roads and highways linked by drawbridges.

(b) No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or regulations under this section has been given. The [Secretary of Transportation] *Secretary of the department in which the Coast Guard is operating* shall issue rules and regulations to implement this subsection.

(c) Whoever violates any rule or regulation issued under subsection (a) or (b), shall be liable to a civil penalty of not more than \$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter. No penalty may be assessed under this subsection until the person charged is given notice and

an opportunity for a hearing on the charge. The [Secretary of Transportation] *Secretary of the department in which the Coast Guard is operating* may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

* * * * *

ACT OF JUNE 21, 1940

AN ACT To provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes.

DEFINITIONS

SECTION 1. When used in this Act, unless the context indicates otherwise—

The term “alteration” includes changes of any kind, reconstruction, or removal in whole or in part.

The term “bridge” means a lawful bridge over navigable waters of the United States, including approaches, fenders, and appurtenances thereto, which is used and operated for the purpose of carrying railroad traffic, or both railroad and highway traffic, or if a State, county, municipality, or other political subdivision is the owner or joint owner thereof, which is used and operated for the purpose of carrying highway traffic.

The term “bridge owner” means any State, county, municipality, or other political subdivision, or any corporation, association, partnership, or individual owning, or jointly owning, any bridge, and, when any bridge shall be in the possession or under the control of any trustee, receiver, trustee in a case under title 11 of the United States Code, or lessee, such term shall include both the owner of the legal title and the person or the entity in possession or control of such bridge.

The term “Secretary” means the [Secretary of Transportation] *Secretary of the department in which the Coast Guard is operating*.

The term “United States”, when used in a geographical sense, includes the Territories and possessions of the United States.

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SUBMISSION AND APPROVAL OF GENERAL PLANS AND SPECIFICATIONS

SEC. 4. After the service of an order under this Act, it shall be the duty of the bridge owner to prepare and submit to the [Secretary of Transportation] *Secretary of the department in which the Coast Guard is operating*, within a reasonable time as prescribed by the Secretary, general plans and specifications to provide for the alteration of such bridge in accordance with such order, and for such additional alteration of such bridge as the bridge owner may desire to meet the necessities of railroad or highway traffic, or both. The Secretary may approve or reject such general plans and

specifications, in whole or in part, and may require the submission of new or additional plans and specifications, but when the Secretary shall have approved general plans and specifications, they shall be final and binding upon all parties unless changes therein be afterward approved by the Secretary and the bridge owner.

* * * * *

PAYMENT OF SHARE OF THE UNITED STATES

SEC. 7. Following service of the order requiring alteration of the bridge, the **【Secretary of Transportation】** *Secretary of the department in which the Coast Guard is operating* may make partial payments as the work progresses to the extent that funds have been appropriated. The total payments out of Federal funds shall not exceed the proportionate share of the United States of the total cost of the project paid or incurred by the bridge owner, and, if such total cost exceeds the cost guaranteed by the bridge owner, shall not exceed the proportionate share of the United States of such guaranteed cost, except that if the cost of the work exceeds the guaranteed cost by reason of emergencies, conditions beyond the control of the owner, or unforeseen or undetermined conditions, the **【Secretary of Transportation】** *Secretary of the department in which the Coast Guard is operating* may, after full review of all the circumstances, provide for additional payments by the United States to help defray such excess cost to the extent he deems to be reasonable and proper, and shall certify such additional payments to the Secretary of the Treasury for payment. All payments to any bridge owner herein provided for shall be made by the Secretary of the Treasury through the Division of Disbursement upon certifications of the **【Secretary of Transportation】** *Secretary of the department in which the Coast Guard is operating*.

* * * * *

RELOCATION OF BRIDGES

SEC. 13. If the owner of any bridge and the Secretary shall agree that in order to remove an obstruction to navigation, or for any other purpose, a relocation of such bridge or the construction of a new bridge upon a new location would be preferable to an alteration of the existing bridge, such relocation or new construction may be carried out at such new site and upon such terms as may be acceptable to the bridge owner and the Secretary, and the cost of such relocation or new construction, including also any expense of changes in and additions to rights-of-way, stations, tracks, spurs, sidings, switches, signals, and other railroad facilities and property, and relocation of shippers required for railroad connection with the bridge at the new site, shall be apportioned as between the bridge owner and the United States in the manner which is provided for in section 6 hereof in the case of an alteration and the share of the United States paid from the appropriation authorized in section 8 hereof: *Provided*, That nothing in this section shall be construed as requiring the United States to pay any part of the expense of building any bridge across a navigable stream which the **【Secretary of Transportation】** *Secretary of the department in which the Coast*

Guard is operating shall not find to be, in fact, a relocation of an existing bridge.

GENERAL BRIDGE ACT 1946

TITLE V—GENERAL BRIDGE ACT

SHORT TITLE

SEC. 501. This title may be cited as the “General Bridge Act of 1946”.

CONSENT OF CONGRESS

SEC. 502. (a) The consent of Congress is hereby granted for the construction, maintenance, and operation of bridges and approaches thereto over the navigable waters of the United States, in accordance with the provisions of this title.

(b) The location and plans for such bridges shall be approved by the **【Secretary of Transportation】** *Secretary of the department in which the Coast Guard is operating* before construction is commenced, and, in approving the location and plans of any bridge, the Secretary may impose any specific conditions relating to the maintenance and operation of the structure which the Secretary may deem necessary in the interest of public navigation, and the conditions so imposed shall have the force of law. This subsection shall not apply to any bridge over waters which are not subject to the ebb and flow of the tide and which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

(c) Notwithstanding the provisions of subsections (a) and (b), it shall be unlawful to construct or commence the construction of any privately owned highway toll bridge until the location and plans thereof shall also have been submitted to and approved by the highway department or departments of the State or States in which the bridge and its approaches are situated; and where such bridge shall be between two or more States and the highway departments thereof shall be unable to agree upon the location and plans therefor, or if they, or either of them, shall fail or refuse to act upon the location and plans submitted, such location and plans then shall be submitted to the Public Roads Administration and, if approved by the Public Roads Administration, approval by the highway departments shall not be required.

* * * * *

PENALTIES

SEC. 510. (a) Any person who willfully fails or refuses to comply with any lawful order of the **【Secretary of Transportation】** *Secretary of the department in which the Coast Guard is operating* or the Chief of Engineers issued under the provisions of this title, or who willfully fails to comply with any specific condition imposed by the Chief of Engineers and the **【Secretary of Transportation】** *Secretary of the department in which the Coast Guard is operating* relating to the maintenance and operation of bridges, or who willfully refuses to produce books, papers, or documents in obedience to a

subpena or other lawful requirement under this title, or who otherwise willfully violates any provisions of this title, shall, upon conviction thereof, be punished by a fine of not to exceed \$5,000 or by imprisonment for not more than one year, or by both such fine and imprisonment.

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

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INTERNATIONAL BRIDGE ACT OF 1972

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SEC. 5. The approval of the [Secretary of Transportation] *Secretary of the department in which the Coast Guard is operating*, as required by the first section of the Act of March 23, 1906 (33 U.S.C. 491), shall be given only subsequent to the President's approval, as provided for in section 4 of this Act, and shall be null and void unless the construction of the bridge is commenced within two years and completed within five years from the date of the Secretary's approval: *Provided, however*, That the Secretary, for good cause shown, may extend for a reasonable time either or both of the time limits herein provided.

* * * * *

SEC. 8. (a) Nothing in this act shall be deemed to prevent the individual, corporation, or other entity to which, pursuant to this act, authorization has been given to construct, operate, and maintain an international bridge and the approaches thereto, from selling, assigning, or transferring the rights, powers, and privileges conferred by this act: *Provided*, that such sale, assignment, or transfer shall be subject to approval by the [Secretary of Transportation] *Secretary of the department in which the Coast Guard is operating*.

(b) Upon the acquisition by a State or States, or by a subdivision or instrumentality thereof, of the right, title, and interest of a private individual, corporation, or other private entity, in and to an international bridge, any license, contract, or order issued or entered into by the [Secretary of Transportation] *Secretary of the department in which the Coast Guard is operating*, to or with such private individual, corporation, or other private entity, shall be deemed terminated forthwith. Thereafter, the State, subdivision, or

instrumentality so acquiring shall operate and maintain such bridge in the same manner as if it had been the original applicant, and the provisions of section 6 of this Act shall not apply.

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【SEC. 11. The Secretary of Transportation shall make a report of all approvals granted by him during the fiscal year pursuant to section 5 of this Act in each annual report of the activities of the Department required by section 11 of the Department of Transportation Act (49 U.S.C. 1658).】

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MERCHANT MARINE ACT, 1936

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TITLE VI—VESSEL OPERATING ASSISTANCE PROGRAMS

Subtitle A—Operating-Differential Subsidy Program

【SEC. 601. (a) The Secretary of Transportation is authorized and directed to consider the application of any citizen of the United States for financial aid in the operation of a vessel or vessels, which are to be used in an essential service in the foreign commerce of the United States or in such service and in cruises authorized under section 613 of this title. In this title VI the term “essential service” means the operation of a vessel on a service, route, or line described in section 211(a) or in bulk cargo carrying service described in section 211(b). No such application shall be approved by the Secretary of Transportation unless he determines that (1) the operation of such vessel or vessels in an essential service is required to meet foreign-flag competition and to promote the foreign commerce of the United States except to the extent such vessels are to be operated on cruises authorized under section 613 of this title, and that such vessel or vessels were built in the United States, or have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of the United States prior to such date; (2) the applicant owns or leases, or can and will build or purchase or lease, a vessel or vessels of the size, type, speed, and number, and with the proper equipment required to enable him to operate in an essential service, in such manner as may be necessary to meet competitive conditions, and to promote foreign commerce; (3) the applicant possesses the ability, experience, financial resources, and other qualifications necessary to enable him to conduct the proposed operations of the vessel or vessels as to meet competitive conditions and promote foreign commerce; (4) the granting of the aid applied for is necessary to place the proposed operations of the vessel or vessels on a parity with those of foreign competitors, and is reasonably calculated to carry out effectively the purposes and policy of this Act. To the extent the application covers cruises, as authorized under section 613 of this title, the Secretary of Transportation may make the portion of this last determination relating to parity on the basis that any foreign flag

cruise from the United States competes with any American flag cruise from the United States.

[(b) Every application for an operating-differential subsidy under the provisions of this title shall be accompanied by statements disclosing the names of all person having any pecuniary interest, direct or indirect, in such application, or in the ownership or use of the vessel or vessels, routes, or lines covered thereby, and the nature and extent of any such interest, together with such financial and other statements as may be required by the Secretary of Transportation. All such statements shall be under oath or affirmation and in such form as the Secretary of Transportation shall prescribe. Any person who, in an application for financial aid under this title or in any statement required to be filed therewith, willfully makes any untrue statement of a material fact, shall be guilty of a misdemeanor.

[SEC. 602. Except with respect to cruises authorized under section 613 of this title, no contract for an operating-differential subsidy shall be made by the Secretary of Transportation for the operation of a vessel or vessels to meet foreign competition, except direct foreign-flag competition, until and unless the Secretary of Transportation, after a full and complete investigation and hearing, shall determine that an operating-differential subsidy is necessary to meet competition of foreign-flag ships.

[SEC. 603. (a) If the Secretary of Transportation approves the application, he may enter into a contract with the applicant for the payment of an operating-differential subsidy determined in accordance with the provisions of subsection (b) of this section, for the operation of such vessel or vessels in an essential service and in cruises authorized under section 613 of this title for a period not exceeding twenty years, and subject to such reasonable terms and conditions, consistent with this Act, as the Secretary of Transportation shall require to effectuate the purposes and policy of this Act, including a performance bond with approved sureties, if such bond is required by the Secretary of Transportation.

[(b) Such contract shall provide, except as the parties should agree upon a lesser amount, that the amount of the operating-differential subsidy for the operation of vessels in an essential service shall equal the excess of the subsidizable wage costs of the United States officers and crews, the fair and reasonable cost of insurance, subsistence of officers and crews on passenger vessels, as defined in section 613 of this Act, maintenance, and repairs not compensated by insurance incurred in the operation under United States registry of the vessel or vessels covered by the contract, over the estimated fair and reasonable cost of the same items of expense (after deducting therefrom any estimated increase in such items necessitated by features incorporated pursuant to the provisions of section 501(b)) if such vessel or vessels were operated under the registry of a foreign country whose vessels are substantial competitors of the vessel or vessels covered by the contract: *Provided, however,* That the Secretary of Transportation may, with respect to any vessel in an essential bulk cargo carrying service as described in section 211(b), pay, in lieu of the operating-differential subsidy provided by this subsection (b), such sums as he shall determine to be necessary to make the cost of operating such vessel competitive with the cost of operating similar vessels under the registry of a

foreign country. For any period during which a vessel cruises as authorized by section 613 of this Act, operating-differential subsidy shall be computed as though the vessel were operating on the essential service to which the vessel is assigned: *Provided, however,* That if the cruise vessel calls at a port or ports outside of its assigned service, but which is served with passenger vessels (as defined in section 613 of this Act) by another subsidized operator at an operating-differential subsidy rate for wages lower than the cruise vessel has on its assigned essential service, the operating-differential subsidy rates for each of the subsidizable items for each day (a fraction of a day to count as a day) that the vessel stops at such port shall be at the respective rates applicable to the subsidized operator regularly serving the area.

[(c)(1) When used in this section—

[(A) The term “collective bargaining costs” means the annual cost, calculated on the basis of the per diem rate of expense as of any date, of all items of expense required of the applicant through collective bargaining or other agreement, covering the employment of United States officers and crew of a vessel, including payments required by law to assure old-age pensions, unemployment benefits, or similar benefits and taxes or other governmental assessments on crew payrolls, but excluding subsistence of officers and crews on vessels other than passenger vessels as defined in section 613 of this Act and costs relating to:

[(i) the officers or members of the crew that the Secretary of Transportation has found, prior to the award of a contract for the construction or reconstruction of a vessel, to be unnecessary for the efficient and economical operation of such vessel: *Provided,* That the Secretary of Transportation shall afford representatives of the collective-bargaining unit or units responsible for the manning of the vessel an opportunity to comment on such finding prior to the effective date of such finding: *And provided further,* That in determining whether officers or members of the crew are necessary for the efficient and economical operation of such vessel, the Secretary of Transportation shall give due consideration to, but shall not be bound by, wage and manning scales and working conditions required by a bona fide collective-bargaining agreement, or

[(ii) those officers or members of the crew that the Secretary of Transportation has found, prior to ninety days following the date of enactment of this subsection, to be unnecessary for the efficient and economical operation of the vessel.

[(B) The term “base period costs” means for the base period beginning July 1, 1970, and ending June 30, 1971, the collective-bargaining costs as of January 1, 1971, less all other items of cost that have been disallowed by the Secretary of Transportation prior to ninety days following the date of enactment of this subsection, and not already excluded from collective-bargaining costs under subparagraph (A)(i) or (A)(ii) of this subsection. In any subsequent base period the term “base period costs” means the average of the subsidizable wage cost of the United States officers and crews for the preceding annual period ending June 30 (calculated without regard to the limitation of the last sentence of paragraph (D) of this subdivision but increased or decreased by the increase or decrease in the index described in subdivision (3) of this subsection from

January 1 of such annual period to January 1 of the base period), and the collective-bargaining costs as of January 1 of the base period: *Provided*, That in no event shall the base period cost be such that the difference between the base period cost and the collective-bargaining costs as of January 1 of any base period subsequent to the first base period exceeds five-fourths of 1 per centum of the collective-bargaining costs as of such January 1 multiplied by the number of years that have elapsed since the most recent base period.

[(C) The term "base period" means any annual period beginning July 1, and ending June 30 with respect to which a base period cost is established.

[(D) The term "subsidizable wage costs of United States officers and crews" in any period other than a base period means the most recent base period costs increased or decreased by the increase or decrease from January 1 of such base period to January 1 of such period in the index described in subdivision (3) hereof, and with respect to a base period means the base period cost. The subsidizable wage costs of United States officers and crews in any period other than a base period shall not be less than 90 per centum of the collective-bargaining costs as of January 1 of such period nor greater than 110 per centum of such collective-bargaining costs.

[(2) The Secretary of Transportation shall determine the collective-bargaining costs on ships in subsidized operation as of January 1, 1971, and as of each January 1 thereafter, and shall as of intervals of not less than two years nor more than four years, establish a new base period cost, except that the Secretary shall not establish a new base period unless he announces his intention to do so prior to the December 31 that would be included in the new base period.

[(3) The Bureau of Labor Statistics shall compile the index referred to in subdivision (1). Such index shall consist of the average annual change in wages and benefits placed into effect for employees covered by collective-bargaining agreements with equal weight to be given to changes affecting employees in the transportation industry (excluding the offshore maritime industry) and to changes affecting employees in private nonagricultural industries other than transportation. Such index shall be based on the materials regularly used by the Bureau of Labor Statistics in compiling its regularly published statistical series on wage and benefit changes arrived at through collective bargaining. Such materials shall remain confidential and not be subject to disclosure.

[(d) Each foreign wage cost computation shall be made after an opportunity is given to the contractor to submit in writing and in timely fashion all relevant data within his possession. In making the computation, the Secretary shall consider all relevant matter so presented and all foreign wage cost data collected at his request or on his behalf. Such foreign cost data shall be made available to an interested contractor, unless the Secretary shall find that disclosure of the data will prevent him from obtaining such data in the future. In determining foreign manning for purposes of this section, the foreign manning determined for any ship type with respect to any base period shall not be redetermined until the beginning of a new base period.

[(e) The wage subsidy shall be payable monthly for the voyages completed during the month, upon the contractor's certification that the subsidized vessels were in authorized service during the month. The Secretary of Transportation shall prescribe procedures for the calculation and payment of subsidy on items of expense which are included in "collective-bargaining costs" but are not included in the daily rate because they are unpredictably timed.

[(f) Ninety percent of the amount of the insurance and maintenance and repair and subsistence of officers and crews subsidy shall be payable monthly for the voyages completed during the month on the basis of the subsidy estimated to have accrued with respect to such voyages. Any such payment shall be made only after there has been furnished to the Secretary of Transportation such security as he deems to be reasonable and necessary to assure refund of any overpayment. The contractor and the Secretary of Transportation shall audit the voyage accounts as soon as practicable after such payments. The remaining 10 percent of such subsidy shall be payable after such audit.

[SEC. 604. If in the case of any particular foreign-trade route the Secretary of Transportation shall find after consultation with the Secretary of State, that the subsidy provided for in this title is in any respect inadequate to offset the effect of governmental aid paid to foreign competitors, he may grant such additional subsidy as he determines to be necessary for that purpose.

[SEC. 605. (a) No operating-differential subsidy shall be paid for the operation of any vessel on a voyage on which it engages in coastwise or intercoastal trade: *Provided, however,* That such subsidy may be paid on a round-the-world voyage or a round voyage from the west coast of the United States to a European port or ports or a round voyage from the Atlantic coast to the Orient which includes intercoastal ports of the United States or a voyage in foreign trade on which the vessel may stop at the State of Hawaii, or an island possession or island territory of the United States, and if the subsidized vessel earns any gross revenue on the carriage of mail, passengers, or cargo by reason of such coastal or intercoastal trade the subsidy payments for the entire voyage shall be reduced by an amount which bears the same ratio to the subsidy otherwise payable as such gross revenue bears to the gross revenue derived from the entire voyage. No vessel operating on the inland waterways of the United States shall be considered for the purposes of this Act to be operating in foreign trade.

[(b) No operating-differential subsidy shall be paid for the operation of a vessel after the calendar year the vessel becomes 25 years of age, unless the Secretary of Transportation has determined, before the date of enactment of the Maritime Security Act of 1996, that it is in the public interest to grant such financial aid for the operation of such vessel.

[(c) No contract shall be made under this title with respect to a vessel to be operated in an essential service served by citizens of the United States which would be in addition to the existing service, or services, unless the Secretary of Transportation shall determine after proper hearing of all parties that the service already provided by vessels of United States registry is inadequate, and that in the accomplishment of the purposes and policy of this Act additional vessels should be operated thereon; and no contract shall

be made with respect to a vessel operated or to be operated in an essential service served by two or more citizens of the United States with vessels of United States registry, if the Secretary of Transportation shall determine the effect of such a contract would be to give undue advantage or be unduly prejudicial, as between citizens of the United States, in the operation of vessels on such essential service, unless following public hearing, due notice of which shall be given to each operator serving such essential service, the Secretary of Transportation shall find that it is necessary to enter into such contract in order to provide adequate service by vessels of United States registry. The Secretary of Transportation, in determining for the purposes of this section whether services are competitive, shall take into consideration the type, size, and speed of the vessels employed, whether passenger or cargo, or combination passenger and cargo, vessels, the ports or ranges between which they run, the character of cargo carried, and such other facts as he may deem proper.

[SEC. 606. Every contract for an operating-differential subsidy under this title shall provide (1) that the amount of the future payments to the contractor shall be subject to review and readjustment from time to time, but not more frequently than once a year, at the instance of the Secretary of Transportation or of the contractor. If any such readjustment cannot be reached by mutual agreement, the Secretary of Transportation, on his own motion or on the application of the contractor, shall, after a proper hearing, determine the facts and make such readjustment in the amount of such future payments as he may determine to be fair and reasonable and in the public interest. The testimony in every such proceeding shall be reduced to writing and filed in the office of the Secretary of Transportation. His decision shall be based upon and governed by the changes which may have occurred since the date of the said contract, with respect to the items theretofore considered and on which such contract was based, and other conditions affecting shipping, and shall be promulgated in a formal order, which shall be accompanied by a report in writing in which the Secretary of Transportation shall state his findings of fact; (2) that the compensation to be paid under it shall be reduced, under such terms and in such amounts as the Secretary of Transportation shall determine, for any periods in which the vessel or vessels are laid up; (3) that if the Secretary of Transportation shall determine that a change in an essential service, which is receiving an operating-differential subsidy under this title, is necessary in the accomplishment of the purposes of this Act, he may make such change upon such readjustment of payments to the contractor as shall be arrived at by the method prescribed in clause (1) of these conditions; (4) that if at any time the contractor receiving an operating-differential subsidy claims that he cannot maintain and operate his vessels in such an essential service, with a reasonable profit upon his investment, and applies to the Secretary of Transportation for a modification or rescission of his contract to maintain such essential service, and the Secretary of Transportation determines that such claim is proved, the Secretary of Transportation shall modify or rescind such contract and permit the contractor to withdraw such vessels from such essential service, upon a date fixed by the Secretary of Transportation, and upon the date of such withdrawal

the further payment of the operating-differential subsidy shall cease and the contractor be discharged from any further obligation under such contract; (5) that the contractor shall conduct his operations with respect to essential services, and any services authorized under section 613 of this title, covered by his contract in an economical and efficient manner; and (6) that whenever practicable, an operator who receives subsidy with respect to subsistence of officers and crews shall use as such subsistence items only articles, materials, and supplies of the growth, production, and manufacture of the United States, as defined in section 505 herein, except when it is necessary to purchase supplies outside the United States to enable such vessel to continue and complete her voyage, and an operator who receives subsidy with respect to repairs shall perform such repairs within any of the United States or the Commonwealth of Puerto Rico, except in an emergency.

【SEC. 608. No contract executed under this title or any interest therein shall be sold, assigned, or transferred, either directly or indirectly, or through any reorganization, merger, or consolidation, nor shall any agreement or arrangement be made by the holder whereby the maintenance, management, or operation of the service, route, line, vessel, or vessels is to be performed by any other person, without the written consent of the Secretary of Transportation. If he consents to such agreement or arrangement, the agreement or arrangement shall make provision whereby the person undertaking such maintenance, management, or operation agrees to be bound by all of the provisions of the contract and of this Act applicable thereto, and the rules and regulations prescribed pursuant to this Act. If the holder of any such contract shall voluntarily sell such contract or any interest therein, or make such assignment, transfer, agreement, or arrangement whereby the maintenance, management, or operation of the service, route, line, vessel, or vessels is to be performed by any other person, without the consent of the Secretary of Transportation, or if the operation of the service, route, line, or vessel, shall pass out of the direct control of the holder of such contract by reason of any voluntary or involuntary receivership or bankruptcy proceedings, the Secretary of Transportation shall have the right to modify or rescind such contract, without further liability thereon by the United States, and is hereby vested with exclusive jurisdiction to determine the purposes for which any payments made by him under such contract shall be expended.

【SEC. 609. The Secretary of Transportation shall withhold the payment of operating-differential subsidy while any contractor therefor is in default in any payments due on account of construction-loan, ship-sales mortgage notes, or any other obligation due the United States, and shall apply the amount so withheld to the satisfaction of such debt.

【SEC. 610. An operating-differential subsidy shall not be paid under authority of this title on account of the operation of any vessel which does not meet the following requirements: (1) The vessel shall be of steel or other acceptable metal, shall be propelled by steam or motor, shall be as nearly fireproof as practicable, shall be built in a domestic yard or shall have been documented under the laws of the United States not later than February 1, 1928, or actually ordered and under construction for the account of citizens of

the United States prior to such date, and shall be documented under the laws of the United States, during the entire life of the subsidy contract; and (2) if the vessel shall be constructed after the passage of this Act it shall be either a vessel constructed according to plans and specifications approved by the Secretary of Transportation and the Secretary of the Navy, with particular reference to economical conversion into an auxiliary naval vessel, or a vessel approved by the Secretary of Transportation and the Navy Department as otherwise useful to the United States in time of national emergency.

【SEC. 611. (a) The contractor, upon compliance with the provisions of this section, may transfer to foreign registry the vessels covered by any operating-differential subsidy contract held by him, in the event that the United States defaults upon such contract or cancels it without just cause. Any contractor desiring to transfer any such vessel to foreign registry upon such default or cancellation shall file an application in writing with the Secretary of Transportation setting forth its contention with respect to the lack of just cause or lawful grounds for such default or cancellation. The Secretary of Transportation shall afford the contractor an opportunity for a hearing within twenty days after such contractor files written application therefor, and after the testimony, if any, in such hearing has been reduced to writing and filed with the Secretary of Transportation, he shall, within a reasonable time, grant or deny the application by order.

【(b) If any such application is denied, the contractor may obtain a review of the order of denial in the United States Court of Appeals for the District of Columbia, by filing in such court, within twenty days after the entry of such order, a written petition praying that the order of the Secretary of Transportation be set aside. A copy of such petition shall be forthwith transmitted by the clerk of the court to the Secretary of Transportation or any officer designated by him for that purpose, and thereupon the Secretary of Transportation shall file in the court, the record upon which the order complained of was entered as provided in section 2112 of title 28, United States Code. Upon the filing of such petition such court shall have exclusive jurisdiction to determine whether such cancellation or default was without just cause, and to affirm or set aside such order. The judgment and decree of the court affirming or setting aside any such order of the Secretary of Transportation shall be final.

【(c) No transfer of vessels to foreign registry under this section shall become effective until any indebtedness to the Government or to any citizen of the United States, secured by such vessels, has been paid or discharged, and until after the expiration of ninety days from the date of final determination of the application or the appeal, if any. Within such ninety-day period the Secretary of Transportation may (1) with the consent of the contractor purchase the vessels at cost to the contractor plus cost of capital improvements thereon, less 4 per centum annual depreciation upon such vessel, and the actual depreciated costs of capital improvements thereon, or (2) reinstate the contract and adjust or settle the default found by the Secretary of Transportation or the court to exist.

【SEC. 613. (a) In this section, “passenger vessel” means a vessel which (1) is of not less than ten thousand gross tons, and (2) has accommodations for not less than one hundred passengers.

【(b) If the Secretary of Transportation finds that the operation of any passenger vessel with respect to which a contract for the payment of an operating-differential subsidy has been entered into under section 603 of this title effective before January 2, 1960, is not required for all of each year, in order to furnish adequate service on the service, route, or line covered by such contract, he may amend such contract to agree to pay an operating differential subsidy for operation of the vessel (1) on such service, route, or line for some part or no part of each year, and (2) on cruises for all or part of each year if such specific cruise is approved by the Secretary of Transportation under subsection (e) of this section: *Provided, however,* That no such vessel may cruise for more than seven months of each year to ports which are regularly served by another United States-flag passenger vessel pursuant to an operating-differential subsidy contract.

【(c) The Secretary of Transportation may authorize passenger vessels under operating-differential subsidy contracts to provide domestic service between specified ports while the vessels are on voyages in an essential service in the foreign commerce of the United States without reduction of operating-differential subsidy and the partial payback of construction-differential subsidy for operating in the domestic trades, if he finds that such domestic service will not result in a substantial deviation from the service, route, or line for which operating-differential subsidy is paid and will not adversely affect service on such service, route, or line.

【(d) When a vessel is being operated on cruises or has been authorized under this section to provide domestic passenger services while on voyages in an essential service in foreign commerce of the United States—

【(1) except as provided in subdivision (4) of this subsection, it shall carry no mail unless required by law, or cargo except passengers’ luggage, except between those ports between which it may carry mail and cargo on its regular service assigned by contract;

【(2) it may not carry one-way passengers between those ports served by another United States carrier on its regular service assigned by contract, without the consent of such carrier, except between those ports between which it may carry one-way passengers on its own regular service assigned by contract;

【(3) it shall stop at other domestic ports only for the same time and the same purpose as is permitted with respect to a foreign-flag vessel which is carrying passengers who embarked at a domestic port, except that a cruise may end at a different port or coast from that where it began and may embark or disembark passengers at other domestic ports, either when not involving transportation in the domestic offshore trade in competition with a United States-flag passenger vessel offering berth service therein, or, if involving such transportation, with the consent of such carrier: *Provided, however,* That nothing herein shall be construed to repeal or modify section 805(a) of this Act.

[(4) Any other provisions of the Merchant Marine Act, 1936, or of the Shipping Act, 1916, to the contrary notwithstanding, with the approval of the Secretary of Transportation, it may carry cargo and mail between ports to the extent such carriage is not in direct competition with a carrier offering United States-flag berth service between those ports, or, if such carriage is in direct competition with one or more carriers offering United States flag berth service between such ports, with the consent of the next scheduled United States-flag carrier, which consent shall not be unreasonably withheld in the judgment of the Maritime Administrator.

Section 605(c) of this Act shall not apply to cruises authorized under this section. Notwithstanding the applicable provisions of section 605(a) and section 506 of this Act requiring the reduction of operating differential subsidy and the partial payback of construction differential subsidy for operating in the domestic trades, such reduction of operating subsidy and partial payback of construction subsidy under sections 605(a) and 506, respectively, shall not apply to cruises or domestic services authorized under this section.

[(e) Upon the application of any operator for approval of a specific cruise, the Secretary of Transportation, after notice to all other American flag operators who may be affected and after affording all such operators an opportunity to submit written data, views or arguments, with or without opportunity to present the same orally in any manner, and after consideration of all relevant matter presented, shall approve the proposed cruise, if he determines that the proposed cruise will not substantially adversely affect an existing operator's service performed with passenger vessels of United States registry. Such approval shall not be given more than two years in advance of the beginning of the cruise.

[SEC. 614. (a) Any operator receiving operating differential subsidy funds may elect, for all or a portion of its ships, to suspend its operating differential subsidy contract with all attendant statutory and contractual restrictions, except as to those pertaining to the domestic intercoastal or coastwise service, including any agreement providing for the replacement of vessels, if—

[(1) the vessel is less than ten years of age;

[(2) the suspension period is not less than twelve months;

[(3) the operator's financial condition is maintained at a level acceptable to the Secretary of Commerce; and

[(4) the owner agrees to pay to the Secretary, upon such terms and conditions as he may prescribe, an amount which bears the same proportion to the construction differential subsidy paid by the Secretary as the portion of the suspension period during which the vessel is operated in any preference trade from which a subsidized vessel would otherwise be excluded by law or contract bears to the entire economic life of the vessel.

[(b) Any operator making an election under this section is entitled to full reinstatement of the suspended contract on request. The Secretary of Commerce may prescribe rules and regulations consistent with the purpose of this section.

[SEC. 615. (a) The Secretary of Commerce may, until September 30, 1983, authorize an operator receiving or applying for operating

differential subsidy under this title to construct, reconstruct, or acquire its vessels of over five thousand deadweight tons in a foreign shipyard if the Secretary finds and certifies in writing that such operator's application for construction differential subsidy cannot be approved due to the unavailability of funds in the construction differential subsidy account. Vessels constructed, reconstructed, or modified pursuant to this section shall be deemed to have been United States built for the purposes of this title, section 901(b) of this Act, and section 5(7) of the Port and Tanker Safety Act of 1978 (46 U.S.C. 391(a)(7)): *Provided*, That the provisions of section 607 of this Act shall not apply to vessels constructed, reconstructed, modified, or acquired pursuant to this section.

[(b) The provisions of this section shall be effective for fiscal year 1983 only if the President in his annual budget message for that year requests at least \$100,000,000 in construction differential subsidy or proposes an alternate program that would create equivalent merchant shipbuilding activity in privately owned United States shipyards and the Secretary reports to Congress on the effect such action will have on the shipyard mobilization base at least thirty days prior to making the certification referred to in subsection (a).

[SEC. 616. (a) After the date of enactment of the Maritime Security Act of 1996, the Secretary of Transportation shall not enter into any new contract for operating-differential subsidy under this subtitle.

[(b) Notwithstanding any other provision of this Act, any operating-differential subsidy contract in effect under this title on the day before the date of enactment of the Maritime Security Act of 1996 shall continue in effect and terminate as set forth in the contract, unless voluntarily terminated at an earlier date by the parties (other than the United States Government) to the contract.

[(c) The essential service requirements of section 601(a) and 603(b), and the provisions of sections 605(c) and 809(a), shall not apply to the operating-differential subsidy program under this subtitle effective upon the earlier of—

[(1) the date that a payment is made, under the Maritime Security Program established by subtitle B to a contractor under that subtitle who is not party to an operating-differential subsidy contract under this subtitle, with the Secretary to cause notice of the date of such payment to be published in the Federal Register as soon as possible; or

[(2) with respect to a particular contractor under the operating-differential subsidy program, the date that contractor enters into a contract with the Secretary under the Maritime Security Program established by subtitle B.

[(d)(1) Notwithstanding any other provision of law, a vessel may be transferred and registered under an effective United States-controlled foreign flag if—

[(A) the operator of the vessel receives an operating-differential subsidy pursuant to a contract under this subtitle which is in force on October 1, 1994, and the Secretary approves the replacement of such vessel with a comparable vessel, or

[(B) the vessel is covered by an operating agreement under subtitle B, and the Secretary approves the replacement of such vessel with a comparable vessel for inclusion in the Maritime Security Fleet established under subtitle B.

[(2) Any such vessel may be requisitioned by the Secretary of Transportation pursuant to section 902.]

* * * * *

TITLE VIII—CONTRACT PROVISIONS

【SEC. 801. Every contract executed by the Secretary of Transportation under the provision of title VI or VII of this Act shall contain provisions requiring (1) that the contractor and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by, the contractor, to keep its books, records, and accounts, relating to the maintenance, operation, and servicing of the vessels, services, routes, and lines covered by the contract, in such form and under such regulations as may be prescribed by the Secretary of Transportation: *Provided*, That the provisions of this paragraph shall not require the duplication of books, records, and accounts required to be kept in some other form by the Interstate Commerce Commission; (2) that the contractor and every affiliate, domestic agent, subsidiary, or holding company connected with, or directly or indirectly controlling or controlled by the contractor, to file, upon notice from the Secretary of Transportation, balance sheets, profit and loss statements, and such other statements of financial operations, special report, memoranda of any facts and transactions, which in the opinion of the Secretary of Transportation affect the financial results in, the performance of, or transactions or operations under, such contract; (3) that the Secretary of Transportation shall be authorized to examine and audit the books, records, and accounts of all persons referred to in this section whenever he may deem it necessary or desirable; and (4) that upon the willful failure or refusal of any person described in this section to comply with the contract provisions required by this section, the Secretary of Transportation shall have the right to rescind the contract, and upon such rescission the United States shall be relieved of all further liability on such contract.

【SEC. 802. Every contract executed by the Secretary of Transportation under authority of title V of this Act shall provide that—

【In the event the United States shall, through purchase or requisition, acquire ownership of the vessel or vessels on which a construction-differential subsidy was paid, the owner shall be paid therefor the value thereof, but in no event shall such payment exceed the actual depreciated construction cost thereof (together with the actual depreciated cost of capital improvements thereon, but excluding the cost of national-defense features) less the depreciated amount of construction-differential subsidy theretofore paid incident to the construction or reconditioning of such vessel or vessels, or the fair and reasonable scrap value of such vessel as determined by the Secretary of Transportation, whichever is the greater. Such determination shall be final. In computing the depreciated value of such vessel, depreciation shall be computed on each vessel on the schedule adopted by the Bureau of Internal Revenue for income-tax purposes.

【The foregoing provision respecting the requisition or the acquisition of ownership by the United States shall run with the title to such vessel or vessels and be binding on all owners thereof.】

* * * * *

【SEC. 809. (a) Contracts under this Act shall be entered into so as to equitably serve, insofar as possible, the foreign-trade requirements of the Atlantic, Gulf, Great Lakes, and Pacific ports of the United States. In order to assure equitable treatment for each range of ports referred to in the preceding sentence, not less than 10 percent of the funds appropriated for construction-differential subsidy and operating-differential subsidy pursuant to this Act or any law authorizing funds for the purposes of this Act shall be allocated to each such port range: *Provided, however,* That such allocation shall apply to the extent that subsidy contracts are approved by the Secretary of Transportation. For the purposes of this section, the Secretary shall establish trade routes, services, or lines that take into account the seasonal closure of the Saint Lawrence Seaway and provide for alternate routing of ships via a different range of ports during that closure so as to maintain continuity of service on a year-round basis. For the purposes of section 605(c), such an alternate routing via a different range of ports shall be deemed to be service from Great Lakes ports, provided such alternate routing is based upon receipt or delivery of cargo at Great Lakes-Saint Lawrence Seaway ports under through intermodal bills of lading. The Secretary shall include in the annual report pursuant to section 208 of this Act a detailed report (1) describing the actions that have been taken pursuant to this Act to assure insofar as possible that direct and adequate service is provided by United States-flag commercial vessels to each range of ports referred to in this section; and (2) including any recommendations for additional legislation that may be necessary to achieve the purpose of this section. In awarding contracts under this Act, preference shall be given to persons who are citizens of the United States and who have the support, financial and otherwise, of the domestic communities primarily interested.】

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**COAST GUARD AND MARITIME TRANSPORTATION ACT
OF 2006**

* * * * *

TITLE IV—MISCELLANEOUS

* * * * *

SEC. 421. DISTANT WATER TUNA FLEET.

(a) MANNING REQUIREMENTS.—Notwithstanding section 8103(a) of title 46, United States Code, United States purse seine fishing vessels fishing exclusively for highly migratory species in the treaty area 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, or transiting to or from the treaty area exclusively for such purpose,

may engage foreign citizens to meet the manning requirement (except for the master) until the date of expiration of this section if, after timely notice of a vacancy to meet the manning requirement, no United States citizen personnel are readily available to fill such vacancy.

(b) LICENSING RESTRICTIONS.—

(1) IN GENERAL.—Subsection (a) only applies to a foreign citizen who holds a credential that is equivalent to the credential issued by the Coast Guard to a United States citizen for the position, with respect to requirements for experience, training, and other qualifications.

(2) TREATMENT OF CREDENTIAL.—An equivalent credential under paragraph (1) shall be considered as meeting the requirements of section 8304 of title 46, United States Code, but only while a person holding the credential is in the service of the vessel to which this section applies.

(c) EXPIRATION.—This section expires on the date the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America ceases to have effect for any party under Article 12.6 or 12.7 of such treaty, as in effect on the date of enactment of the Coast Guard and Maritime Transportation Act of 2012.

[(d) REPORTS.—On March 1, 2007, and annually thereafter until the date of expiration of this section, the Coast Guard and the National Marine Fisheries Service shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Resources of the House of Representatives, providing the following information on the United States purse seine fleet referred to in subsection (a):

[(1) The number and identity of vessels in the fleet using foreign citizens to meet manning requirements pursuant to this section and any marine casualties involving such vessel.

[(2) The number of vessels in the fishery under United States flag as of January 1 of the year in which the report is submitted, the percentage ownership or control of such vessels by non-United States citizens, and the nationality of such ownership or control.

[(3) Description of any transfers or sales of United States flag vessels in the previous calendar year, and the disposition of such vessel, including whether the vessel was scrapped or sold, and, if sold, the nationality of the new owner and location of any fishery to which the vessel will be transferred.

[(4) Landings of tuna by vessels under flag in the 2 previous calendar years, including an assessment of landing trends, and a description of landing percentages and totals—

[(A) delivered to American Samoa and any other port in a State or territory of the United States; and

[(B) delivered to ports outside of a State or territory of the United States, including the identity of the port.

[(5) An evaluation of capacity and trends in the purse seine fleet fishing in the area covered by the South Pacific Regional Fisheries Treaty, and any transfer of capacity from such fleet or area to other fisheries, including those governed under the

Western and Central Pacific Fisheries Convention and the
Inter-American Tropical Tuna Convention.]

* * * * *

TITLE VI—DELAWARE RIVER PROTECTION AND MISCELLANEOUS OIL PROVISIONS

* * * * *

SEC. 603. LIMITS ON LIABILITY.

- (a) [omitted—amendatory]
- (b) [omitted—amendatory]
- (c) Report.—

(1) INITIAL REPORT.—Not later than 45 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 on liability limits described in paragraph (2) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(2) CONTENTS.—The report shall include, at a minimum, the following:

(A) An analysis of the extent to which oil discharges from vessels and nonvessel sources have or are likely to result in removal costs and damages (as defined in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701)) for which no defense to liability exists under section 1003 of such Act and that exceed the liability limits established in section 1004 of such Act, as amended by this section.

(B) An analysis of the impacts that claims against the Oil Spill Liability Trust Fund for amounts exceeding such liability limits will have on the Fund.

(3) ANNUAL UPDATES.—The Secretary shall provide an update of the report to the Committees referred to in paragraph (1) [on an annual basis.] *not later than January 30 of the year following each year in which occurs an oil discharge from a vessel or nonvessel source that results or is likely to result in removal costs and damages (as those terms are defined in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701)) that exceed liability limits established under section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704).*

* * * * *

COMMITTEE CORRESPONDENCE

ROB BISHOP OF UTAH
CHAIRMAN

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

May 6, 2015

The Honorable Bill Shuster
Chairman
Committee on Transportation and Infrastructure
2165 Rayburn House Office Building
Washington, DC 20515

Dear Mr. Chairman:

I write regarding H.R. 1987, the Coast Guard Authorization Act of 2015. This bill contains provisions under the jurisdiction of the Committee on Natural Resources.

I recognize and appreciate your desire to bring this bill before the House of Representatives in an expeditious manner, and accordingly, I will agree that the Committee on Natural Resources be discharged from further consideration of the bill. I do so with the understanding that this action does not affect the jurisdiction of the Committee on Natural Resources, and that the Committee expressly reserves its authority to seek conferees on any provision within its jurisdiction during any House-Senate conference that may be convened on this, or any similar legislation. I ask that you support any such request. I also request that the bill be amended on the House floor to prevent Section 202 from applying inadvertently to the NOAA Corps, a uniformed service under the jurisdiction of the Natural Resources Committee. Specifically, please insert "and the National Oceanic and Atmospheric Administration" after "other than within the Coast Guard" on page 14, line 7 of the committee print showing H.R. 1987 as reported (the proposed amendment to 14 U.S.C. 50(a)(1)(B)).

Finally, I also ask that a copy of this letter and your response be included in the Congressional Record during consideration of H.R. 1987 on the House floor.

Thank you for your work on this important bill and I look forward to its enactment.

Sincerely,



Rob Bishop
Chairman
Committee on Natural Resources

cc: The Honorable John Boehner, Speaker
The Honorable Kevin McCarthy, Majority Leader
The Honorable Peter A. DeFazio
The Honorable Raul Grijalva, Ranking Member, Committee on Natural Resources
The Honorable Thomas J. Wickham, Jr., Parliamentarian



**Committee on Transportation and Infrastructure
U.S. House of Representatives**

Washington, DC 20515

Bill Shuster
Chairman

Peter A. DeFazio
Ranking Member

Christopher P. Bertram, Staff Director

May 12, 2015

Katherine W. DeDrick, Democratic Staff Director

The Honorable Rob Bishop
Chairman, Committee on Natural Resources
U.S. House of Representatives
1324 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Bishop:

Thank you for your letter regarding H.R. 1987, the *Coast Guard Authorization Act of 2015*. I appreciate your willingness to support expediting the consideration of this legislation on the House floor.

I acknowledge that by waiving consideration of this bill, the Committee on Natural Resources does not waive any future jurisdictional claim to provisions in this or similar legislation. In addition, should a conference on the bill be necessary, I would support your effort to seek appointment of an appropriate number of conferees to any House-Senate conference involving provisions within this legislation on which the Committee on Natural Resources has a valid jurisdictional claim.

I will include our letters on H.R. 1987 in the bill report filed by the Committee on Transportation and Infrastructure, as well as in the *Congressional Record* during House floor consideration of the bill. I appreciate your cooperation regarding this legislation, and I look forward to working with the Committee on Natural Resources as the bill moves through the legislative process.

Sincerely,

A handwritten signature in black ink that reads "Bill Shuster".

Bill Shuster
Chairman

cc: The Honorable John A. Boehner
The Honorable Peter A. DeFazio
The Honorable Raul M. Grijalva
Mr. Thomas J. Wickham, Jr., Parliamentarian

WILLIAM M. "MAC" THORNBERRY, TEXAS, CHAIRMAN
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COMMITTEE ON ARMED SERVICES

U.S. House of Representatives

Washington, DC 20515-6035

ONE HUNDRED FOURTEENTH CONGRESS

May 7, 2015

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 LORETTA SANCHEZ, CALIFORNIA
 ROBERT A. BRADY, PENNSYLVANIA
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 SETH ABRAHAMSON, MASSACHUSETTS
 PETE AGUILAR, CALIFORNIA
 ROBERT L. SIMMONS, B. STAFF DIRECTOR

The Honorable Bill Shuster
 Chairman, Committee on Transportation and Infrastructure
 U.S. House of Representatives
 2165 Rayburn House Office Building
 Washington, D.C. 20515

Dear Mr. Chairman:

I write concerning H.R. 1987, the *Coast Guard Authorization Act of 2015*, as amended. There are certain provisions in the legislation that fall within the Rule X jurisdiction of the Committee on Armed Services. However, in order to expedite this legislation for floor consideration, the committee will forgo action on this bill.

The committee's waiver is conditional on our mutual understanding that forgoing consideration of the bill does not prejudice the committee with respect to the appointment of conferees or to any future jurisdictional claim over the provisions contained in the bill or similar legislation that fall within the committee's Rule X jurisdiction. I request you urge the Speaker to appoint members of the committee to any conference committee convened to consider such provisions.

Please place a copy of this letter and your response acknowledging our jurisdictional interest into the committee report on H.R. 1987 and into the *Congressional Record* during consideration of the measure on the House floor.

Sincerely,


 William M. "Mac" Thornberry
 Chairman

cc: The Honorable John Boehner, Speaker of the House
 The Honorable Adam Smith, Ranking Member, Committee on Armed Services
 The Honorable Peter A. DeFazio, Ranking Member, Committee on Transportation and Infrastructure
 Mr. Thomas J. Wickham, Jr., Parliamentarian



Committee on Transportation and Infrastructure
U.S. House of Representatives

Bill Shuster
Chairman

Washington, DC 20515

Peter A. DeFazio
Ranking Member

Christopher P. Deetram, Staff Director

May 12, 2015

Katherine W. Dedrick, Democratic Staff Director

The Honorable William M. "Mac" Thornberry
Chairman, Committee on Armed Services
U.S. House of Representatives
2216 Rayburn House Office Building
Washington, D.C. 20515

Dear Chairman Thornberry:

Thank you for your letter regarding H.R. 1987, the *Coast Guard Authorization Act of 2015*. I appreciate your willingness to support expediting the consideration of this legislation on the House floor.

I acknowledge that by waiving consideration of this bill, the Committee on Armed Services does not waive any future jurisdictional claim to provisions in this or similar legislation. In addition, should a conference on the bill be necessary, I would support your effort to seek appointment of an appropriate number of conferees to any House-Senate conference involving provisions in this legislation on which the Committee on Armed Services has a valid jurisdictional claim.

I will include our letters on H.R. 1987 in the bill report filed by the Committee on Transportation and Infrastructure, as well as in the *Congressional Record* during House floor consideration of the bill. I appreciate your cooperation regarding this legislation, and I look forward to working with the Committee on Armed Services as the bill moves through the legislative process.

Sincerely,

A handwritten signature in black ink that reads "Bill Shuster".

Bill Shuster
Chairman

cc: The Honorable John A. Boehner
The Honorable Peter A. DeFazio
The Honorable Adam Smith
Mr. Thomas J. Wickham, Jr., Parliamentarian

MICHAEL T. MCCAUL, TEXAS
CHAIRMAN

BENNIE G. THOMPSON, MISSISSIPPI
RANKING MEMBER



One Hundred Fourteenth Congress
U.S. House of Representatives
Committee on Homeland Security
Washington, DC 20515

May 7, 2015

The Honorable Bill Shuster
Chairman
Committee on Transportation and Infrastructure
2165 Rayburn HOB
Washington, DC 20515

Dear Chairman Shuster:

I am writing to you concerning the jurisdictional interest of the Committee on Homeland Security in H.R. 1987, the "Coast Guard Authorization Act of 2015." The bill contains provisions that fall within the jurisdiction of the Committee on Homeland Security.

I recognize and appreciate the desire to bring this legislation before the House of Representatives in an expeditious manner, and accordingly, the Committee on Homeland Security will not assert its jurisdictional claim over this bill by seeking a sequential referral. The Committee takes this action with the mutual understanding that by foregoing consideration of H.R. 1987 at this time, we do not waive any jurisdiction over subject matter contained in this or similar legislation, and that our Committee will be appropriately consulted and involved as this bill or similar legislation moves forward so that we may address any remaining issues in our jurisdiction.

This waiver is also given with the understanding that the Committee on Homeland Security expressly reserves its authority to seek conferees on any provision within its jurisdiction during any House-Senate conference that may be convened on this or any similar legislation, and requests your support for such a request.

I would appreciate your response to this letter confirming this understanding with respect to H.R. 1987, and ask that a copy of this letter and your response be included in the Congressional Record during consideration of this bill on the House floor.

Sincerely,

A handwritten signature in black ink that reads "Michael T. McCaul".

MICHAEL T. MCCAUL
Chairman
Committee on Homeland Security

cc: The Honorable John Boehner, Speaker,

The Honorable Peter A. Defazio, Ranking Member, Committee on Transportation
and Infrastructure
The Honorable Bennie G. Thompson, Ranking Member, Committee on Homeland
Security
Mr. Thomas J. Wickham, Jr., Parliamentarian



Committee on Transportation and Infrastructure
U.S. House of Representatives

Bill Shuster
Chairman

Washington, DC 20515

Peter A. DeFazio
Ranking Member

Christopher P. Bertram, Staff Director

May 12, 2015

Katherine W. Destrick, Democratic Staff Director

The Honorable Michael T. McCaul
Chairman, Committee on Homeland Security
H2-175 Ford House Office Building
Washington, DC 20515

Dear Chairman McCaul:

Thank you for your letter regarding H.R. 1987, the *Coast Guard Authorization Act of 2015*. I appreciate your willingness to support expediting the consideration of this legislation on the House floor.

I acknowledge that by waiving consideration of this bill, the Committee on Homeland Security does not waive any future jurisdictional claim to provisions in this or similar legislation. In addition, should a conference on the bill be necessary, I would support your effort to seek appointment of an appropriate number of conferees to any House-Senate conference involving provisions within this legislation on which the Committee on Homeland Security has a valid jurisdictional claim.

I will include our letters on H.R. 1987 in the bill report filed by the Committee on Transportation and Infrastructure, as well as in the *Congressional Record* during House floor consideration of the bill. I appreciate your cooperation regarding this legislation, and I look forward to working with the Committee on Homeland Security as the bill moves through the legislative process.

Sincerely,

A handwritten signature in black ink that reads "Bill Shuster".

Bill Shuster
Chairman

cc: The Honorable John A. Boehner
The Honorable Peter A. DeFazio
The Honorable Bennie G. Thompson
Mr. Thomas J. Wickham, Jr., Parliamentarian

ADDITIONAL VIEWS

The right for seafarers to seek “maintenance and cure” for injuries, illness, and damages while at sea, and U.S. penalty wage protections that ensure that ship operators do not unfairly withhold or garnish the wages of seafarers, have been a part of U.S. maritime law for as long as U.S. ships have flown the U.S. flag on the high seas.

Congress and American courts have always recognized the arduous work and occupational perils that seafarers encounter in their shipboard employment. They have also recognized the disproportionate bargaining power that shipowners have over seafarers, and that seafarers are particularly vulnerable to exploitation and abuse by unscrupulous shipowners. In response to such threats, and acknowledging the vital contributions that seafarers have made and continue to make to our economic and national security, Congress and the Courts have zealously safeguarded seafarers’ rights for over two centuries.

Nevertheless, the Committee has again acted imprudently to accept an unwarranted en bloc amendment offered on behalf of the international cruise line industry that would arbitrarily restrict the scope and applicability of these vital seafarer protections to non-U.S. seafarers working on cruise ships. The Committee has acceded to virtually revoke these customary seafarer protections—doctrine that has been in place since the 12th century under the Laws of Oléron—without having held one hearing; without having sought one legal opinion; and without compelling the cruise industry to provide any reputable information to justify these changes. This absence of constructive oversight is regrettable.

Regarding the penalty wage, under the Penalty Wage Act of 1790 (subsequently reauthorized and strengthened in 1872, 1898, and 1915), a two-day penalty for each day a wage is unpaid is imposed on unscrupulous shipowners who arbitrarily or unfairly withhold a seafarer’s earned wages. The intent is for the penalty wage to be a strong disincentive and history has shown that it has been an effective deterrent to seafarer abuse.

It is important to note, however, that the penalty is only imposed when the failure to pay wages is without sufficient cause (e.g., the delay in pay was arbitrary, willful, or unreasonable). Under the Maritime Labour Convention of 2006, an international accord which is in force for virtually all cruise vessels calling at U.S. ports, all shipowners are required to maintain accurate records of seafarers’ working hours and must pay seafarers no less than once a month. As such, if a cruise vessel owner is complying with the terms and obligations of this international agreement and paying seafarers fairly and on time, there is no risk of penalties under the Penalty Wage Act. A 2013 review conducted by the American Law Division of the Congressional Research Service found, in fact, that

penalty wage claims are infrequent, if not rare, which affirms the status quo.

In 2006, in response to class action lawsuits filed against the cruise lines on behalf of seafarers who had been deprived of their overtime wages, the cruise line industry asked Congress to amend the Penalty Wage Act to limit their exposure to penalty wage claims. Not wishing to deprive individual seafarers of their right to file a penalty wage claim, former Chairman of the Committee on Transportation and Infrastructure, James Oberstar (D-MN), negotiated a compromise that placed a cap on penalty wage claims awarded under class actions at 10 times the daily rate, but left an individual penalty wage claim unchanged.

The first provision in the en bloc amendment adopted by the Committee is simply rewarding the cruise industry for coming back for a second bite at the apple; this time to extend this same cap to an individual seafarer's penalty wage claim. That the Committee has agreed to this proposition absent any evidence demonstrating that penalty wage claims are an imminent financial threat to any cruise line, much less the cruise industry, is unfortunate. Moreover, it is completely contrary to Congress's long history of steadfast support for the Penalty Wage Act.

The second part of the en bloc amendment arbitrarily bars foreign seafarers serving on foreign-flag cruise ships access to U.S. courts thereby denying those seafarers a legal remedy to enforce a shipowner's obligation to pay "maintenance and cure" claims for damages or expenses related to personal injury, illness, or even death while serving on a vessel.

As stressed earlier, this provision is completely contrary to a general maritime law principle that has been around since at least the 12th century and has remained applicable because of the international nature of shipping. A seafarer's right to medical care is one of the oldest and most fundamental seafarer's rights, is deeply rooted in maritime law, and is an incident or implied term in every seafarer's service contract. Paradoxically, the right was created in the shipowner's own self-interest as an inducement to recruit and retain skilled and responsible workers to accept employment in an arduous and perilous profession.

To be effective, U.S. and foreign seafarers must have the ability to enforce their rights to medical care immediately in every country their vessels may call. Yet, the amendment approved by the Committee would enable an unscrupulous cruise ship operator to avoid his or her obligation to provide medical care to sick or injured seafarers by leaving them without a quick or practical way to enforce their rights, particularly in circumstances where the shipowner does not have any assets in the country where other remedies may be available for the seafarer.

If enacted, this provision would erode fundamental principles of maritime law and also conflict with U.S. obligations under international law. Shipowners' and U.S. obligations to provide for sick and injured seafarers are codified under the Shipowners' Liability (Sick and Injured Seamen) Convention of 1936. Under Article 9 of the Convention, the U.S. is obligated to provide for rapid and inexpensive settlements of disputes concerning shipowners' liability to provide seafarers' medical care. Moreover, Article 11 obligates the

U.S. to ensure equality of treatment to all seafarers irrespective of nationality, domicile, or race. It makes absolutely no sense for the U.S. to become the only country in the world that does not protect all seafarers from unscrupulous shipowners.

In closing, the intent of the en bloc amendment is less to afford protection for cruise ship operators from a purported financial threat, and more to provide unwarranted legal immunity under U.S. law to allow cruise ship owners to evade their international obligations to treat their workers fairly. The Committee should have better understood these amendments before approving them. It is now left to the Senate to do its due diligence.

JOHN GARAMENDI.
JERROLD NADLER.

