

Calendar No. 302

114TH CONGRESS }
1st Session }

SENATE

{ REPORT
114-168

COAST GUARD AUTHORIZATION ACT OF 2015

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1611



NOVEMBER 30, 2015.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

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COAST GUARD AUTHORIZATION ACT OF 2015

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Mr. THUNE, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 1611]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1611) to authorize appropriations for the U.S. Coast Guard for fiscal years 2016 and 2017, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of this legislation is to authorize appropriations for the U.S. Coast Guard (USCG) and the Federal Maritime Commission (FMC) for fiscal years (FYs) 2016 and 2017, and for other purposes.

BACKGROUND AND NEEDS

The USCG operates simultaneously under title 10 of the United States Code (relating to the Armed Forces) and title 14 of the United States Code (relating to the USCG), and numerous other authorities (including authorities under titles 6, 19, 33, and 46 of the United States Code). Its legal authorities enable the USCG to conduct military operations in support of the Department of Defense (DOD) or directly for the President in accordance with title 14. Further, the USCG can be transferred to the Department of the Navy by the President at any time or by Congress during time of war. In 2003, the USCG was transferred from the Department of Transportation (DOT) to the Department of Homeland Security (DHS). As such, the USCG is the only U.S. military service that is situated outside the DOD.

The USCG is composed of approximately 40,000 active-duty members, 7,500 reservists, 8,000 full-time civilian employees, and

30,000 volunteer auxiliaries. The USCG is tasked with providing maritime security, law enforcement, and prevention and response activities for more than 4.5 million square miles of ocean, 95,000 miles of coastline, 26,000 miles of commercial waterways, 361 ports, 3,700 marine terminals, and 25,000 miles of inland and coastal waterways—this is the largest system of ports, waterways, and coastal seas in the world.¹ It is unique among the military branches for having a maritime law enforcement mission, with jurisdiction in both domestic and international waters, while also serving as a Federal regulatory agency as part of its mission set.

The USCG's 11 statutory missions can be broken down into two categories.² Its homeland security missions include: (1) ports, waterways, and coastal security; (2) drug interdiction; (3) migrant interdiction; (4) defense readiness; and (5) other law enforcement. Its non-homeland security missions are: (1) marine safety; (2) search and rescue; (3) aids to navigation; (4) living marine resources; (5) marine environmental protection; and (6) ice operations. In addition, the USCG has been called upon in recent years to support the DOD's overseas contingency operations, such as counter-piracy operations off the Horn of Africa, and the protection of petroleum pipelines and shipping lanes in the Persian Gulf. Six USCG cutters and associated support staff have been deployed to the Persian Gulf since 2003 working in support of DOD combatant commanders.

In 2014, the Commandant of the USCG (Commandant) stated that the USCG's mission demands were on the rise.³ Increasing activity in the Arctic and the destabilizing impacts of violence, corruption, terrorism, and drug trafficking in the Caribbean Basin, Central America, and Mexico continue to test the USCG's current capabilities.⁴ In order to meet these challenges, the USCG is in the midst of a major asset recapitalization that began in 2002. This effort will modernize the USCG's ships, boats, aircraft, and command, control, communication, computers, intelligence, surveillance and reconnaissance systems.

MISSION PERFORMANCE

The Coast Guard Authorization Act of 2015 authorizes \$8.7 billion in discretionary funds for the USCG for each of FYs 2016 and 2017. These funds would support USCG operations and priorities, including those highlighted in the following paragraphs.

MARITIME LAW ENFORCEMENT

During 2014, the USCG interdicted 140 metric tons of narcotics, with an estimated street value of \$3 billion; detained more than 340 suspected smugglers for prosecution in the United States; and interdicted 3,587 migrants, including 1,103 from Haiti and 2,111 from Cuba. In addition, the USCG boarded 69 foreign vessels to en-

¹United States Coast Guard Western Hemisphere Strategy, September, 2014, available at http://www.uscg.mil/seniorleadership/docs/uscg_whem_2014.pdf.

²Homeland Security Act of 2002, H.R. 5005, 107th Congress, Section 888 (2002).

³United States Coast Guard, Commandant's Direction, 2014, retrieved from http://www.uscg.mil/seniorleadership/DOCS/CCG_Direction_2014.pdf.

⁴USCG Western Hemisphere Strategy.

force laws prohibiting illegal, unregulated, and underreported fishing.⁵

MARITIME RESPONSE

In 2014, the USCG executed more than 17,500 search and rescue missions and saved 3,443 lives.⁶ In addition, the USCG is the principal Federal maritime security coordinator and Federal on-scene commander for maritime incidents. As such, it is responsible for coordinating the response to hazardous material spills into navigable waters and spills of national significance, such as the response and subsequent clean up following an oil tank barge collision that released nearly 170,000 gallons of oil into Galveston Bay, Texas in 2014.

MARITIME PREVENTION

The USCG inspected more than 12,500 U.S. flagged commercial vessels and conducted approximately 43,700 recreational vessel boardings during 2014. It also screened over 25,300 containers and identified more than 2,000 deficiencies aboard commercial vessels. As a result, a number of shipments were held until dangerous conditions were corrected. The USCG also inspected 3,600 marine facilities to ensure compliance with safety and environmental protection regulations and investigated over 5,800 reportable marine casualties involving commercial vessels.⁷

WESTERN HEMISPHERE STRATEGY

In 2014, the USCG released its Western Hemisphere Strategy that identified three of the USCG's priorities over the coming decade: combating networks, securing borders, and safeguarding commerce. This strategy includes proactive engagement with domestic and international partners and stakeholders in order to defeat transnational organized crime networks, which may be responsible for more than \$750 billion in losses per year to the global economy.⁸ This effort will require an effective offshore interdiction capability, supported by the continued modernization of the USCG's operational assets, particularly, its fleet of aging cutters.

MAJOR ASSET RECAPITALIZATION

The Coast Guard Authorization Act of 2015 authorizes \$1.5 billion for the funding of acquisition, construction, and improvement (AC&I) related activities for the USCG for each of FYs 2016 and 2017. The USCG's FY 2016 budget request included \$1.02 billion for AC&I of USCG assets and facilities, a nearly 17 percent decrease from the FY 2015 enacted budget. Of this amount, \$533.9 million is for vessels and ongoing fleet recapitalization and in-service vessel sustainment projects. This is a decrease of over 35 percent, or nearly \$300 million.⁹ Budget pressures, particularly with

⁵ United States Coast Guard, 2014 Performance Highlights, retrieved from http://www.uscg.mil/budget/docs/2016_Budget_in_Brief.pdf.

⁶ Ibid.

⁷ Ibid.

⁸ USCG Western Hemisphere Strategy.

⁹ USCG, 2014 Performance Highlights.

respect to the funding of USCG acquisitions, have slowed the USCG's efforts to upgrade its assets and infrastructure.

Many of the USCG's cutters are operating beyond their planned service life and are "manpower-intensive and increasingly expensive to maintain, and have features that in some cases are not optimal for performing their assigned missions."¹⁰ The average age of the USCG's medium endurance cutters, "the backbone of the offshore fleet," is almost 50 years.¹¹ In 2014, as a result of significant mechanical malfunctions, four cutters headed to sea in support of the USCG's counter-drug mission were forced to return to port for emergency dry-docking.¹² The USCG's high endurance cutters have been in service since the 1960s. A 2014 DHS Inspector General report found that "the declining readiness" of the USCG's high endurance cutters "continues to pose significant challenges to mission performance".¹³

The USCG's fleet of 12 high-endurance cutters is being replaced by 8 National Security Cutters (NSC); 4 NSCs have been commissioned, and the remaining 4 are still under construction at an average cost of \$684 million per ship.¹⁴ The Offshore Patrol Cutter (OPC), which will replace the current fleet of medium endurance cutters, will become the USCG's highest priority as the NSC acquisition ends. In February 2014, 3 contracts for preliminary design of the OPC were awarded—25 of these vessels are planned to replace the existing fleet of 28 medium endurance cutters. Their estimated cost is \$484 million per ship.¹⁵ The final design was scheduled for selection during the fourth quarter of FY 2016, but the USCG's FY 2016 budget request is short the \$69 million required to fully fund the program. The FY 2016 budget request would only provide \$18.5 million to complete the OPCs design phase—and contains "language that would permit but not require a transfer of funding to the OPC program if it meets affordability requirements."¹⁶

In addition, the USCG's only operational heavy icebreaker (HIB), the POLAR STAR, has exceeded its 30-year service life, and has already undergone one major service life extension program (SLEP). It was reactivated in 2012 following repairs that should give the vessel an additional seven to ten years of service. A SLEP of the POLAR SEA, the USCG's other HIB, was completed in 2006, but it experienced a major engine casualty in 2010 and it has been inoperable ever since. The Howard Coble Coast Guard and Maritime Transportation Act of 2014 (P.L. 113–281; 128 Stat. 3022) included a provision that authorizes the USCG to conduct a SLEP of the

¹⁰ Congressional Research Service, Coast Guard Cutter Procurement: Background and Issues for Congress. March 26, 2015. Retrieved from <http://www.crs.gov/pdfloader/R42567>.

¹¹ U.S. Congress. Subcommittee on Coast Guard and Maritime Transportation hearing. "President's Fiscal Year 2016 Budget Request for Coast Guard and Maritime Transportation Programs." (Date 2/25/15). Retrieved from <http://www.dhs.gov/news/2015/02/25/written-testimony-uscg-commandant-house-transportation-and-infrastructure>.

¹² Jordan, Bryant. 2015, April. Coast Guard Can Respond to 20 Percent of Known Illegal Drug Shipments. Retrieved from <http://www.military.com/daily-news/2015/04/15/coast-guard-can-respond-to-20-percent-of-known-illegal-drug.html>.

¹³ Department of Homeland Security, Annual Review of the United States Coast Guard's Mission Performance (FY 2013), 2014. Retrieved from http://www.oig.dhs.gov/assets/Mgmt/2014/OIG_14-140_Sep14.pdf.

¹⁴ Coast Guard Cutter Procurement: Background and Issues for Congress.

¹⁵ *Ibid.*

¹⁶ Eckstein, Megan, U.S. Naval Institute. 2015, March. Commandant Zukunft: Coast Guard's Offshore Patrol Cutter Underfunded by \$69 Million. Retrieved from <http://news.usni.org/2015/03/24/commandant-zukunft-coast-guards-offshore-patrol-cutter-underfunded-by-69m>.

Coast Guard Cutter POLAR SEA after it provides a business case analysis to Congress—that analysis was required by previous legislation enacted in 2012, the Coast Guard and Maritime Transportation Act of 2012 (P.L. 112–213; 126 Stat. 1540). Estimates on another SLEP of the Coast Guard Cutter POLAR SEA range from \$100 million to \$500 million, while a new HIB may cost more than \$1 billion, and would have a tremendous impact on the USCG’s acquisitions budget.¹⁷

A major challenge to the USCG’s modernization effort continues to be the budget. A five year capital investment plan (CIP) for FY 2013 included \$7.6 billion. However, the agency’s five year CIP for FY 2014 was reduced by one third to \$5.1 billion. AC&I funding of just over \$1 billion per year will certainly slow the USCG’s recapitalization efforts and result in the continued degradation of overall mission performance.

SUMMARY OF PROVISIONS

S. 1611, the Coast Guard Authorization Act of 2015, would:

- authorize funding to support USCG acquisition priorities;
 - enhance the USCG’s maritime drug law enforcement authorities;
 - support the USCG’s execution of its Western Hemisphere Strategy;
 - allow the USCG to pay for the acquisition of a polar icebreaker using incremental funding over time, rather than full funding in a single year (similar incremental funding has been permitted for the Navy’s acquisition of larger vessels);
 - provide the USCG parity with a number of DOD authorities;
 - enhance oversight of the USCG’s acquisition-related activities;
- and
- require the USCG to enhance training and professional development for senior level officers.

LEGISLATIVE HISTORY

On April 28, 2015, the Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard of the Committee on Commerce, Science, and Transportation of the Senate held a USCG oversight hearing to examine the USCG’s missions, priorities, and FY 2016 budget request.

On June 18, 2015, Senator Thune introduced S. 1611, the Coast Guard Authorization Act of 2015, with Senators Nelson, Rubio, and Booker as original cosponsors. Senators Wicker and Sullivan also cosponsored this legislation.

On June 25, 2015, the Committee met in open Executive Session and, by a voice vote, ordered S. 1611 reported favorably with an amendment in the nature of a substitute. Amendments were offered by Senators Thune, Rubio, Johnson, Sullivan, Cantwell, Blumenthal, Markey, and Peters, all of which were accepted.

¹⁷ Congressional Research Service, Coast Guard Polar Icebreaker Modernization: Background and Issues for Congress. June 23, 2015. Retrieved from <http://www.crs.gov/pdfloader/RL34391>.

Changes made during the Executive Session included technical corrections; USCG parity with DOD authorities; inclusion of S. 373, the Vessel Incidental Discharge Act; authorization for the USCG and the National Oceanic and Atmospheric Administration to transfer land on the Pribilof Islands, Alaska to Native Alaskans; authorization of appropriations to fund pre-acquisition activities related to polar icebreakers; requirements for the USCG to report on the status of man overboard technology and its integration on cruise ships; and a requirement for the USCG to conduct an assessment on oil spill response and clean up capabilities on the Great Lakes.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 1611—Coast Guard Authorization Act of 2015

Summary: S. 1611 would authorize appropriations totaling \$17.5 billion over the 2016–2017 period, for operations of the United States Coast Guard (USCG) and the Federal Maritime Commission (FMC). The bill also 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.

Because enacting this legislation would increase direct spending, pay-as-you-go procedures apply; however, CBO estimates that the effect on direct spending would be insignificant in each year and over the 2016–2025 period. Enacting S. 1611 would not affect revenues.

CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2026.

S. 1611 contains intergovernmental mandates as defined in the Unfunded Mandates Reform Act (UMRA) by preempting state and local laws relating to ballast water and other discharges of vessels. Although the preemption would limit the application of state and local laws and regulations, CBO estimates that the bill would impose no duty on state or local governments that would result in additional spending or a loss of revenues.

S. 1611 contains several private-sector mandates as defined in UMRA on manufacturers and importers of certain water treatment technology, manufacturers of small boats, and owners and operators of vessels. Although the incremental costs of compliance are uncertain, on balance, CBO expects the aggregate cost of the mandates would probably fall below the annual threshold established in UMRA for private-sector mandates (\$154 million in 2015, adjusted for inflation).

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1611 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 S. 1611 will be enacted near the end of calendar 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.

Changes in spending subject to appropriation

United States Coast Guard. S. 1611 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, S. 1611 would direct USCG to:

- Submit various reports to the Congress, including a study of alternative methods of notifying members of the Coast Guard of their monthly earnings, an assessment of oil spill response activities in the Great Lakes, and quarterly reports on the risks associated with major acquisition programs;
- Remove certain restrictions on the use of federal funds for establishing a national Coast Guard museum. No funds have yet been appropriated for the museum;
- Establish standards and regulations concerning incidental discharge of vessel ballast water; and
- Require new congressional training courses for officers working with the Congress.

Assuming appropriation of the amounts specified in the bill, CBO estimates that implementing the USCG provisions of S. 1611 would cost \$16.6 billion over the 2016–2020 period and an additional \$0.5 billion after 2020. Historically, a small amount of the funds appropriated to the USCG remain unspent.

Federal Maritime Commission. S. 1611 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.

Changes in direct spending

CBO estimates that enacting four provisions of S. 1611 would increase total direct spending by less than \$500,000 over the 2016–2025 period.

Section 208 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, the 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. Based on information from the USCG, CBO estimates that enacting this provision would increase direct spending by an insignificant amount in every year and over the 2016–2025 period.

Title V would amend how funds are distributed from the Sport Fish Restoration and Boating Safety Trust Fund (SFRBTF). Under current law, receipts from various taxes on fuel and fishing equipment are deposited in the SFRBTF and distributed for a variety of purposes, including conservation grants, fishery restoration, and boating safety. The legislation would adjust the allocation of amounts that could spend from the SFRBTF but would not affect the total amount available to be spent from the fund. CBO estimates that changing the allocation would have a negligible effect on spending from the fund.

Section 217 would direct the Coast Guard to issue guidance related to the eligibility of members of the Coast Guard with combat-related disabilities to receive special compensation. Under current law, that special compensation is classified as direct spending. Based on information provided by USCG, CBO estimates enacting this provision would not significantly increase the number of individuals receiving special compensation. Therefore, CBO estimates that enacting the provision would increase direct spending by an insignificant amount.

Finally, Title VI would authorize the conveyance of a few Coast Guard properties in California and Alaska at either no cost or fair market value. Based on information from the USCG, CBO expects that the property conveyances authorized in S. 1611 would have no significant effect on the budget because the properties will not generate any receipts to the federal government through lease or sale under current law and because the fair market value of the properties that would be sold is less than \$100,000.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 established budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. Enacting S. 1611 would increase direct spending. However, the net changes in outlays that are subject to pay-as-you-go procedures would not be significant. Enacting the bill would not affect revenues.

Increase in long term direct spending and deficits: CBO estimates that enacting the legislation would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2026.

Estimated impact on state, local, and tribal governments: S. 1611 contains intergovernmental mandates as defined in UMRA. The bill would preempt state and local laws relating to ballast water

and other discharges of vessels by establishing a national uniform standard and a set of best management practices. Although the preemption would limit the application of state and local laws and regulations, CBO estimates that the bill would impose no duty on state or local governments that would result in additional spending or a loss of revenues.

Estimated impact on the private-sector: S. 1611 would impose several private-sector mandates as defined in UMRA. Specifically, the bill would:

- Restrict the sale of technology to treat ballast water;
- Impose safety requirements on certain vessels carrying flammable liquids;
- Require manufacturers of small boats to use updated standards for stability and floatation tests; and
- Accelerate requirements related to oil spill response in the Puget Sound.

Although the incremental costs of compliance are uncertain, on balance, CBO expects the aggregate cost of the mandates would probably fall below the annual threshold established in UMRA for private-sector mandates (\$154 million in 2015, adjusted for inflation).

Regulation of ballast water treatment technology

The bill would prohibit manufacturers and importers from selling certain water treatment technology unless it has been certified by the USCG or by a foreign entity that uses equivalent standards. The cost of the mandate would be the cost of obtaining certification and any net loss of income from forgone sales. Under current law, manufacturers of water treatment technology already need to obtain USCG certification because owners of vessels that use such technology are required to install USCG-certified technology by a certain date. If the certification process under the bill is very similar to the certification process conducted under current law, the incremental cost of complying with the mandate would be small.

Regulation of vessels carrying flammable liquid cargo

The bill would restore USCG authority to regulate tender vessels of not more than 500 gross tons that carry flammable cargo in bulk. Doing so would make such vessels subject to existing safety regulations. Tender vessels supply, store, or transport fish, fish products, or materials related to fishing or fish preparation to or from fishing vessels and fish processing facilities. Based on information from industry sources, CBO expects that the mandate could affect a few hundred vessels. The cost of the mandate is uncertain because CBO lacks sufficient information about the extent to which those vessels would already be in compliance with the safety regulations and about the cost to achieve compliance. However, based on information about the size of the industry, the average value of gross profits, and the costs of complying with similar requirements, CBO expects the cost of this mandate would not be substantial.

Requirements for stability and floatation tests

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. The stand-

ard required by the bill would reflect a voluntary industry standard. According to information from industry experts, most small boats sold in the United States have passed the stability and floatation tests that use the updated engine weights. Consequently, CBO expects the cost to comply with this mandate would be small.

Acceleration of oil spill response requirements

The bill would impose a mandate by accelerating requirements related to oil spill response in the Puget Sound. Current law requires USCG to conduct a rulemaking that would modify the definition of the “higher volume port area” to move the western boundary of the higher volume port area in the Strait of Juan de Fuca. Modifying the definition will expand the area covered by various federal oil spill response regulations. The bill would codify the modified definitions and make any requirements related to oil spill response applicable on the date the bill is enacted. By doing so, the bill would require owners and operators of some vessels to comply with requirements related to oil spill responses earlier than currently anticipated. Based on information from the USCG rulemaking, CBO anticipates that any additional cost to comply with those requirements sooner than under current law would be small.

Previous CBO estimate: On May 14, 2015, CBO transmitted a cost estimate for H.R. 1987, the Coast Guard Authorization Act, as ordered reported by the House Committee on Transportation and Infrastructure on April 30, 2015. The two bills contain multiple similar provisions, including several land conveyances and the waiver of debt incurred by officers of the Coast Guard. Those provisions are similar, and CBO’s estimate of the budgetary effects are the same.

On April 6, 2015, CBO transmitted a cost estimate for S. 834, the Sport Fish Restoration and Recreational Boating Safety Act, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on March 25, 2015. S. 834 is nearly identical to Title V of S. 1611, and CBO’s estimate of the budgetary effects are the same.

On July 29, 2015, CBO transmitted a cost estimate for S. 373, the Vessel Incidental Discharge Act, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on February 26, 2015. That legislation is similar to Title VIII of S. 1611, and CBO’s estimate of the budgetary effects are the same.

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.

REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 1611 as reported would not create any new programs or impose any new regulatory requirements, and therefore would not subject any individuals or businesses to new regulations.

Title VIII of the bill, the Vessel Incidental Discharge Act, would streamline regulatory compliance for the owners and operators of approximately 70,000 vessels with respect to ballast discharge. It also would permanently exempt approximately 120,000 vessels, including all commercial fishing vessels, from incidental vessel discharge rules and thus reduce the regulatory burden on the owners and operators of those vessels.

ECONOMIC IMPACT

Enactment of this legislation is not expected to have any significant adverse impacts on the Nation's economy. Title VIII of the bill, the Vessel Incidental Discharge Act, will likely have a positive economic impact by improving the ease with which interstate commerce is conducted and reduce the operating costs of commercial fishing vessels.

PRIVACY

S. 1611 would not impact the personal privacy of individuals.

PAPERWORK

Title VIII of the bill would replace myriad Federal and State vessel incidental discharge requirements with a single set of national requirements, and will likely reduce paperwork requirements for individuals and businesses. While S. 1611 streamlines some USCG reporting requirements and eliminates one other, it does implement additional agency reporting requirements.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

TITLE I—AUTHORIZATIONS

Section 101. Authorizations.

This section would authorize \$8.7 billion in discretionary funds for the USCG for each of the FYs 2016 and 2017. This is the same level of funding that was authorized for the USCG in section 101 of the Howard Coble Coast Guard and Maritime Transportation Act of 2014 (P.L. 113–281; 126 Stat. 3022). It also would authorize an end-of-year strength for active duty USCG personnel of 43,000 and set military training student loads for each of the FYs 2016 and 2017.

Section 102. Conforming amendments.

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

TITLE II—COAST GUARD

Section 201. Vice Commandant.

This section would fix the grade of the Vice Commandant at admiral, aligning the USCG leadership structure with the leadership structure of the other armed forces in which the vice service chiefs all serve in the grade of general or admiral. This change would enable the Vice Commandant to better represent the USCG and the Commandant in frequent interactions with other service counterparts, as well as interactions with the Vice Chairman of the Joint Chiefs of Staff and the Commanders of the Combatant Commands, all of whom serve in the grade of general or admiral.

Section 202. Vice admirals.

The USCG 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 the traditional duties as the vice service chief. This section would authorize the USCG to reinstate the position of chief of staff. This section also would authorize the President to appoint additional USCG vice admirals to positions in the executive branch.

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

Section 203. Professional development.

Subsection (a) of section 203 of the bill would convey the sense of Congress that toxic leadership within the armed forces can have adverse effects on service members and the service, and result in degraded mission performance. This subsection also would recommend that the USCG develop policies to prevent, identify, and correct this issue consistent with DOD policies.

Subsection (b) of section 203 would direct the Commandant to implement the use of multi-rater reviews for the USCG's flag officers, senior executive staff, and newly promoted captains. This review would be required biennially and will be complemented by post-assessment counseling and leadership coaching, and would be used to aid in the professional development of the USCG's senior leaders.

Subsection (b) also would require the USCG to report on the feasibility of the expansion of the use of multi-rater reviews among all officers, all members in command positions, and all enlisted members in supervisory positions. In addition, the subsection would require the USCG to provide an overview of each of its leadership development courses, and an assessment of the feasibility of their expansion. Furthermore, subsection (b) would require an assessment of USCG leadership training, the implementation of toxic leadership recognition training, and would call for the establishment of

procedures that would result in the administrative separation of toxic leaders from the service.

Subsection (c) of section 203 would require the Commandant, within 180 days of enactment of the Act, to develop and implement an annual training course on the workings of Congress for USCG flag officers newly appointed or assigned to billets within the National Capital Region, and all Senior Executive Service personnel employed within the National Capital Region. The subsection also would define course subject matter, would authorize the USCG to accept pro bono services in compliance with this subsection, and would prescribe timelines for senior leaders to complete the course.

Section 204. Senior enlisted member continuation boards.

In 1939, Congress enacted legislation to increase the efficiency by which the USCG could involuntarily retire an enlisted member who has at least 20 years of service. However, in 1991, the Committee on Merchant Marine and Fisheries of the House of Representatives found that these procedures actually reduced the USCG's ability to separate underperforming members from the service. In response, Congress both altered the process under which an enlisted member may be retired and instituted certain procedural safeguards. At the time, because of the difficulty of involuntarily retiring enlisted personnel, there was a tendency to take disciplinary action against poor performing members. Because a discharge after an adverse disciplinary act could result in the loss of retirement benefits, the Committee recommended certain procedural protections that enlisted members in other branches of the armed forces are not entitled to.

This section would repeal those protections, but also would ensure that USCG enlisted members are treated in a manner similar to enlisted personnel of the other military services. This would enable the USCG to more efficiently conduct career retention screening panels during reductions in force or performance-based senior enlisted continuation boards common to the other military services, specifically the Department of the Navy. The current authorization increasing retired pay for an enlisted member who is retired after 20 years of service and who was cited for extraordinary heroism in the line of duty would be retained.

Section 205. Coast Guard member pay.

This section would require the Commandant to report to Congress on alternative methods the USCG can use to report monthly pay and allowances to the USCG's members, and complete an annual audit of pay and allowances for service members who recently completed a permanent change of station.

Section 206. Recall.

A retired member of a regular component of the armed forces is subject to the Uniform Code of Military Justice for violations that the retired member commits either while on active duty or during retirement. The Secretary of a military department may recall a retired member to active duty to be tried by court-martial, without regard to the consent of the member. However, the Commandant may recall a retired member to active duty to be tried by court-martial, without the member's consent, only during time of war or

national emergency. Otherwise, a retired USCG member may only be recalled with the member's consent—which, when the purpose of the recall is to render the member possibly subject to punitive discharge and, thus, loss of retired pay and other benefits, the member has little or no reason to grant.

This section would align USCG authorities with those of the DOD by authorizing the Commandant to recall a retired member, without the retired member's consent, at any time for the purposes of an Article 32 investigation, trial by court-martial, and non-judicial punishment. It is the Committee's expectation that this authority will only be used for egregious cases of misconduct.

Section 207. Exchange of medical goods and services.

This section would allow the USCG, when reimbursing the DOD or another military service for medical care provided to a USCG member, a former USCG member, or a dependent of a USCG member or former USCG member at a DOD medical facility, to adopt the intra-DOD payment model for the reimbursement. The value of the payment would be determined by DOD actuaries, using relevant actuarial considerations and assumptions. An annual one-time payment will replace the existing reimbursement structure that requires adjustments between appropriations after the close of the FY resulting in lost opportunity for use of resources by both departments.

Section 208. Coast Guard remission of indebtedness.

Prior to 2006, the authorities to remit or cancel the indebtedness of an enlisted member—then vested in the Secretaries of the Army, Navy, Air Force, and that of the department in which the Coast Guard is operating—were substantively identical. In 2006, however, Congress expanded the authority of the Secretaries of the Army, Navy, and Air Force to permit each to remit or cancel indebtedness of any member on active duty. Congress did not do the same with regard to members of the USCG. This section would grant identical authority to the Secretary, thereby ensuring equal treatment of all active duty military members (enlisted and officers).

Section 209. Coast Guard communities.

This section would streamline the USCG's program to recognize communities that have supported the USCG by reducing the approval process from 90 days to 30 days.

Section 210. Major acquisition programs.

This section would enhance congressional oversight of USCG acquisition programs by requiring the USCG to provide quarterly reports to Congress on the top five risks associated with each of the USCG's current acquisition programs, any failure of these programs to demonstrate key performance parameters or thresholds during operational test and evaluation, whether there has been a decision to order full rate production on a program that has not met all key performance parameters or thresholds, and whether there has been any breach of program cost or program schedule.

Section 211. Major acquisitions assessment.

This section would require the Commandant to report to Congress on the impact of any new major acquisition programs on the USCG's stated program of record and capital investment plan. The report would include life-cycle funding requirements, an assessment of the proposed program's impact on delivery dates of current acquisition projects and programs, an assessment of the impact on planned construction or improvement projects, and recommendations on funding levels necessary to simultaneously support any proposed and current acquisition projects and programs.

Section 212. Polar icebreakers.

Subsection (a) of section 212 of the bill would exempt a polar icebreaker from the requirement to be classed by the American Bureau of Shipping before final acceptance, but would require the design and construction of a polar icebreaker to be assessed by an independent third party with expertise in vessel design and construction certification.

Subsection (b) of section 212 would provide the Commandant with the authority to enter into a contract or contracts for the acquisition of a polar icebreaker using incremental funding. Incremental funding has been used by the Navy during the acquisition of aircraft carriers, assault ships, and destroyers to reduce the overall impact on the service's budget during large vessel acquisition. The USCG's acquisitions budget of approximately \$1 billion would not have the capability to simultaneously support current recapitalization efforts and an icebreaker that may cost nearly \$1 billion.

Subsection (c) of section 212 would set a deadline of one year following enactment for the USCG 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.

In November 2013, the USCG completed the analysis of the POLAR STAR as required by section 222 of the Coast Guard and Maritime Transportation Act of 2012 (P.L. 112-213; 126 Stat. 1560) 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 USCG has not made a determination concerning the icebreaker's future. The USCG 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.

Section 213. Participation in Federal, State, or other educational research grants.

Many academic institutions work with a nonprofit organization that competes for and accepts grants on their behalf. This section would allow the USCG Academy to compete on an equal basis with other academic institutions by allowing it to enter into a sole source contract with a nonprofit organization created by the USCG Academy Alumni Association. The nonprofit would work at the USCG Academy's direction to compete for and accept grants on its behalf.

Section 214. Venue.

In general, each Federal district court has exclusive jurisdiction over any case or controversy that arises in the U.S. exclusive economic zone (EEZ) of that district. However, with few exceptions, jurisdiction over any case that arises in the several U.S. EEZs of the Pacific Ocean must be tried in the Federal district court for the District of Guam. This places an undue burden on USCG assets and personnel required to escort seized vessels to Guam, even though the case arose in an EEZ other than that around Guam and the Northern Mariana Islands, and even though the Federal district court for the District of Hawaii may be closer. To impose a more conventional sense of jurisdiction, section 214 of the bill would shift jurisdiction to the Federal district court in the District of Hawaii for all cases, except for those arising in the EEZ about Guam and the Northern Mariana Islands and the EEZ about Wake Island.

Section 215. National Coast Guard museum.

Section 215 of the bill would repeal existing limitations on expenditures related to the use of appropriated Federal funds for the engineering, design, or construction of a National USCG Museum established under section 98 of title 14, United States Code. It also would remove the requirement for the Secretary to fund the operation and maintenance of the National USCG Museum with non-appropriated and non-Federal funds to the maximum extent practicable.

Section 216. Investigations.

This section would require the Inspector General of the DHS to consult with the Inspector General of the DOD anytime a report or allegations of misconduct are made against senior officials. In addition, this section would require the Commandant to complete investigations into those allegations consistent with DOD requirements.

Section 217. Clarification of eligibility of members of the Coast Guard for combat related special compensation.

Combat Related Special Compensation (CRSC) was created by Congress in 2002, and was originally intended to benefit Purple Heart recipients. In 2004, Congress expanded eligibility requirements to include all retirees with combat-related disabilities with at least 20 years of service.¹⁸ In 2008, Congress expanded CRSC eligibility to include those who were medically retired with less than 20 years of service, effective January 1, 2008.¹⁹ The program is required to be implemented uniformly across all uniformed services, including the Coast Guard.²⁰

This section would clarify congressional intent to ensure that USCG members are eligible to receive CRSC benefits consistent with other uniformed services. This section also would require the Secretary to promulgate guidance to ensure that USCG members injured during the performance of or during training for certain DHS missions (aviation, search and rescue, diving, or rescue swim-

¹⁸The National Defense Authorization Act for Fiscal Year 2004 (P.L. 108-136; 117 Stat. 1392); sections 1413(a) and 1414 of title 10, United States Code.

¹⁹The National Defense Authorization Act for Fiscal Year 2008 (P.L. 110-181); 122 Stat. 3.

²⁰Chapters 1413(a) and 1414 of title 10, United States Code.

mer related duties missions) and during certain hazardous duty on small vessels are eligible for the CRSC, consistent with DOD requirements. Section 217 also would allow USCG members who have been previously denied CRSC benefits to reapply.

Section 218. Maternity leave policies for the Coast Guard.

This section would authorize the Commandant to implement maternity leave policies consistent with those of the Navy.

Section 219. Technical corrections and clerical amendments to title 14, United States Code.

Section 219 of the bill would correct select non-substantive errors that now appear in title 14, United States Code.

TITLE III—SHIPPING AND NAVIGATION

Section 301. Whistleblower protections.

Whistleblower protections are afforded to a seaman who, in good faith, reports a violation of maritime safety law to the USCG or another Federal department or agency. However, a seaman who reports a violation to a vessel owner, a vessel operator, or the seaman's employer does not receive the same protections—this is a significant shortcoming, given that most seaman are typically at sea, far away from any USCG or Federal representative, and thus unable to make protected complaints about safety concerns while aboard the vessel. Moreover, it does not expressly cover alleged violations of maritime environmental protection law. Section 301 of the bill would expand the covered class to include a seaman who reports a violation to a vessel owner, vessel operator, or the seaman's employer. Additionally, it would expressly cover both a violation of maritime safety law and a violation of maritime environmental protection law.

Section 302. Maritime drug law enforcement.

The first component of section 302 of the bill would criminalize bulk currency smuggling of \$100,000 or more in international waters in a vessel subject to the jurisdiction of the United States. As such, it would sever the chain of many illicit activities such as drug trafficking and human smuggling, and would improve the effectiveness of USCG interdiction effort.

Since June 2009, USCG boarding teams have discovered six bulk cash shipments and seized a total of \$10,700,000 from vessels involved in smuggling activities. However, the lack of a statutory authority criminalizing bulk currency smuggling in international waters often prevents prosecution of smugglers.

Under current law,²¹ bulk currency smuggling is only criminalized when a person intends to evade a currency reporting requirement of the United States by smuggling \$10,000 or more into or out of the United States. However, that law does not criminalize the smuggling of bulk currency by vessels in international waters that are subject to the jurisdiction of the United States. As a result, transnational criminal organizations are not at risk of a criminal violation for smuggling bulk currency earnings from illicit

²¹ 31 U.S.C. 5332.

criminal activity (drug trafficking, human smuggling, etc.) back to Central America and South America.

The second component of section 302 would extend the ability of the USCG to apprehend persons who attempt to evade prosecution under the Maritime Drug Law Enforcement Act (MDLEA) (46 U.S.C. 70501 et seq.) by destroying evidence of a controlled substance aboard a vessel subject to the jurisdiction of the United States. This would provide the USCG with additional tools to prevent the specific threat that drug trafficking presents to the security of the United States.

Under the MDLEA, Congress stated “that trafficking in controlled substances aboard vessels is a serious international problem, is universally condemned, and presents a specific threat to the security and societal well-being of the United States”.²² The MDLEA, which was enacted in 2006, authorizes the prosecution of knowingly and intentionally manufacturing, distributing, or possessing controlled substances aboard a vessel. The MDLEA does not, however, include language designed to criminalize the evasion of law enforcement operations by destroying evidence needed to prosecute persons under that Act.

Section 303. Carriage of liquid dangerous cargo.

This section would restore the Secretary’s pre-1984 authority to regulate carriage of liquid bulk dangerous cargoes on fishing and fish tender vessels.

Prior to 1983, fishing and fish tender vessels less than 500 gross tons and all fish processing vessels less than 5,000 gross tons were generally exempt from Federal laws governing tank vessels carrying liquid bulk dangerous cargoes, except where otherwise required by regulations promulgated by the USCG. In 1984, Congress expanded the exemption to cover all fishing and fish tender vessels, but also, without explanation, repealed the authority to issue regulations with regard to the carriage of liquid bulk dangerous cargoes. At that time, given the average age of the fleet, the loss of such authority and the attendant risk to life and property were not great. However, as the average age of the fleet has increased, the attendant risk has grown.

Section 304. Maritime transportation of hazardous materials.

Prior to March 1, 2003, the USCG was a component of the DOT. At that time, the USCG exercised a variety of secretarial authorities—including select provisions of chapter 51 of title 49, United States Code, that pertain to the transportation of hazardous materials as cargo on vessels operating on the navigable waters of the United States. When the USCG transferred to the DHS on March 1, 2003, these delegated authorities transferred with the USCG pursuant to the Homeland Security Act of 2002.

Since 2003, Congress has amended provisions of chapter 51 of title 49, United States Code, but did not expressly provide for the

²² Maritime Drug Law Enforcement Act (P.L. 96–350; 94 Stat. 1159) as amended by Maritime Drug Law Enforcement Prosecutions Improvements Act of 1986 (P.L. 99–570; 100 Stat. 3207–95).

USCG and the USCG's capacity to exercise both the amended and new authorities.²³

Section 304 of the bill would affirm the authority of the Secretary of the department in which the Coast Guard is operating with regard to hazardous materials as cargo on vessels operating on the navigable waters of the United States, thereby eliminating any disparity and potential confusion that may exist between DOT components and the USCG with regard to the enforcement of chapter 51 of title 49, United States Code.

Section 305. Recreational vessel operator education.

Seven States and territories do not require any form of recreational vessel operator education. In these States, anyone can legally operate a recreational vessel in traffic without demonstrating any type of preparation or knowledge. Of the remaining States and territories, requirements vary drastically as to which operators have to be educated, and no two States have identical requirements. This lack of uniformity means that a vessel operator who boats in multiple States or simply drifts unknowingly into the waters of another State may be subject to differing requirements. This lack of uniformity may result in operators being penalized if guilty of failure to meet local requirements of which they were unaware.

This section would authorize the Secretary to develop and propose a model national recreational vessel training curriculum and training standards that could be voluntarily adopted by the States. The model curriculum and training standards would promote uniformity of boating safety awareness and education, and could improve reciprocity of recreational vessel operator certificates and licenses among the States.

Section 306. Nondisclosure of certain information.

Subsection (a) of section 306 of the bill would prohibit the public disclosure, under section 552 of title 5, United States Code, of certain information relating to an examination of professional qualification administered under part E of subtitle II of title 46, United States Code, for merchant seamen licenses, certificates, and documents. The prohibition would cover examination questions, answers, and characteristics related to the selection of a question for examinations, including the frequency of selection of a certain question and the frequency that an examinee correctly or incorrectly answered such question.

Subsection (b) section 306 would grant the Secretary discretionary authority to release questions and answers that the Secretary determines are appropriate or necessary for the general public to prepare for the examination. This discretion will allow the Secretary to better ensure that applicants are sufficiently familiar with the matters they are expected to know.

Subsection (c) of section 306 would require the Secretary to develop annually a sample merchant mariner exam and outline of

²³For example, see section 5106 of title 49, United States Code (relating to handling criteria), section 5107 of that title (relating to training requirements), section 5121 of that title (relating to emergency orders), section 5122 of that title (relating to enforcement), section 5123 of that title (relating to civil penalties), and section 5124 of that title (relating to criminal penalties).

exam topics and ensure that they are made readily available to the public.

Subsection (d) of section 306 would ensure the release of the information to Congress.

Section 307. Higher volume port area regulatory definition change.

Section 710 of the Coast Guard Authorization Act of 2010 (P.L. 111-281; 124 Stat. 2905) directs the Commandant to modify the definition of the term “higher volume port area” in section 155.1020 of title 33 of the Code of Federal Regulations by striking “Port Angeles, WA” and inserting “Cape Flattery, WA”—effectively moving the western boundary of the existing higher volume port from the line at Port Angeles, Washington, to Cape Flattery, Washington. This would have designated the whole of the Strait of Juan de Fuca a higher volume port area, but the provision is not “self-executing.” Section 307 of the bill would achieve the same end as the original statute, but in a manner that is significantly less burdensome from a regulatory viewpoint.

Section 308. Recognition of port security assessments conducted by other entities.

Section 70108 of title 46, United States Code, directs the Secretary to assess the effectiveness of the antiterrorism measures maintained at those foreign ports that are served by U.S. vessels, those from which foreign vessels depart on voyages to the United States, and those that the Secretary believes pose a security risk to international maritime commerce, at least once every three years. These assessments are done in consultation with the Secretaries of State and Defense.

Section 308 of the bill would provide for the recognition of assessments that foreign governments and international organizations conduct, provided that the Secretary is notified of the outcome, and the assessments are done in accordance with U.S. requirements. In addition, it also would authorize the Secretary to enter into agreements with other governments and organizations to conduct assessments. Section 308 would not require the Secretary to recognize these assessments, nor would it limit the Secretary’s authority to conduct an assessment at a foreign port.

Section 309. Model years for recreational vessels.

The USCG’s current regulatory definition of model year for recreational vessels is inconsistent with industry practice and interferes with the marketplace. This section would revise the definition of model year for new recreational vessels and provide industry with appropriate discretion to market their products.

Section 310. Recreational vessel engine weights.

It has been more than 20 years since the USCG updated the references it provides manufacturers to use to determine the weight of engines when conducting floatation tests of new products. Today’s engines are considerably heavier than those built in 1984. Using the outdated USCG 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 USCG to update its references to recreational vessel engine

weights to ensure accurate vessel floatation tests by manufacturers and improve recreational vessel safety.

Section 311. Vessel replacement.

Section 311 of the bill would amend section 53701 of title 46, United States Code, by defining the term “historical uses.” In addition, with respect to direct loans for fisheries, this section would authorize the Secretary to make available a minimum of \$59,000,000 each FY for historical uses as defined by the amendment proposed in this section, which is consistent with current appropriations. It also would authorize the Secretary to issue direct loans for the purpose of financing certain activities related to harvesting rights or the construction or reconstruction of fishing vessels in a fishery that is under a limited access system.

Section 312. Fishing vessel and fish tender vessel certification.

This section would exempt fishing vessels and fish tender vessels from the requirements of section 4502(b) of title 46, United States Code, if: the vessel is between 50 and 190 feet long; was built after January 1, 2016; is designed by a registered professional engineer and the design incorporates standards equivalent to those prescribed by a classification society or another qualified organization approved by the Secretary; and vessel construction is overseen and certified by a marine surveyor approved by the Secretary. In addition, the vessel would be required to complete a stability test performed by a qualified individual, have written stability and loading instructions from a qualified individual, and have an assigned loading mark.

Furthermore, the owner of the vessel would be required to have all substantial vessel modifications or changes reviewed by a registered professional engineer prior to initiation of the work; complete a condition survey at least biennially; complete an out-of-water survey at least once every five years; update the requirements for stability testing once every five years, or at the time a substantial change or modification is made to the vessel; and for the life of the vessel, maintain records to demonstrate compliance with this section and ensure those records are readily available for inspection by an authorized official.

Section 313. Title 46, United States Code, technical corrections.

Section 313 of the bill would correct select non-substantive errors that now appear in title 46, United States Code.

TITLE IV—FEDERAL MARITIME COMMISSION

Section 401. Authorization of appropriations.

This section would authorize the activities of the FMC for FY 2016 and FY 2017 at the currently enacted level of \$24.7 million.

Section 402. Duties of the chairman.

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

TITLE V—SPORTFISH RESTORATION AND RECREATIONAL BOATING
SAFETY REAUTHORIZATION

This section includes the text of S. 834, the Sport Fish Restoration and Recreational Boating Safety Act, as reported by the Commerce Committee on March 25, 2015 (Senate Report 114–91).

TITLE VI—CONVEYANCE OF USCG PROPERTY

SUBTITLE A—CONVEYANCE OF COAST GUARD PROPERTY IN
POINT SPENCER, ALASKA

Section 601. Findings.

This section would provide the rationale for the transfer of land at Point Spencer between the USCG, Bering Straits Native Corporation, and the State of Alaska.

Section 602. Definitions.

This section would provide the definitions of terms and abbreviations that are used throughout title VI of the bill, including reference to a map of Point Spencer and the Tracts (1-6) subject to a land transfer.

Section 603. Authority to convey land in Point Spencer.

This section would provide authority for the transfer of Tracts 2 and 5 to Bering Straits Native Corporation; Tract 6 to the State of Alaska if it chooses and if not to Bering Straits Native Corporation if it chooses. If Bering Straits Native Corporation accepts Tract 6, the State of Alaska would have the ability to enter into a lease for that land. Tracts 1, 3, and 4 would be retained by the USCG until the Secretary of the department in which the Coast Guard is operating notifies the Secretary of the Interior that the USCG no longer needs to retain jurisdiction over any portion of those Tracts.

This section also would provide for the terms of conveyance, including requirements for environmental clean-up. The USCG and State also would retain use of the current or any future landing pads, airstrip, runways, and taxiways, and right of access to the same, as well as to any lands that are under their jurisdiction.

In addition, this section would authorize the Secretary to make cash sales of personal property located on Tract 4 to Bering Straits Native Corporation or to the State of Alaska in the amount of \$5,580,000. The proceeds of this sale would be required to be deposited as offsetting collections into the Coast Guard Environmental Compliance and Restoration Account.

This section also would require the Secretary of the Interior to prepare maps and legal descriptions of all Tracts covered by this Act and within 5 years survey the Tracts conveyed under this Act. Finally, this section would provide that no public access easements may be reserved to the United States under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) with respect to the land conveyed.

Section 604. Port Coordination Advisory Council for Point Spencer.

This section would provide for the establishment of a Port Coordination Advisory Council for Point Spencer. The Council mem-

bers would be appointed by the State of Alaska and Bering Straits Native Corporation. The Council would develop a Port Management Coordination Plan to help coordinate infrastructure development and operations at Point Spencer. The Plan would be required to be updated annually for the first 5 years and then biennially thereafter. The Plan would be developed and implemented by the Council in such a manner so as to facilitate and support, and not interfere with nor impede, the statutory missions, duties, and operations of the USCG in the Arctic.

Section 605. Waiver.

This section would provide that section 229 of the Howard Coble Coast Guard and Maritime Transportation Act of 2014 (P.L. 113–281) shall not prohibit any transfer or conveyance of lands under this Act.

SUBTITLE B—OTHER CONVEYANCE OF USCG PROPERTY

Section 611. Conveyance of Coast Guard property in Point Reyes Station, California.

This section would authorize the USCG 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 USCG 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 USCG 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.

Section 612. Conveyance of Coast Guard property in Tok, Alaska.

This section would authorize the USCG 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 in Tok, Alaska.

TITLE VII—MISCELLANEOUS

Section 701. Interagency Coordinating Committee on Oil Pollution Research.

The Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) established the Interagency Coordinating Committee on Oil Pollution Research for the purpose of coordinating a comprehensive program of oil pollution research, technology development, and demonstration among the Federal agencies. This section would—

- address the outdated reference to the Minerals Management Service;
- include the U.S. Arctic Research Commission as a named member of that Committee, reflecting the recent designation of the Commission as a member of that Committee; and
- provide for the representative of the National Oceanic and Atmospheric Administration, the representative of the Bureau of

Safety and Environmental Enforcement, and the representative of the Environmental Protection Agency to serve, on a rotating basis, as the vice chairman of that Committee.

Section 702. Accident and incident notification.

The Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (P.L. 112-90; 125 Stat. 1904), in part, directs the Secretary of Transportation to revise the regulations relating to pipeline accidents and incidents, so as to oblige pipeline owners and operators to give telephonic or electronic notice of every accident and incident to the DOT and the USCG's National Response Center (NRC) at the earliest practicable time. Significantly, that Act requires the NRC to "update the initial report on [a pipeline] accident or incident instead of generating a new report" after "receiving revisions" of an initial notice of such an accident or incident.²⁴

Implementation of this requirement presents policy and practical concerns for the NRC. For evidentiary purposes, NRC staff members are not permitted to amend or otherwise modify a generated report of an incident. That practice, which has been a standard procedure for decades, preserves the chain of evidence for subsequent investigations and litigation. From a policy perspective, the requirement creates a greater risk of inaccuracies in the reports which NRC staff members generate from the notices that pipeline owners and operators submit. If staff members are required to "update" an earlier report based solely on "revisions" to an initial notice, an element of judgment will have been interjected into the existing system that could be misplaced. NRC staff are forced to assess whether subsequent notices are in fact revisions of initial notices, whether submitting personnel are authorized to transmit the revisions, and whether an initial report needs to be amended and how. The judgment calls necessary for making those assessments are better left to the Federal On-scene commander or someone else with first-hand knowledge of the accident or incident. Each report generated by an NRC staff member should only be required to accurately reflect the underlying notice that gave rise to the report.

Another concern is the high cost of software modifications that will be necessary to fully implement that Act. The NRC believes that the estimated cost to the USCG (\$350,000 and \$500,000) could be replicated throughout the National Response System, with the total cost for modifications to the other participating 24 Federal entities, 56 States and territories, and over 3,000 counties being \$1 billion to \$1.5 billion. Accordingly, section 702 of the bill would strike this provision from law.

Section 703. Technical corrections relating to bridges.

This section would amend various bridge-related statutes involving the USCG to clarify that the authority therein is vested in the Secretary of the department in which the Coast Guard is operating, not the Secretary of Transportation, and make other minor amendments.

²⁴Section 9 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (relating to accident and incident notification)(49 U.S.C. 60117 note).

Section 704. International port and facility inspection coordination.

This section would correct the reference to “the Secretary of the department in which the Coast Guard is operating” to the “Secretary of Homeland Security” in the event that the USCG is transferred to the Department of the Navy. This would ensure that the Secretary of Homeland Security is still responsible for the completion of foreign port assessments.

In addition, three provisions of law require the Secretary of Homeland Security to carry out foreign port assessments. U.S. Customs and Border Protection conducts two—Container Security Initiative and Customs-Trade Partnership Against Terrorism—of the SAFE Port Act (P.L. 109-347; 120 Stat. 1884), while the USCG conducts one, foreign port assessments. Presently, the Secretary is required to conduct the assessments concurrently, or develop a process by which they are integrated and conducted by the USCG. This section would amend that language and require the Secretary to conduct the assessments concurrently or coordinate them between the USCG and Customs and Border Protection.

Section 705. Reports.

This section would eliminate one outdated and duplicative report and modify the due date of two other reports.

Section 706. Safe vessel operation in the Great Lakes.

This section would bar the USCG 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.

Section 707. Coastwise endorsement.

This section would grant a coastwise endorsement for the F/V RONDYS.

Section 708. International ice patrol.

This section would require the Commandant to report to Congress on the USCG’s current involvement in the International Ice Patrol, and any alternatives that could be utilized to conduct that mission. The report would be required to include: alternatives that could provide timely data on ice conditions with the highest possible resolution and accuracy; alternatives that can operate in all weather conditions, both day and night; and whether those alternatives are more cost effective than current operations.

Section 709. Pribilof Islands.

This section would require the Secretary of Commerce to transfer certain parcels of land on St. Paul Island, Alaska to the native village corporation for St. Paul Island in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.). This is a final step with respect to the process for land conveyances, in Congress’ on-going efforts to fulfill the Federal Government’s commitments to help build a viable economy on the Pribilof Islands. In order to accomplish the original objective, Congress enacted a se-

ries of laws with a variety of provisions to help the Pribilof Islands and their people transition to a new economy not based on the commercial harvest of fur seals. This section would enable the closure of 50-plus years of land selection and conveyance history pertaining to the Native people of the Pribilof Islands, and their relationship with Congress and the Federal Government.

Section 710. No charge for parking facilities.

Section 611 of the Howard Coble Coast Guard and Maritime Transportation Act of 2014 (Public Law 113–281; 128 Stat. 3022) made unused parking spots at the DHS St. Elizabeth’s Campus available to USCG personnel until other personnel from the DHS are transferred to the campus. Section 710 of the bill would amend that law to ensure that the unused parking spaces are provided to the USCG, its members, or employees at no cost, until other personnel from the DHS are transferred to the campus.

Section 711. Assessment of oil spill response and cleanup activities in the Great Lakes.

This section would require the Commandant, in consultation with the Administrator of the National Oceanic and Atmospheric Administration, to conduct an assessment of the effectiveness of oil spill response and clean-up activities on the Great Lakes.

Section 712. Report on status of technology detecting passengers who have fallen overboard.

This section would require the Commandant to report to Congress on the status of technology that could be utilized aboard cruise ships to immediately detect passengers who have fallen overboard; recommendations to cruise lines on the feasibility of implementing that technology; cruise line data on the integration of that technology; and any other available technologies that cruise ships could integrate to assist in facilitating the search and rescue of a passenger who has fallen overboard.

TITLE VIII—VESSEL INCIDENTAL DISCHARGE ACT

This section includes the text of S. 373, the Vessel Incidental Discharge Act, as reported on March 25, 2015 (Senate Report 114–96).

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, 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 material is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 14. COAST GUARD.

PART I. REGULAR COAST GUARD

CHAPTER 3. COMPOSITION AND ORGANIZATION

§ 41. Grades and ratings

In the Coast Guard there shall be [an admiral] *admirals*, vice admirals; rear admirals; rear admirals (lower half); captains; commanders; lieutenant commanders; lieutenants; lieutenants (junior grade); ensigns; chief warrant officers; cadets; warrant officers; and enlisted members. Enlisted members shall be distributed in ratings established by the Secretary.

§ 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; appointment] Vice 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 (and if the

President designates 5 such positions, 1 position shall be the Chief of Staff of the Coast Guard); 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 2 1/2 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 2 1/2 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.

§ 60. Training course on workings of Congress

(a) *IN GENERAL.*—Not later than 180 days after the date of the enactment of the Coast Guard Authorization Act of 2015, the Commandant, in consultation with the civilian and permanent commissioned teaching staff of the Department of Humanities at the Coast Guard Academy and such other individuals and organizations as the Commandant considers appropriate, shall develop an annual training course for all Coast Guard flag officers newly appointed or assigned to billets in the National Capital Region and all Coast Guard senior executive service personnel employed in the National Capital Region to educate them on the workings of Congress.

(b) *COURSE SUBJECT MATTER.*—The training course required by this section shall cover a variety of subjects related to Congress and the Federal legislative process, including—

(1) the history and structure of Congress and the committee systems of the House of Representatives and the Senate, including the functions and responsibilities of the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate;

(2) *the documents used by Congress, including bills, resolutions, committee reports, and conference reports, and the purposes they serve;*

(3) *the legislative processes of the House of Representatives and the Senate, including similarities and differences between the two processes;*

(4) *the roles of Members of Congress and congressional staff in the legislative process;*

(5) *the congressional budget process;*

(6) *the congressional authorization-appropriation process;*

(7) *the Senate advice and consent process for presidential nominees;*

(8) *the Senate advice and consent process for treaty ratification;*

(9) *the concept and underlying purposes of congressional oversight; and*

(10) *best practices that promote effective and successful interactions with Congress.*

(c) **LECTURERS AND PANELISTS.**—

(1) **OUTSIDE EXPERTS.**—*The Commandant shall ensure that not less than 60 percent of the lecturers, panelists, and other individuals providing education and instruction as part of the training course required by this section are experts on Congress and the Federal legislative process who are not employed by the executive branch of the Federal Government, such as the Congressional Research Service.*

(2) **AUTHORITY TO ACCEPT PRO BONO SERVICES.**—*In satisfying the requirement under paragraph (1), the Commandant shall seek, and is authorized to accept, educational and instructional services of lecturers, panelists, and other individuals and organizations provided to the Coast Guard on a pro bono basis.*

(d) **COMPLETION OF REQUIRED TRAINING.**—

(1) **CURRENT FLAG OFFICERS AND EMPLOYEES.**—*A Coast Guard flag officer appointed or assigned to a billet in the National Capital Region on the date of the enactment of this section, and a Coast Guard senior executive service employee employed in the National Capital Region on the date of the enactment of this section, shall complete a training course that meets the requirements of this section within 60 days of the date on which the Commandant completes the development of the training course.*

(2) **NEW FLAG OFFICERS AND EMPLOYEES.**—*A Coast Guard flag officer who is newly appointed or assigned to a billet in the National Capital Region, and a Coast Guard senior executive service employee who is newly employed in the National Capital Region, shall complete a training course that meets the requirements of this section not later than 60 days after reporting for duty.*

CHAPTER 5. FUNCTIONS AND POWERS

§ 98. National Coast Guard Museum

(a) **ESTABLISHMENT.**—*The Commandant may establish a National Coast Guard Museum, on lands which will be Federally owned and*

administered by the Coast Guard, and are located in New London, Connecticut, at, or in close proximity to, the Coast Guard Academy.

[(b) LIMITATION ON EXPENDITURES.—

[(1) Except as provided in paragraph (2), the Secretary shall not expend any appropriated Federal funds for the engineering, design, or construction of any museum established under this section.

[(2) The Secretary shall fund the operation and maintenance of the National Coast Guard Museum with nonappropriated and non-Federal funds to the maximum extent practicable. The priority use of Federal operation and maintenance funds should be to preserve and protect historic Coast Guard artifacts.]

[(c)](b) FUNDING PLAN.—Before the date on which the Commandant establishes a museum under subsection (a), the Commandant shall provide to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan for constructing, operating, and maintaining such a museum, including—

(1) estimated planning, engineering, design, construction, operation, and maintenance costs;

(2) the extent to which appropriated, nonappropriated, and non-Federal funds will be used for such purposes, including the extent to which there is any shortfall in funding for engineering, design, or construction; and

(3) a certification by the Inspector General of the department in which the Coast Guard is operating that the estimates provided pursuant to paragraphs (1) and (2) are reasonable and realistic.

[(d)](c) AUTHORITY.—The Commandant may not establish a Coast Guard museum except as set forth in this section.

CHAPTER 9. COAST GUARD ACADEMY

§ 196. Participation in Federal, State, or other educational research grants

(a) *IN GENERAL.*—Notwithstanding any other provision of law, the United States Coast Guard Academy may compete for and accept Federal, State, or other educational research grants, subject to the following limitations:

(1) No award may be accepted for the acquisition or construction of facilities.

(2) No award may be accepted for the routine functions of the Academy.

(b) *AUTHORITY.*—

(1) *CONTRACT OR COOPERATIVE AGREEMENT.*—*Notwithstanding chapter 63 of title 31 and chapter 137 of title 10, the Commandant may enter into a contract or cooperative agreement with a nonprofit organization, described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code, that the Coast Guard Academy Alumni Association may establish for the purpose of supporting academic research and applying for and administering Federal, State, or other educational research grants*

on behalf of the Coast Guard Academy. Notwithstanding any other provision of law or policy to the contrary, the Commandant may enter such contract or cooperative agreement on a sole source basis.

(2) *LEASE OR LICENSE.*—The Commandant may enter into a lease or license with a nonprofit organization, described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code, that the Coast Guard Academy Alumni Association may establish for the purpose of supporting academic research and applying for and administering Federal, State, or other educational research grants on behalf of the Coast Guard Academy.

(c) *USE OF COAST GUARD PERSONAL PROPERTY.*—The Commandant may allow a nonprofit organization, described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code, that the Coast Guard Academy Alumni Association may establish to use, at no cost, personal property of the Coast Guard to assist the non-profit organization in supporting academic research and applying for and administering Federal, State, or other educational research grants on behalf of the Coast Guard Academy.

(d) *ACCEPTANCE OF SUPPORT.*—

(1) *SUPPORT RECEIVED FROM A 501(c)(3) NONPROFIT ORGANIZATION.*—Notwithstanding section 93 of this title, the Commandant may accept funds, supplies, and services from a nonprofit organization, described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code, that the Coast Guard Academy Alumni Association may establish for the support of academic research and applying for and administering Federal, State, or other educational research grants on behalf of the Coast Guard Academy. For purposes of this subsection, employees or personnel of such nonprofit organization shall not be employees of the United States.

(2) *LIMITATION.*—The Commandant shall ensure that contributions under this subsection do not reflect unfavorably on the ability of the Coast Guard, any of its employees, or any member of the armed forces to carry out any responsibility or duty in a fair and objective manner, or compromise the integrity or appearance of integrity of any program of the Coast Guard, or any individual involved in such a program.

(e) *RETENTION AND USE OF FUNDS.*—Funds received under this section may be retained for use in support of academic research and applying for and administering Federal, State, or other educational research grants on behalf of the Coast Guard Academy and shall remain available until expended.

(f) *CONDITIONS.*—The authority provided in this section with respect to a nonprofit organization, described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code, that the Coast Guard Academy Alumni Association may establish is valid only so long as such nonprofit organization continues to—

(1) qualify as a nonprofit organization, described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of that Code, and operates

in accordance with this section, the laws of the State of Connecticut, and the constitution and bylaws of the nonprofit organization; and

(2) operate exclusively to support academic research and applying for and administering Federal, State, or other educational research grants on behalf of the Coast Guard Academy.

CHAPTER 11. PERSONNEL ENLISTED MEMBERS

§ 357. [Involuntary retirement of enlisted members] *Retirement of enlisted members: increase in retired pay*

[(a) Enlisted Personnel Boards shall be convened as the Commandant may prescribe to review the records of enlisted members who have twenty or more years of active military service.

[(b) Enlisted members who have twenty or more years of active military service may be considered by the Commandant for involuntary retirement and may be retired on recommendation of a Board—

[(1) because the member's performance is below the standards the Commandant prescribes; or

[(2) because of professional dereliction.

[(c) An enlisted member under review by the Board shall be—

[(1) notified in writing of the reasons the member is being considered for involuntary retirement;

[(2) allowed sixty days from the date on which counsel is provided under paragraph (3) to submit any matters in rebuttal;

[(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2) and to represent the member before the Board under paragraph (5);

[(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2); and

[(5) allowed to appear before the Board and present witnesses or other documentation related to the review.

[(d) A Board convened under this section shall consist of at least three commissioned officers, at least one of whom shall be of the grade of commander or above.

[(e) A Board convened under this section shall recommend to the Commandant enlisted members who—

[(1) have twenty or more years of active service;

[(2) have been considered for involuntary retirement; and

[(3) it determines should be involuntarily retired.

[(f) After the Board makes its determination, each enlisted member the Commandant considers for involuntary retirement shall be—

[(1) notified by certified mail of the reasons the member is being considered for involuntary retirement;

[(2) allowed sixty days from the date counsel is provided under paragraph (3) to submit any matters in rebuttal;

[(3) provided counsel, certified under section 827(b) of title 10, to help prepare the rebuttal submitted under paragraph (2); and

[(4) allowed full access to and be furnished with copies of records relevant to the consideration for involuntary retirement prior to submission of the rebuttal submitted under paragraph (2).

[(g) If the Commandant approves the Board's recommendation, the enlisted member shall be notified of the Commandant's decision and shall be retired from the service within ninety days of the notification.

[(h) An enlisted member, who has completed twenty years of service and who the Commandant has involuntarily retired under this section, shall receive retired pay.]

[(i) An enlisted member voluntarily or involuntarily retired after twenty years of service who was cited for extraordinary heroism in the line of duty shall be entitled to an increase in retired pay. The retired pay shall be increased by 10 percent of—

(1) the active-duty pay and permanent additions thereto of the grade or rating with which retired when the member's retired pay is computed under section 423(a) of this title; or

(2) the member's retired pay base under section 1407 of title 10, when a member's retired pay is computed under section 423(b) of this title.

[(j) When the Secretary orders a reduction in force, enlisted personnel may be involuntarily separated from the service without the Board's action.]

§ 421a. Involuntary recall to active duty

The Commandant may recall a retired member of the Coast Guard who is subject to section 802 of title 10 and order that member to active duty, without the member's consent, for the purpose of any of the following:

(1) *A preliminary hearing under section 832 of title 10.*

(2) *Trial by court-martial under chapter 47 of title 10.*

(3) *Nonjudicial punishment under section 815 of title 10.*

§ 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.

§ 429. Multirater assessment of certain personnel

(a) MULTIRATER ASSESSMENT OF CERTAIN PERSONNEL.—

(1) IN GENERAL.—Commencing not later than one year after the date of the enactment of the Coast Guard Authorization Act of 2015, the Commandant of the Coast Guard shall develop and implement a plan to conduct every two years a multirater assessment for each of the following:

(A) Each flag officer of the Coast Guard.

(B) Each member of the Senior Executive Staff of the Coast Guard.

(C) Each officer of the Coast Guard nominated for promotion to the grade of captain.

(2) POST-ASSESSMENT ELEMENTS.—Following an assessment of an individual pursuant to paragraph (1), the individual shall be provided appropriate post-assessment counseling and leadership coaching.

(b) REPORT ON LEADERSHIP DEVELOPMENT.—Not later than 180 days after the date of the enactment of the Coast Guard Authorization Act of 2015, the Commandant 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 feasibility of including a multirater assessment as part of the personnel development programs of the Coast Guard. The report shall include the following:

(1) An assessment of the feasibility of—

(A) all officers (other than officers covered by subsection (a)) completing a multirater assessment;

(B) all members (other than officers covered by subsection (a)) in command positions completing a multirater assessment;

(C) all enlisted members in a supervisory position completing a multirater assessment; and

(D) members completing periodic multirater assessments.

(2) Such recommendations as the Commandant considers appropriate for the implementation or expansion of a multirater assessment in the personnel development programs of the Coast Guard.

(3) An overview of each of the current leadership development courses of the Coast Guard, an assessment of the feasibility of the expansion of any such course, and a description of the resources, if any, required to expand such courses.

(4) An assessment on the state of leadership training in the Coast Guard, and recommendations on the implementation of a policy to combat toxic leadership including—

(A) a description of methods that will be used by the Coast Guard to identify, monitor, and counsel individuals who may be identified as toxic leaders;

(B) the implementation of toxic leadership recognition training (in self and others);

(C) the establishment of procedures for the administrative separation of toxic leaders; and

(D) a description of the resources needed to implement this section.

(c) *MULTIRATER ASSESSMENT DEFINED.*—In this section, the term “multirater assessment” means a review that seeks opinion from members senior to the reviewee and the peers and subordinates of the reviewee.

§430. Investigations of Flag Officers and Senior Executive Service

An investigation into an allegation of misconduct by a senior official shall be conducted in a manner consistent with the policies of the Department of Defense for such an investigation. The Inspector General of the Department of Homeland Security shall consult with the Inspector General of the Department of Defense any time a report of an allegation of misconduct is made against a senior official.

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

§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.*

§519. Annual audit of pay and allowances of members undergoing permanent change of station

The Commandant shall conduct each calendar year an audit of member pay and allowances for the members who transferred to new units during such calendar year. The audit for a calendar year shall be completed by the end of the calendar year.

CHAPTER 15. ACQUISITIONS

SUBCHAPTER I. GENERAL PROVISIONS

§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 there-

after, 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

§ 573. Preliminary development and demonstration

* * * * *

(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 or *Polar Icebreaker*, 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.

(B) [Repealed]

(4) OTHER VESSELS.—The Commandant shall cause the design and construction of each National Security Cutter or *Polar*

Ice Breaker, 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.

SUBCHAPTER III. DEFINITIONS

§ 581. Definitions

* * * * *

(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.

* * * * *

CHAPTER 17. ADMINISTRATION

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

* * * * *

(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.

(d) [Repealed]

§ 641. Disposal of certain material

* * * * *

(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 bal-

ance 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.

CHAPTER 19. ENVIRONMENTAL COMPLIANCE AND RESTORATION PROGRAM

§ 691. Environmental Compliance and Restoration Program

* * * * *

(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.

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PART II. COAST GUARD RESERVE AND AUXILIARY

CHAPTER 21. COAST GUARD RESERVE

SUBCHAPTER B. COMMISSIONED OFFICERS

§ 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 (a)and] *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.

CHAPTER 23. COAST GUARD AUXILIARY

§ 821. Administration of the Coast Guard 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]** 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.

* * * * *

§ 823a. Members of the Auxiliary; status

* * * * *

(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]** 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.

* * * * *

PART III—COAST GUARD AUTHORIZATIONS AND REPORTS TO
CONGRESS

CHAPTER 27—AUTHORIZATIONS

§ [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 mainte-

nance, 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—REPORTS

§ [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;
 - (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; 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) QUARTERLY REPORTS ON RISKS OF PROGRAMS.—

(1) IN GENERAL.—Not later than 15 days after the end of each fiscal year quarter, the Commandant shall submit to the committees of Congress specified in subsection (a) a report setting forth a current assessment of the risks associated with all current major acquisition programs.

(2) ELEMENTS.—Each report under this subsection shall set forth, for each current major acquisition program, the following:

(A) The top five current risks to such program.

(B) Any failure of such program to demonstrate a key performance parameter or threshold during operational test and evaluation conducted during the fiscal year quarter preceding such report.

(C) Whether there has been any decision during such fiscal year quarter to order full rate production before all key performance parameters or thresholds are met.

(D) Whether there has been any breach of major acquisition program cost (as defined by the Major Systems Acquisition Manual) during such fiscal year quarter.

(E) Whether there has been any breach of major acquisition program schedule (as so defined) during such fiscal year quarter.

[(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.

TITLE 46. SHIPPING

SUBTITLE I. GENERAL

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

§ 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~~1.~~; 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.

§ 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

PART A. GENERAL PROVISIONS

CHAPTER 21. GENERAL

§ 2114. Protection of seamen against discrimination

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

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

(A) the seaman in good faith has reported or is about to report to the Coast Guard, another appropriate Federal department or agency, the vessel owner, the vessel operator, or the seaman’s employer that the seaman believes that a violation of a maritime safety or maritime environmental protection law or regulation prescribed under that law or regulation has occurred;

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

(C) the seaman testified in a proceeding brought to enforce a maritime safety law or regulation prescribed under that law;

(D) the seaman notified, or attempted to notify, the vessel owner or the Secretary of a work-related personal injury or work-related illness of a seaman;

(E) the seaman cooperated with a safety investigation by the Secretary or the National Transportation Safety Board;

(F) the seaman furnished information to the Secretary, the National Transportation Safety Board, or any other public official as to the facts relating to any marine casualty resulting in injury or death to an individual or damage to property occurring in connection with vessel transportation; or

(G) the seaman accurately reported hours of duty under this part.

(2) The circumstances causing a seaman's apprehension of serious injury under paragraph (1)(B) must be of such a nature that a reasonable person, under similar circumstances, would conclude that there is a real danger of an injury or serious impairment of health resulting from the performance of duties as ordered by the seaman's employer.

(3) To qualify for protection against the seaman's employer under paragraph (1)(B), the employee must have sought from the employer, and been unable to obtain, correction of the unsafe condition.

(b) A seaman alleging discharge or discrimination in violation of subsection (a) of this section, or another person at the seaman's request, may file a complaint with respect to such allegation in the same manner as a complaint may be filed under subsection (b) of section 31105 of title 49. Such complaint shall be subject to the procedures, requirements, and rights described in that section, including with respect to the right to file an objection, the right of a person to file for a petition for review under subsection (c) of that section, and the requirement to bring a civil action under subsection (d) of that section.

§ 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 REGULATION OF VESSELS

CHAPTER 37. CARRIAGE OF LIQUID BULK DANGEROUS CARGOES

§ 3702. Application

(a) Subject to subsections (b)-(e) of this section, this chapter applies to a tank vessel.

(b) This chapter does not apply to a documented vessel that would be subject to this chapter only because of the transfer of fuel

from the fuel supply tanks of the vessel to offshore drilling or production facilities in the oil industry if the vessel is—

- (1) not a tanker; and
- (2) in the service of oil exploitation.
- (3) [Redesignated]

[(c) This chapter does not apply to a fishing or fish tender vessel of not more than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title when engaged only in the fishing industry.]

(c)(1) Except as provided in paragraph (2), this chapter does not apply to a fishing or fish tender vessel of not more than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title when engaged only in the fishing industry.

(2) A vessel described in paragraph (1) is subject to regulation by the Secretary under this chapter if the vessel is carrying flammable or combustible liquid cargoes in bulk.

(d) This chapter does not apply to a fish processing vessel of not more than 5,000 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title. However, the vessel is subject to regulation by the Secretary when carrying flammable or combustible liquid cargo in bulk.

(e) This chapter does not apply to a foreign vessel on innocent passage on the navigable waters of the United States.

(f) This chapter does not apply to an oil spill response vessel if—

- (1) the vessel is used only in response-related activities; or
- (2) the vessel is—

(A) not more than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title;

(B) designated in its certificate of inspection as an oil spill response vessel; and

(C) engaged in response-related activities.

§ 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 Pollu-

tion 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.

CHAPTER 43. RECREATIONAL VESSELS

§ 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).¹*

CHAPTER 45. UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

§ 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

¹Subsection (e) of section 4302 of title 46, United States Code, shall only apply with respect to recreational vessels and associated equipment constructed or manufactured, respectively, on or after June 1, 2015.

(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)(1) 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.

(2) *This section does not apply to a fishing or fish tender vessel to which section 4502(b) of this title applies, if—*

(A) *the vessel is at least 50 feet overall in length, and not more than 190 feet overall in length;*

(B) *the vessel is built after January 1, 2016;*

(C) *the vessel is designed by a registered professional engineer, and the design incorporates standards equivalent to those prescribed by a classification society designated under section 3316 of this title or another qualified organization approved by the Secretary;*

(D) *construction of such vessel is overseen and certified as being in accordance with its design by a marine surveyor of an organization accepted by the Secretary; and*

(E) *the vessel—*

(i) *completes a stability test performed by a qualified individual;*

(ii) *has written stability and loading instructions from a qualified individual that are provided to the owner or operator; and*

(iii) *has an assigned loading mark.*

(3) *The person who owns a vessel meeting the requirements of paragraph (2) shall—*

(A) *not modify or substantially change such vessel unless such modification or change is reviewed and approved by a registered professional engineer prior to beginning any modification or change;*

(B) *complete a condition survey at least biennially to the satisfaction of a marine surveyor of an organization accepted by the Secretary;*

(C) *complete an out-of-water survey at least once every five years to the satisfaction of a certified marine surveyor of an organization accepted by the Secretary;*

(D) *update the requirements specified in paragraph (2)(E) once every five years or at the time of a modification or substantial change to such vessel; and*

(E) *for the life of the vessel, maintain records to demonstrate compliance with this subsection, and make such records readily available for inspection by an official authorized to enforce this chapter.*

(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.

(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.

§ 4506. Exemptions

[(a)] The Secretary may exempt a vessel from any part of this chapter if, under regulations prescribed by the Secretary (including regulations on special operating conditions), the Secretary finds that—

(1) good cause exists for granting an exemption; and

(2) the safety of the vessel and those on board will not be adversely affected.

PART E. MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS

CHAPTER 71. LICENSES AND CERTIFICATES OF REGISTRY

§ 7116. Examinations for merchant seaman licenses, certificates, and documents

(a) *REQUIREMENT FOR SAMPLE EXAMS.*—The Secretary shall develop a sample merchant mariner exam and outline of merchant mariner exam topics on an annual basis.

(b) *PUBLIC AVAILABILITY.*—Each sample exam and outline of topics developed under subsection (a) shall be readily available to the public.

PART F. MANNING OF VESSELS

CHAPTER 81. GENERAL

§ 8103. Citizenship and navy reserve requirements

(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-Stevens 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.

* * * * *

PART I. STATE BOATING SAFETY PROGRAMS

CHAPTER 131. RECREATIONAL BOATING SAFETY

§ 13104. Allocations

(a) The Secretary shall allocate amounts available for allocation and distribution under this chapter for State recreational boating safety programs as follows:

(1) One-third shall be allocated equally each fiscal year among eligible States.

(2) One-third shall be allocated among eligible States that maintain a State vessel numbering system approved under

chapter 123 of this title and a marine casualty reporting system approved under this chapter so that the amount allocated each fiscal year to each eligible State will be in the same ratio as the number of vessels numbered in that State bears to the number of vessels numbered in all eligible States.

(3) One-third shall be allocated so that the amount allocated each fiscal year to each eligible State will be in the same ratio as the amount of State amounts expended by the State for the State recreational boating safety program during the prior fiscal year bears to the total State amounts expended during that fiscal year by all eligible States for State recreational boating safety programs.

(b) The amount received by a State under this section in a fiscal year may be not more than one-half of the total cost incurred by that State in developing, carrying out, and financing that State's recreational boating safety program in that fiscal year.

[(c) The Secretary may allocate not more than 5 percent of the amounts available for allocation and distribution in a fiscal year for national boating safety activities of national nonprofit public service organizations.]

§ 13107. Authorization of appropriations

(a)[(1) Subject to paragraph (2) and subsection (c),] *Subject to subsection (c)*, the Secretary shall expend in each fiscal year for State recreational boating safety programs, under contracts with States under this chapter, an amount equal to the sum of (A) the amount made available from the Boat Safety Account for that fiscal year under section 15 of the Dingell-Johnson Sport Fish Restoration Act and (B) the amount transferred to the Secretary under subsections (a)(2) and (f) of section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2) and (f)). The amount shall be allocated as provided under section 13104 of this title and shall be available for State recreational boating safety programs as provided under the guidelines established under subsection (b) of this section. Amounts authorized to be expended for State recreational boating safety programs shall remain available until expended and are deemed to have been expended only if an amount equal to the total amounts authorized to be expended under this section for the fiscal year in question and all prior fiscal years have been obligated. Amounts previously obligated but released by payment of a final voucher or modification of a program acceptance shall be credited to the balance of unobligated amounts and are immediately available for expenditure.

[(2) The Secretary shall use not more than two percent of the amount available each fiscal year for State recreational boating safety programs under this chapter to pay the costs of investigations, personnel, and activities related to administering those programs.]

(b) The Secretary shall establish guidelines prescribing the purposes for which amounts available under this chapter for State recreational boating safety programs may be used. Those purposes shall include—

(1) providing facilities, equipment, and supplies for boating safety education and law enforcement, including purchase, operation, maintenance, and repair;

(2) training personnel in skills related to boating safety and to the enforcement of boating safety laws and regulations;

(3) providing public boating safety education, including educational programs and lectures, to the boating community and the public school system;

(4) acquiring, constructing, or repairing public access sites used primarily by recreational boaters;

(5) conducting boating safety inspections and marine casualty investigations;

(6) establishing and maintaining emergency or search and rescue facilities, and providing emergency or search and rescue assistance;

(7) establishing and maintaining waterway markers and other appropriate aids to navigation; and

(8) providing State recreational vessel numbering and titling programs.

(c)(1) Of the amount transferred to the Secretary under subsection (a)(2) of section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)(2)), \$5,500,000 is available to the Secretary for payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title, of which not less than \$2,000,000 shall be available to the Secretary only to ensure compliance with chapter 43 of this title. *title—*

(A) including the funding of the National Boating Safety Advisory Council established under section 13110 of this title and the authorized activities of the Council, including travel for the council; and

(B) of the funds referred to in paragraph (1), not less than \$2,500,000 shall be available to the Secretary only to ensure compliance with chapter 43 of this title.

(2) No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this section.

(3) Amounts made available by this subsection shall remain available during the 2 succeeding fiscal years. Any amount that is unexpended or unobligated at the end of the 3-year period during which it is available shall be withdrawn by the Secretary and allocated to the States in addition to any other amounts available for allocation in the fiscal year in which they are withdrawn or the following fiscal year.

(4) The Secretary shall publish annually in the Federal Register a detailed accounting of the projects, programs, and activities funded under this subsection.

§ 13110. National Boating Safety Advisory Council

* * * * *

(e) The Council shall terminate on September 30, [2020] 2023.

§ 13111. Recreational vessel operator education

(a) AUTHORITY TO DEVELOP MODEL CURRICULUM.—The Secretary may develop and propose a model for a national recreational vessel training curriculum and education standards for operators of recreational vessels equipped with propulsion machinery of any kind.

(b) *PURPOSE.*—The purpose of the model curriculum developed under subsection (a) is to promote uniformity of boating safety awareness and education and improve reciprocity of recreational vessel operator certificates and licenses among the States.

SUBTITLE V. MERCHANT MARINE

PART C. FINANCIAL ASSISTANCE PROGRAMS

CHAPTER 537. LOANS AND GUARANTEES

SUBCHAPTER I. GENERAL

§ 53701. Definitions

In this chapter:

- * * * * *
- (8) *HISTORICAL USES.*—The term “historical uses” includes—
- (A) refurbishing, repairing, rebuilding, or replacing equipment on a fishing vessel, without materially increasing harvesting capacity;
 - (B) purchasing a used fishing vessel;
 - (C) purchasing, constructing, expanding, or reconditioning a fishery facility;
 - (D) refinancing existing debt;
 - (E) reducing fishing capacity; and
 - (F) making upgrades to a fishing vessel, including upgrades in technology, gear, or equipment, that improve—
 - (i) collection and reporting of fishery-dependent data;
 - (ii) bycatch reduction or avoidance;
 - (iii) gear selectivity;
 - (iv) adverse impacts caused by fishing gear; or
 - (v) safety.
- [(8)](9) *MORTGAGE.*—The term “mortgage” includes—
- (A) a preferred mortgage as defined in section 31301 of this title; and
 - (B) a mortgage on a vessel that will become a preferred mortgage when filed or recorded under chapter 313 of this title.
- [(9)](10) *OBLIGATION.*—The term “obligation” means an instrument of indebtedness issued for a purpose described in section 53706 of this title, except—
- (A) an obligation issued by the Secretary or Administrator under section 53723 of this title; and
 - (B) an obligation eligible for investment of funds under section 53715(f) or 53717 of this title.
- [(10)](11) *OBLIGEE.*—The term “obligee” means the holder of an obligation.
- [(11)](12) *OBLIGOR.*—The term “obligor” means a party primarily liable for payment of the principal of or interest on an obligation.
- [(12)](13) *OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.*—The term “ocean thermal energy conversion facility or plantship” means an at-sea facility or vessel, whether mobile, floating unmoored, moored, or standing on the seabed, that uses temperature differences in ocean water to produce

electricity or another form of energy capable of being used directly to perform work, and includes—

(A) equipment installed on the facility or vessel to use the electricity or other form of energy to produce, process, refine, or manufacture a product;

(B) a cable or pipeline used to deliver the electricity, freshwater, or product to shore; and

(C) other associated equipment and appurtenances of the facility or vessel to the extent they are located seaward of the high water mark.

[(13)](14) SECRETARY.—The term “Secretary” means the Secretary of Commerce with respect to fishing vessels and fishery facilities.

[(14)](15) VESSEL.—The term “vessel” means any type of vessel, whether in existence or under construction, including—

(A) a cargo vessel;

(B) a passenger vessel;

(C) a combination cargo and passenger vessel;

(D) a tanker;

(E) a tug or towboat;

(F) a barge;

(G) a dredge;

(H) a floating drydock with a capacity of at least 35,000 lifting tons and a beam of at least 125 feet between the wing walls;

(I) an oceanographic research vessel;

(J) an instruction vessel;

(K) a pollution treatment, abatement, or control vessel;

(L) a fishing vessel whose ownership meets the citizenship requirements under section 50501 of this title for documenting vessels to operate in the coastwise trade; and

(M) an ocean thermal energy conversion facility or plantship that is or will be documented under the laws of the United States.

§ 53702. General authority

(a) IN GENERAL.—The Secretary or Administrator, on terms the Secretary or Administrator may prescribe, may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation eligible to be guaranteed under this chapter. A guarantee or commitment to guarantee shall cover 100 percent of the principal and interest.

(b) DIRECT LOANS FOR FISHERIES.—

(1) IN GENERAL.—Notwithstanding any other provision of this chapter, any obligation involving a fishing vessel, fishery facility, aquaculture facility, individual fishing quota, or fishing capacity reduction program issued under this chapter after October 11, 1996, shall be a direct loan obligation for which the Secretary shall be the obligee, rather than an obligation issued to an obligee other than the Secretary and guaranteed by the Secretary. A direct loan obligation under this subsection shall be treated in the same manner and to the same extent as an obligation guaranteed under this chapter except with respect to provisions of this chapter that by their nature can only be applied to obligations guaranteed under this chapter.

(2) INTEREST RATE.—Notwithstanding any other provision of this chapter, the annual rate of interest an obligor shall pay on a direct loan obligation under this subsection is 2 percent plus the additional percent the Secretary must pay as interest to borrow from the Treasury the funds to make the loan.

(3) *MINIMUM OBLIGATIONS AVAILABLE FOR HISTORICAL USES.*—*Of the direct loan obligations issued by the Secretary under this chapter, the Secretary shall make a minimum of \$59,000,000 available each fiscal year for historical uses.*

(4) *USE OF OBLIGATIONS IN LIMITED ACCESS FISHERIES.*—*In addition to the other eligible purposes and uses of direct loan obligations provided for in this chapter, the Secretary is authorized to issue direct loan obligations for the purpose of—*

(A) financing the construction or reconstruction of a fishing vessel in a fishery managed under a limited access system; or

(B) financing the purchase of harvesting rights in a fishery that is federally managed under a limited access system.

SUBTITLE VII. SECURITY AND DRUG ENFORCEMENT

CHAPTER 701. PORT SECURITY

SUBCHAPTER I. GENERAL

§ 70105. Transportation security cards

* * * * *

(c) DETERMINATION OF TERRORISM SECURITY RISK.—

(1) DISQUALIFICATIONS.—

(A) PERMANENT DISQUALIFYING CRIMINAL OFFENSES.—Except as provided under paragraph (2), an individual is permanently disqualified from being issued a biometric transportation security card under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction of any of the following felonies:

- (i) Espionage or conspiracy to commit espionage.
- (ii) Sedition or conspiracy to commit sedition.
- (iii) Treason or conspiracy to commit treason.
- (iv) A Federal crime of terrorism (as defined in section 2332b(g) of title 18), a crime under a comparable State law, or conspiracy to commit such crime.
- (v) A crime involving a transportation security incident.
- (vi) Improper transportation of a hazardous material in violation of section 5104(b) of title 49, or a comparable State law.

(vii) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipment, transportation, delivery, import, export, or storage of, or dealing in, an explosive or explosive device. In this clause, an explosive or explosive device includes—

- (I) an explosive (as defined in sections 232(5) and 844(j) of title 18);

(II) explosive materials (as defined in subsections (c) through (f) of section 841 of title 18); and

(III) a destructive device (as defined in 921(a)(4) of title 18 or section 5845(f) of the Internal Revenue Code of 1986).

(viii) Murder.

(ix) Making any threat, or maliciously conveying false information knowing the same to be false, concerning the deliverance, placement, or detonation of an explosive or other lethal device in or against a place of public use, a State or other government facility, a public transportation system, or an infrastructure facility.

(x) A violation of chapter 96 of title 18, popularly known as the Racketeer Influenced and Corrupt Organizations Act, or a comparable State law, if one of the predicate acts found by a jury or admitted by the defendant consists of one of the crimes listed in this subparagraph.

(xi) Attempt to commit any of the crimes listed in clauses (i) through (iv).

(xii) Conspiracy or attempt to commit any of the crimes described in clauses (v) through (x).

(B) INTERIM DISQUALIFYING CRIMINAL OFFENSES.—Except as provided under paragraph (2), an individual is disqualified from being issued a biometric transportation security card under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, during the 7-year period ending on the date on which the individual applies for such card, or was released from incarceration during the 5-year period ending on the date on which the individual applies for such card, of any of the following felonies:

(i) Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipment, transportation, delivery, import, export, or storage of, or dealing in, a firearm or other weapon. In this clause, a firearm or other weapon includes—

(I) firearms (as defined in section 921(a)(3) of title 18 or section 5845(a) of the Internal Revenue Code of 1986); and

(II) items contained on the U.S. Munitions Import List under section 447.21 of title 27, Code of Federal Regulations.

(ii) Extortion.

(iii) Dishonesty, fraud, or misrepresentation, including identity fraud and money laundering if the money laundering is related to a crime described in this subparagraph or subparagraph (A). In this clause, welfare fraud and passing bad checks do not constitute dishonesty, fraud, or misrepresentation.

(iv) Bribery.

(v) Smuggling.

(vi) Immigration violations.

(vii) Distribution of, possession with intent to distribute, or importation of a controlled substance.

(viii) Arson.

(ix) Kidnaping or hostage taking.

(x) Rape or aggravated sexual abuse.

(xi) Assault with intent to kill.

(xii) Robbery.

(xiii) Conspiracy or attempt to commit any of the crimes listed in this subparagraph.

(xiv) Fraudulent entry into a seaport in violation of section 1036 of title 18, or a comparable State law.

(xv) A violation of the chapter 96 of title [18, popularly] 18 (*popularly* known as the Racketeer Influenced and Corrupt Organizations [Act] Act) or a comparable State law, other than any of the violations listed in subparagraph (A)(x).

(C) UNDER WANT, WARRANT, OR INDICTMENT.—An applicant who is wanted, or under indictment, in any civilian or military jurisdiction for a felony listed in paragraph (1)(A), is disqualified from being issued a biometric transportation security card under subsection (b) until the want or warrant is released or the indictment is dismissed.

(D) OTHER POTENTIAL DISQUALIFICATIONS.—Except as provided under subparagraphs (A) through (C), an individual may not be denied a transportation security card under subsection (b) unless the Secretary determines that individual—

(i) has been convicted within the preceding 7-year period of a felony or found not guilty by reason of insanity of a felony—

(I) that the Secretary believes could cause the individual to be a terrorism security risk to the United States; or

(II) for causing a severe transportation security incident;

(ii) has been released from incarceration within the preceding 5-year period for committing a felony described in clause (i);

(iii) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

(iv) otherwise poses a terrorism security risk to the United States.

(E) MODIFICATION OF LISTED OFFENSES.—The Secretary may, by rulemaking, add to or modify the list of disqualifying crimes described in paragraph (1)(B).

(2) The Secretary shall prescribe regulations that establish a waiver process for issuing a transportation security card to an individual found to be otherwise ineligible for such a card under subparagraph (A), (B), or [(D) paragraph] (D) of paragraph (1). In deciding to issue a card to such an individual, the Secretary shall—

(A) give consideration to the circumstances of any disqualifying act or offense, restitution made by the individual, Federal and State mitigation remedies, and other

factors from which it may be concluded that the individual does not pose a terrorism risk warranting denial of the card; and

(B) issue a waiver to an individual without regard to whether that individual would otherwise be disqualified if the individual's employer establishes alternate security arrangements acceptable to the Secretary.

(3) Denial of waiver review.

(A) IN GENERAL.—The Secretary shall establish a review process before an administrative law judge for individuals denied a waiver under paragraph (2).

(B) SCOPE OF REVIEW.—In conducting a review under the process established pursuant to subparagraph (A), the administrative law judge shall be governed by the standards of section 706 of title 5. The substantial evidence standard in section 706(2)(E) of title 5 shall apply whether or not there has been an agency hearing. The judge shall review all facts on the record of the agency.

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

(D) REVIEW OF CLASSIFIED EVIDENCE BY ADMINISTRATIVE LAW JUDGE.—

(i) REVIEW.—As part of a review conducted under this section, if the decision of the Secretary was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.)), such information may be submitted by the Secretary to the reviewing administrative law judge, pursuant to appropriate security procedures, and shall be reviewed by the administrative law judge *ex parte* and *in camera*.

(ii) SECURITY CLEARANCES.—Pursuant to existing procedures and requirements, the Secretary, in coordination (as necessary) with the heads of other affected departments or agencies, shall ensure that administrative law judges reviewing negative waiver decisions of the Secretary under this paragraph possess security clearances appropriate for such review.

(iii) UNCLASSIFIED SUMMARIES OF CLASSIFIED EVIDENCE.—As part of a review conducted under this paragraph and upon the request of the individual adversely affected by the decision of the Secretary not to grant a waiver, the Secretary shall provide to the individual and reviewing administrative law judge, consistent with the procedures established under clause (i), an unclassified summary of any classified information upon which the decision of the Secretary was based.

(E) NEW EVIDENCE.—The Secretary shall establish a process under which an individual may submit a new request for a waiver, notwithstanding confirmation by the administrative law judge of the Secretary's initial denial of the waiver, if the request is supported by substantial evidence that was not available to the Secretary at the time the initial waiver request was denied.

(4) The Secretary shall establish an appeals process under this section for individuals found to be ineligible for a transportation security card that includes notice and an opportunity for a hearing.

(5) Upon application, the Secretary may issue a transportation security card to an individual if the Secretary has previously determined, under section 5103a of title 49, that the individual does not pose a security risk.

§ 70107. Grants

(a) IN GENERAL.—The Secretary shall establish a grant program for the allocation of funds based on risk to implement Area Maritime Transportation Security Plans and facility security plans among port authorities, facility operators, and State and local government agencies required to provide port security services and to train law enforcement personnel under section 70132 of this title. Before awarding a grant under the program, the Secretary shall provide for review and comment by the appropriate Federal Maritime Security Coordinators and the Maritime Administrator. In administering the grant program, the Secretary shall take into account national economic, energy, and strategic defense concerns based upon the most current risk assessments available.

(b) ELIGIBLE COSTS.—The following costs of funding the correction of Coast Guard identified vulnerabilities in port security and ensuring compliance with Area Maritime Transportation Security Plans and facility security plans are eligible to be funded:

(1) Salary, benefits, overtime compensation, retirement contributions, and other costs of additional Coast Guard mandated security personnel.

(2) The cost of acquisition, operation, and maintenance of security equipment or facilities to be used for security monitoring and recording, security gates and fencing, marine barriers for designated security zones, security-related lighting systems, remote surveillance, concealed video systems, security vessels, and other security-related infrastructure or equipment that contributes to the overall security of passengers, cargo, or crewmembers. Grants awarded under this section may not be used to construct buildings or other physical facilities, except those which are constructed under terms and conditions consistent with the requirements under section 611(j)(8) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. [5121(j)(8)],] 5196(j)(8)), including those facilities in support of this paragraph, and specifically approved by the Secretary. Costs eligible for funding under this paragraph may not exceed the greater of—

(A) \$1,000,000 per project; or

- (B) such greater amount as may be approved by the Secretary, which may not exceed 10 percent of the total amount of the grant.
- (3) The cost of screening equipment, including equipment that detects weapons of mass destruction and conventional explosives, and of testing and evaluating such equipment, to certify secure systems of transportation.
- (4) The cost of conducting vulnerability assessments to evaluate and make recommendations with respect to security.
- (5) The cost of conducting exercises or training for prevention and detection of, preparedness for, response to, or recovery from terrorist attacks.
- (6) The cost of establishing or enhancing mechanisms for sharing terrorism threat information and ensuring that the mechanisms are interoperable with Federal, State, and local agencies.
- (7) The cost of equipment (including software) required to receive, transmit, handle, and store classified information.
- (8) The cost of training law enforcement personnel—
- (A) to enforce a security zone under section 70132 of this title; or
- (B) assist in the enforcement of a security zone.

* * * * *

(m) INVESTIGATIONS.—

- (1) IN GENERAL.—The Secretary shall conduct investigations, fund pilot programs, and award grants, to examine or develop—
- (A) methods or programs to increase the ability to target for inspection vessels, cargo, crewmembers, or passengers that will arrive or have arrived at any port or place in the United States;
- (B) equipment to detect accurately explosives, chemical, or biological agents that could be used in a transportation security incident against the United States;
- (C) equipment to detect accurately nuclear or radiological materials, including scintillation-based detection equipment capable of signalling the presence of nuclear or radiological materials;
- (D) improved tags and seals designed for use on shipping containers to track the transportation of the merchandise in such containers, including sensors that are able to track a container throughout its entire supply chain, detect hazardous and radioactive materials within that container, and transmit that information to the appropriate law enforcement authorities;
- (E) tools, including the use of satellite tracking systems, to increase the awareness of maritime areas and to identify potential transportation security incidents that could have an impact on facilities, vessels, and infrastructure on or adjacent to navigable waterways, including underwater access;
- (F) tools to mitigate the consequences of a transportation security incident on, adjacent to, or under navigable waters of the United States, including sensor equipment,

and other tools to help coordinate effective response to a transportation security incident;

(G) applications to apply existing technologies from other areas or industries to increase overall port security;

(H) improved container design, including blast-resistant containers; and

(I) methods to improve security and sustainability of port facilities in the event of a maritime transportation security incident, including specialized inspection facilities.

(2) IMPLEMENTATION OF TECHNOLOGY.—

(A) IN GENERAL.—In conjunction with ongoing efforts to improve security at United States ports, the Secretary may conduct pilot projects at United States ports to test the effectiveness and applicability of new port security projects, including—

(i) testing of new detection and screening technologies;

(ii) projects to protect United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access; and

(iii) tools for responding to a transportation security incident at United States ports and infrastructure on or adjacent to the navigable waters of the United States, including underwater access.

(B) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$35,000,000 for each of fiscal years 2005 through 2009 to carry out this subsection.

(3) NATIONAL PORT SECURITY CENTERS.—

(A) IN GENERAL.—The Secretary may make grants or enter into cooperative agreements with eligible nonprofit institutions of higher learning to conduct investigations in collaboration with ports and the maritime transportation industry focused on enhancing security of the Nation's ports in accordance with this subsection through National Port Security Centers.

(B) APPLICATIONS.—To be eligible to receive a grant under this paragraph, a nonprofit institution of higher learning, or a consortium of such institutions, shall submit an application to the Secretary in such form and containing such information as the Secretary may require.

(C) COMPETITIVE SELECTION PROCESS.—The Secretary shall select grant recipients under this paragraph through a competitive process on the basis of the following criteria:

(i) Whether the applicant can demonstrate that personnel, laboratory, and organizational resources will be available to the applicant to carry out the investigations authorized in this paragraph.

(ii) The applicant's capability to provide leadership in making national and regional contributions to the solution of immediate and long-range port and maritime transportation security and risk mitigation problems.

(iii) Whether the applicant can demonstrate [that is] *that the applicant* has an established, nationally

recognized program in disciplines that contribute directly to maritime transportation safety and education.

(iv) Whether the applicant's investigations will involve major United States ports on the East Coast, the Gulf Coast, and the West Coast, and Federal agencies and other entities with expertise in port and maritime transportation.

(v) Whether the applicant has a strategic plan for carrying out the proposed investigations under the grant.

(4) ADMINISTRATIVE PROVISIONS.—

(A) NO DUPLICATION OF EFFORT.—Before making any grant, the Secretary shall coordinate with other Federal agencies to ensure the grant will not duplicate work already being conducted with Federal funding.

(B) ACCOUNTING.—The Secretary shall by regulation establish accounting, reporting, and review procedures to ensure that funds made available under paragraph (1) are used for the purpose for which they were made available, that all expenditures are properly accounted for, and that amounts not used for such purposes and amounts not expended are recovered.

(C) RECORDKEEPING.—Recipients of grants shall keep all records related to expenditures and obligations of funds provided under paragraph (1) and make them available upon request to the Inspector General of the department in which the Coast Guard is operating and the Secretary for audit and examination.

(5) ANNUAL REVIEW AND REPORT.—The Inspector General of the department in which the Coast Guard is operating shall annually review the programs established under this subsection to ensure that the expenditures and obligations of funds are consistent with the purposes for which they are provided, and report the findings to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

§ 70108. Foreign port assessment

(a) IN GENERAL.—The Secretary shall assess the effectiveness of the antiterrorism measures maintained at—

(1) a foreign port—

(A) served by vessels documented under chapter 121 of this title; or

(B) from which foreign vessels depart on a voyage to the United States; and

(2) any other foreign port the Secretary believes poses a security risk to international maritime commerce.

(b) PROCEDURES.—In conducting an assessment under subsection (a), the Secretary shall assess the effectiveness of—

(1) screening of containerized and other cargo and baggage;

(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

(3) additional security on board vessels;

- (4) licensing or certification of compliance with appropriate security standards;
- (5) the security management program of the foreign port; and
- (6) other appropriate measures to deter terrorism against the United States.

(c) CONSULTATION.—In carrying out this section, the Secretary shall consult with—

(1) the Secretary of Defense and the Secretary of State—

(A) on the terrorist threat that exists in each country involved; and

(B) to identify foreign ports that pose a high risk of introducing terrorism to international maritime commerce;

(2) appropriate authorities of foreign governments; and

(3) operators of vessels.

(4) [Redesignated]

(d) PERIODIC REASSESSMENT.—The Secretary, acting through the Commandant of the Coast Guard, shall reassess the effectiveness of antiterrorism measures maintained at ports as described under subsection (a) and of procedures described in subsection (b) not less than once every 3 years.

(e) LIMITATION ON STATUTORY CONSTRUCTION.—The absence of an inspection of a foreign port shall not bar the Secretary from making a finding that a port in a foreign country does not maintain effective antiterrorism measures.

(f) RECOGNITION OF ASSESSMENT CONDUCTED BY OTHER ENTITIES.—

(1) CERTIFICATION AND TREATMENT OF ASSESSMENTS.—*For the purposes of this section and section 70109, the Secretary may treat an assessment that a foreign government (including, for the purposes of this subsection, an entity of or operating under the auspices of the European Union) or international organization has conducted as an assessment that the Secretary has conducted for the purposes of subsection (a), provided that the Secretary certifies that the foreign government or international organization has—*

(A) conducted the assessment in accordance with subsection (b); and

(B) provided the Secretary with sufficient information pertaining to its assessment (including, but not limited to, information on the outcome of the assessment).

(2) AUTHORIZATION TO ENTER INTO AN AGREEMENT.—*For the purposes of this section and section 70109, the Secretary, in consultation with the Secretary of State, may enter into an agreement with a foreign government (including, for the purposes of this subsection, an entity of or operating under the auspices of the European Union) or international organization, under which parties to the agreement—*

(A) conduct an assessment, required under subsection (a);

(B) share information pertaining to such assessment (including, but not limited to, information on the outcome of the assessment); or

(C) both.

(3) LIMITATIONS.—*Nothing in this subsection shall be construed to—*

(A) require the Secretary to recognize an assessment that a foreign government or an international organization has conducted; or

(B) limit the discretion or ability of the Secretary to conduct an assessment under this section.

§ 70122. Waterway [watch program] Watch Program

(a) PROGRAM ESTABLISHED.—There is hereby established, within the Coast Guard, the America's Waterway Watch Program.

* * * * *

CHAPTER 705. MARITIME DRUG LAW ENFORCEMENT

§ 70509. Destruction of evidence during maritime counter-drug operations

(a) IN GENERAL.—Whoever, while on board a vessel used to commit, or to facilitate the commission of, an offense under section 70503 of this title, knowingly or intentionally destroys (including jettisoning any item or scuttling, burning, or hastily cleaning a vessel), or attempts or conspires to destroy, property that is subject to forfeiture under section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) shall be fined in accordance with section 3571 of title 18, imprisoned not more than 15 years, or both.

(b) PRIMA FACIE EVIDENCE OF VIOLATION.—Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under section 70503 of this title, even in the absence of controlled substances aboard the vessel. The following indicia, among others, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of, such an offense:

(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

(B) the presence of any compartment or equipment that is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;

(C) the presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel's smuggling capability;

(D) the presence of engines that are excessively overpowered in relation to the design and size of the vessel;

(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

(2) *The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.*

(3) *The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.*

(4) *The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.*

(5) *The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.*

(6) *The declaration to government authority of false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by government authority.*

(7) *The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on an individual aboard the vessel, of a quantity or other nature that reasonably indicates manufacturing or distribution activity.*

(8) *The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.*

(9) *The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates that the controlled substance was transported in the subject vessel.*

(c) **EXTENSION BEYOND TERRITORIAL JURISDICTION.**—Subsection (a) applies even though the act is committed outside the territorial jurisdiction of the United States.

§ 70510. Maritime bulk cash smuggling

(a) **CRIMINAL OFFENSE.**—Whoever, while aboard a vessel used to commit, or to facilitate the commission of, an offense under section 70503 of this title, or whoever, while aboard a vessel outfitted for smuggling, knowingly conceals, attempts to conceal, or conspires to conceal more than \$100,000 in currency or other monetary instruments on the person of such individual or in any conveyance, article of luggage, merchandise, or other container, or compartment of or aboard such vessel shall be fined in accordance with section 3571 of title 18, imprisoned not more than 15 years, or both.

(b) **PRIMA FACIE EVIDENCE OF VIOLATION.**—Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under section 70503 of this title or prima facie evidence of a vessel outfitted for smuggling, even in the absence of controlled substances aboard the vessel. The following indicia, among others, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of, such an offense or is outfitted for smuggling:

(1) *The construction or adaptation of the vessel in a manner that facilitates smuggling, including—*

(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

(B) the presence of any compartment or equipment that is built or fitted out for smuggling, not including items such as a safe or lock-box reasonably used for the storage of personal valuables;

(C) the presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel's smuggling capability;

(D) the presence of engines that are excessively overpowered in relation to the design and size of the vessel;

(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.

(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

(6) The declaration to government authority of false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

(c) FORFEITURE.—

(1) CRIMINAL FORFEITURE.—The court in imposing sentence for any violation of subsection (a), or any attempt or conspiracy to commit such violation, shall order the defendant to forfeit all property, real or personal, involved in the offence and any property traceable thereto. Forfeitures under this paragraph shall be governed by the procedures established in section 413 of the Controlled Substances Act (21 U.S.C. 853).

(2) CIVIL FORFEITURE.—Any property, real or personal, involved in a violation of subsection (a), or the attempt or a conspiracy to commit such violation, and any property, real or personal, traceable to such violation or conspiracy, may be seized and forfeited to the United States. Forfeitures under this paragraph shall be governed by the procedures governing civil forfeitures in money laundering cases pursuant to section 981(a)(1)(A) of title 18, United States Code.

(d) *EXTENSION BEYOND TERRITORIAL JURISDICTION.*—Subsection (a) applies even though the act is committed outside the territorial jurisdiction of the United States.

TITLE 49. TRANSPORTATION

SUBTITLE III. GENERAL AND INTERMODAL PROGRAMS

CHAPTER 51. TRANSPORTATION OF HAZARDOUS MATERIAL

§ 5129. Maritime transportation of hazardous material

For the purposes of enforcing this chapter, the Secretary and the Secretary of the department in which the Coast Guard is operating shall establish policies and practices to ensure that the authorities set forth in this chapter are enforced in the same manner and to the same extent, and the civil and criminal penalties are assessed or recommended in the same manner and to the same extent.

ACT OF AUGUST 18, 1894

[28 Stat. 338]

SEC. 5. REGULATIONS FOR DRAWBRIDGES.

[33 U.S.C. 499]

(a) **CRIMINAL PENALTIES FOR VIOLATIONS; ENFORCEMENT; RULES AND REGULATIONS.**—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 \$2,000 nor less than \$1,000, 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: Provided further, That any regulations made in pursuance of this section may be enforced as provided in section 413 of this title, the provisions whereof are made applicable to the said regulations. Any rules and regulations made in pursu-

ance 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) NONSTRUCTURAL VESSEL APPURTENANCE; UNREASONABLE DELAY.—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) CIVIL PENALTIES FOR VIOLATION; NOTICE AND HEARING; ASSESSMENT, COLLECTION, AND REMISSION; CIVIL ACTIONS.—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.

RIVERS AND HARBORS APPROPRIATION ACT OF 1899

[30 Stat. 1121]

SEC. 9. CONSTRUCTION OF BRIDGES, CAUSEWAYS, DAMS, OR DIKES GENERALLY.

[33 U.S.C. 401]

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.

[SEC. 12. PENALTY FOR WRONGFUL CONSTRUCTION OF BRIDGES, PIERS, ETC.; REMOVAL OF STRUCTURES

[Every person and every corporation that shall violate any of the provisions of sections nine, ten, and eleven of this Act, or any rule or regulation made by the Secretary of War in pursuance of the provisions of said section eleven, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding \$2,500 nor less than \$500, or by imprisonment (in the case of a natural person) not exceeding one year, or by both such punishments, in the discretion of the court.**]**

SEC. 12. PENALTY FOR WRONGFUL CONSTRUCTION; REMOVAL OF STRUCTURES.

(a) *PENALTY FOR WRONGFUL CONSTRUCTION.*—*Each individual or entity that violates an applicable provision of section 9, 10, or 11, or any rule or regulation promulgated by the Secretary of the department in which the Coast Guard is operating pursuant to section 9 or the Secretary of the Army pursuant to section 11, shall be—*

(1) *guilty of a misdemeanor; and*

(2) *on conviction, punished by, at the discretion of the applicable court—*

(A) *a fine of not less than \$500 nor more than \$2,500;*

(B) *imprisonment (in the case of an individual) for not more than 1 year; or*

(C) *both the punishments described in subparagraphs (A) and (B).*

[And further, the removal**]**

(b) *REMOVAL OF STRUCTURES.*—*THE REMOVAL* of any structures or parts of structures erected in violation of [the provisions of the said sections may be enforced by the injunction of any circuit court exercising] *a provision described in subsection (a) may be enforced by the injunction of any district court exercising jurisdiction in any district in which such structures may exist, and proper proceedings to this end may be instituted under the direction of the Attorney General of the United States.*

SEC. 18. ALTERATION, REMOVAL, OR REPAIR OF BRIDGE OR ACCESSORY OBSTRUCTIONS TO NAVIGATION.

[33 U.S.C. 502]

(a) **CRIMINAL PENALTIES FOR VIOLATION; ALTERATION OR REMOVAL REQUIREMENTS; NOTICE AND HEARING; SPECIFICATION OF CHANGES; TIME FOR COMPLIANCE; NOTICE TO UNITED STATES ATTORNEY; MISDEMEANOR; FINE; NEW OFFENSES.**—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 \$5,000, 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) **PROPER REPAIR REQUIREMENT.**—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) **CIVIL PENALTIES FOR VIOLATION; SEPARATE OFFENSES; NOTICE AND HEARING; ASSESSMENT, COLLECTION, AND REMISSION; CIVIL ACTIONS.**—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 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.

BRIDGE ACT OF 1906

[33 U.S.C. 491 et seq.]

SEC. 1. APPROVAL OF AND DEVIATION FROM PLANS; EXEMPTIONS.

[33 U.S.C. 491]

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.

SEC. 4. OBSTRUCTION OF NAVIGATION; ALTERATIONS AND REMOVALS; LIGHTS AND SIGNALS; DRAWS.

[33 U.S.C. 494]

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. VIOLATIONS OF ORDERS RESPECTING BRIDGES AND ACCESSORY WORKS.

[33 U.S.C. 495]

(a) CRIMINAL PENALTIES FOR VIOLATION; MISDEMEANOR; FINE; NEW OFFENSES; JURISDICTION; SUITS FOR RECOVERY OF REMOVAL EXPENSES, ENFORCEMENT OF REMOVAL, AND OBSTRUCTION-TO-NAVIGATION CAUSE OR QUESTIONS.—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 \$5,000, 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 district 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) CIVIL PENALTIES FOR VIOLATION; SEPARATE OFFENSES; NOTICE AND HEARING; ASSESSMENT, COLLECTION, AND REMISSION; CIVIL ACTIONS.—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.

TRUMAN-HOBBS ACT

[54 Stat. 497]

SEC. 1. DEFINITIONS.

[33 U.S.C. 511]

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, tenders, 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.

SEC. 3. NOTICE, [HEARINGS] MEETINGS, AND FINDINGS.

[33 U.S.C. 513]

Whenever any bridge shall, in the opinion of the Secretary, at any time unreasonably obstruct such navigation, it shall be the duty of the Secretary, after notice to interested parties, to hold a [hearing] *meeting* at which the bridge owner, those interested in water navigation thereunder or therethrough, those interested in either railroad or highway traffic thereover, and any other party or parties in interest shall have full opportunity to offer [evidence] *supporting data* and be heard as to whether any alteration of such bridge is needed, and if so what alterations are needed, having due regard to the necessity of free and unobstructed water navigation and to the necessities of the rail or highway traffic. If, upon such [hearing] *a meeting*, the Secretary determines that any alterations of such bridge are necessary in order to render navigation through or under it reasonably free, easy, and unobstructed, having due regard also for the necessities of rail or highway traffic thereover he shall so find and shall issue and cause to be served upon interested parties an order requiring such alterations of such bridge as he finds to be reasonably necessary for the purposes of navigation.

SEC. 4. SUBMISSION AND APPROVAL OF GENERAL PLANS AND SPECIFICATIONS.

[33 U.S.C. 514]

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.

SEC. 7. PAYMENT OF SHARE OF THE UNITED STATES.

[33 U.S.C. 517]

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.*

SEC. 13. RELOCATION OF BRIDGES.

[33 U.S.C. 523]

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 OF 1946

[33 U.S.C. 525 et seq.]

SEC. 502. CONSTRUCTION AND OPERATION OF BRIDGES.

[33 U.S.C. 525]

* * * * *

(b) APPROVAL OF PLANS.—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.

* * * * *

SEC. 510. PENALTIES FOR VIOLATIONS.

[33 U.S.C. 533]

(a) **CRIMINAL PENALTIES FOR VIOLATIONS.**—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 subpoena 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) **CIVIL PENALTIES FOR VIOLATIONS; SEPARATE OFFENSES; NOTICE AND HEARING; ASSESSMENT, COLLECTION, AND REMISSION; CIVIL ACTIONS.**—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.

ACT OF JULY 16, 1952

[54 Stat. 497]

SEC. 3. APPLICABILITY OF ADMINISTRATIVE PROCEDURE PROVISIONS.

[33 U.S.C. 524]

In the administration of this Act, [hearings] *meetings* and other procedures shall be exempted from the provisions of the Administrative Procedure Act (60 Stat. 237), except as to the requirements of section 3 thereof.

DINGELL-JOHNSON SPORT FISH RESTORATION ACT

[16 U.S.C. 777 et seq.]

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

[16 U.S.C. 777b]

Restoration and Boating Trust Fund established by section 9504(a) of the Internal Revenue Code of 1954 the amounts paid,

transferred, or otherwise credited to that Trust Fund, except as provided in section 9504(c) of the Internal Revenue Code of 1986. For purposes of the provision of the Act of August 31, 1951, which refers to this section, such amounts shall be treated as the amounts that are equal to the revenues described in this section. The appropriation made under the provisions of this section for each fiscal year shall continue available during succeeding fiscal years. So much of such appropriation apportioned to any State for any fiscal year as remains unexpended at the close thereof is authorized to be made available for expenditure in that State until the close of the succeeding fiscal year. Any amount apportioned to any State under the provisions of this Act which is unexpended or unobligated at the end of the period during which it is available for expenditure on any project is authorized to be made available for expenditure by the Secretary of the Interior to supplement the **[57 percent]** *57.42 percent* of the balance of each annual appropriation to be apportioned among the States, as provided for in section 4(c).

SEC. 4. DIVISION OF ANNUAL APPROPRIATIONS.

[16 U.S.C. 777e]

(a) **IN GENERAL.**—For each fiscal year through **[2014 and for the period beginning on October 1, 2014, and ending on July 31, 2015,]** 2023 the balance of each annual appropriation made in accordance with the provisions of section 3 remaining after the distributions for administrative expenses and other purposes under subsection (b) and for multistate conservation grants under section 14 shall be distributed as follows:

(1) **COASTAL WETLANDS.**—An amount equal to **[18.5 percent]** *18.54 percent* to the Secretary of the Interior for distribution as provided in the Coastal Wetlands Planning, Protection and Restoration Act (16 U.S.C. 3951 et seq.).

(2) **BOATING SAFETY.**—An amount equal to **[18.5 percent]** *18.04 percent* to the Secretary of the department in which the Coast Guard is operating for State recreational boating safety programs under section 13107 of title 46, United States Code.

(3) **CLEAN VESSEL ACT.**—An amount equal to 2.0 percent to the Secretary of the Interior for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note). *Not more than 25 percent of such amount may be used for capital improvement and infrastructure projects to support facilities that meet State requirements for minimizing the introduction of pollutants into the waterways.*

(4) **BOATING INFRASTRUCTURE.**—An amount equal to 2.0 percent to the Secretary of the Interior for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g-1(d)).

(5) **NATIONAL OUTREACH AND COMMUNICATIONS.**—An amount equal to 2.0 percent to the Secretary of the Interior for the National Outreach and Communications Program under section 8(d) of this Act. Such amounts shall remain available for 3 fiscal years, after which any portion thereof that is unobligated by the Secretary for that program may be expended by the Secretary under subsection (c) of this section.

(b) **[SET-ASIDE FOR EXPENSES FOR ADMINISTRATION OF THE DINGELL-JOHNSON SPORT FISH RESTORATION ACT]** *SET-ASIDES.*—

(1) IN GENERAL.—

(A) SET-ASIDE FOR ADMINISTRATION.—From the annual appropriation made in accordance with section 3, for each fiscal year ending before October 1, ~~2014~~, and for the period beginning on October 1, 2014, and ending on July 31, 2015, ~~2023~~, the Secretary of the Interior may use no more than the amount specified in subparagraph (B) for the fiscal year for expenses for administration incurred in the implementation of this Act, in accordance with this section and section 9. The amount specified in subparagraph (B) for a fiscal year may not be included in the amount of the annual appropriation distributed under subsection (a) for the fiscal year.

(B) AVAILABLE AMOUNTS.—The available amount referred to in subparagraph (A) is—

[(i) for each of fiscal years 2001 and 2002, \$9,000,000;

[(ii) for fiscal year 2003, \$8,212,000; and

[(iii) for fiscal year 2004 and each fiscal year thereafter, the sum of—

[(I) the available amount for the preceding fiscal year; and

[(II) the amount determined by multiplying—

[(aa) the available amount for the preceding fiscal year; and

[(bb) the change, relative to the preceding fiscal year, in the Consumer Price Index for All Urban Consumers published by the Department of Labor.]

(i) for each of the fiscal years 2016 through 2023, 1.8468 percent of total annual collections under this Act for such fiscal year; and

(ii) notwithstanding clause (i), an amount that is less than or equal to \$12,299,000.

(C) SET-ASIDE FOR BOATING SAFETY.—

(i) IN GENERAL.—From the annual appropriation made in accordance with section 3, for each fiscal year through 2023, the Secretary shall transfer to the Secretary of the department in which the Coast Guard is operating—

(I)(aa) 0.3435 percent of total annual collections under this Act to pay the costs of investigations, personnel, and activities related to administering those programs under section 4(a)(2) (16 U.S.C. 777c(a)(2)); and

(bb) notwithstanding item (aa), an amount that is less than or equal to \$2,300,000; and

(II) \$1,500,000 shall be made available for the National Recreational Boating Survey, that shall be available until expended and may be awarded as a contract or grant by the Secretary.

(ii) LIMITATION.—The amounts specified in clause (i) for a fiscal year may not be included in the amount of the annual appropriation distributed under subsection (a) of this section for the fiscal year.

(2) PERIOD OF AVAILABILITY; APPORTIONMENT OF UNOBLIGATED AMOUNTS.—

(A) PERIOD OF AVAILABILITY.—For each fiscal year, the available amount [under paragraph (1) shall remain available for obligation for use under that paragraph] *under paragraph (1)(B) shall remain available for obligation for use under paragraph (1)(A)* until the end of the fiscal year.

(B) APPORTIONMENT OF UNOBLIGATED AMOUNTS.—Not later than 60 days after the end of a fiscal year, the Secretary of the Interior shall apportion among the States any of the available amount [under paragraph (1)] *under paragraph (1)(B)* that remains unobligated at the end of the fiscal year, on the same basis and in the same manner as other amounts made available under this Act are apportioned among the States under [subsection (e)] *subsection (c)* for the fiscal year.

(c) APPORTIONMENT AMONG STATES.—The Secretary after the distribution, transfer, use and deduction under subsection (b), and after deducting amounts used for grants under section 14, shall apportion [57 percent] *57.42 percent* of the balance of each such annual appropriation among the several States in the following manner: 40 percent in the ratio which the area of each State including coastal and Great Lakes waters (as determined by the Secretary of the Interior) bears to the total area of all the States, and 60 percent in the ratio which the number of persons holding paid licenses to fish for sport or recreation in the State in the second fiscal year preceding the fiscal year for which such apportionment is made, as certified to said Secretary by the State fish and game departments, bears to the number of such persons in all the States. Such apportionments shall be adjusted equitably so that no State shall receive less than 1 percent nor more than 5 percent of the total amount apportioned. Where the apportionment to any State under this section is less than \$4,500 annually, the Secretary of the Interior may allocate not more than \$4,500 of said appropriation to said State to carry out the purposes of this Act when said State certifies to the Secretary of the Interior that it has set aside not less than \$1,500 from its fish-and-game funds or has made, through its legislature, an appropriation in this amount for said purposes.

(d) UNALLOCATED FUNDS.—[So much of any sum not allocated] *Except as otherwise provided in this section, so much of any sum not allocated* under the provisions of this section for any fiscal year is hereby authorized to be made available for expenditure to carry out the purposes of this Act until the close of the succeeding fiscal year. The term fiscal year as used in this section shall be a period of twelve consecutive months from October 1 through the succeeding September 30, except that the period for enumeration of persons holding licenses to fish shall be a State's fiscal or license year.

(e) EXPENSES FOR ADMINISTRATION OF CERTAIN PROGRAMS.—

(1) IN GENERAL.—For each fiscal year, of the amounts appropriated under section 3, the Secretary of the Interior shall use only funds authorized for use under paragraphs (1), (3), (4), and (5) of subsection (a) to pay the expenses for administration incurred in carrying out the provisions of law referred to in [those subsections] *those paragraphs*, respectively.

[(2) MAXIMUM AMOUNT.—For each fiscal year, the Secretary of the Interior may use not more than \$900,000 in accordance with paragraph (1).]

(2) MAXIMUM AMOUNT.—*For fiscal year 2016, the Secretary of the Interior may use not more than \$1,200,000 in accordance with paragraph (1). For each fiscal year thereafter, the maximum amount that the Secretary of the Interior may use in accordance with paragraph (1) shall be determined under paragraph (3).*

(3) ANNUAL ADJUSTED MAXIMUM AMOUNT.—*The maximum amount referred to in paragraph (2) for fiscal year 2016 and each fiscal year thereafter shall be the sum of—*

(A) the available maximum amount for the preceding fiscal year; and

(B) the amount determined by multiplying—

(i) the available maximum amount for the preceding fiscal year; and

(ii) the change, relative to the preceding fiscal year, in the Consumer Price Index for All Urban Consumers published by the Department of Labor.

(f) TRANSFER OF CERTAIN FUNDS.—Amounts available under paragraphs (3) and (4) of subsection (a) that are unobligated by the Secretary of the Interior after 3 fiscal years shall be transferred to the Secretary of the department in which the Coast Guard is operating and shall be expended for State recreational boating safety programs under section 13107(a) of title 46, United States Code.

SEC. 9. REQUIREMENTS AND RESTRICTIONS CONCERNING USE OF AMOUNTS FOR EXPENSES FOR ADMINISTRATION.

[16 U.S.C. 777h]

(a) AUTHORIZED EXPENSES FOR ADMINISTRATION.—Except as provided in subsection (b), the Secretary of the Interior may use available amounts under [section 4(b)] *section 4(b)(1)(B)* only for expenses for administration that directly support the implementation of this Act that consist of—

(1) personnel costs of employees who directly administer this Act on a full-time basis;

(2) personnel costs of employees who directly administer this Act on a part-time basis for at least 20 hours each week, not to exceed the portion of those costs incurred with respect to the work hours of the employee during which the employee directly administers this Act, as those hours are certified by the supervisor of the employee;

(3) support costs directly associated with personnel costs authorized under paragraphs (1) and (2), excluding costs associated with staffing and operation of regional offices of the United States Fish and Wildlife Service and the Department of the Interior other than for the purposes of this Act;

(4) costs of determining under section 6(a) whether State comprehensive plans and projects are substantial in character and design;

(5) overhead costs, including the costs of general administrative services, that are directly attributable to administration of this Act and are based on—

- (A) actual costs, as determined by a direct cost allocation methodology approved by the Director of the Office of Management and Budget for use by Federal agencies; and
- (B) in the case of costs that are not determinable under subparagraph (A), an amount per full-time equivalent employee authorized under paragraphs (1) and (2) that does not exceed the amount charged or assessed for costs per full-time equivalent employee for any other division or program of the United States Fish and Wildlife Service;
- (6) costs incurred in auditing, every 5 years, the wildlife and sport fish activities of each State fish and game department and the use of funds under section 6 by each State fish and game department;
- (7) costs of audits under subsection (d);
- (8) costs of necessary training of Federal and State full-time personnel who administer this Act to improve administration of this Act;
- (9) costs of travel to States, territories, and Canada by personnel who—
- (A) administer this Act on a full-time basis for purposes directly related to administration of State programs or projects; or
- (B) administer grants under section 6 or 14;
- (10) costs of travel outside the United States (except travel to Canada), by personnel who administer this Act on a full-time basis, for purposes that directly relate to administration of this Act and that are approved directly by the Assistant Secretary for Fish and Wildlife and Parks;
- (11) relocation expenses for personnel who, after relocation, will administer this Act on a full-time basis for at least 1 year, as certified by the Director of the United States Fish and Wildlife Service at the time at which the relocation expenses are incurred; and
- (12) costs to audit, evaluate, approve, disapprove, and advise concerning grants under sections 6 and 14.
- (b) REPORTING OF OTHER USES.—
- (1) IN GENERAL.—Subject to paragraph (2), if the Secretary of the Interior determines that available amounts under [section 4(b)] *section 4(b)(1)(B)* should be used for an expense for administration other than an expense for administration described in subsection (a), the Secretary—
- (A) shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Resources of the House of Representatives a report describing the expense for administration and stating the amount of the expense; and
- (B) may use any such available amounts for the expense for administration only after the end of the 30-day period beginning on the date of submission of the report under subparagraph (A).
- (2) MAXIMUM AMOUNT.—For any fiscal year, the Secretary of the Interior may use under paragraph (1) not more than \$25,000.
- (c) RESTRICTION ON USE TO SUPPLEMENT GENERAL APPROPRIATIONS.—The Secretary of the Interior shall not use available

amounts under subsection (b) to supplement the funding of any function for which general appropriations are made for the United States Fish and Wildlife Service or any other entity of the Department of the Interior.

(d) **AUDIT REQUIREMENT.**—

(1) **IN GENERAL.**—The Inspector General of the Department of the Interior shall procure the performance of biennial audits, in accordance with generally accepted accounting principles, of expenditures and obligations of amounts used by the Secretary of the Interior for expenses for administration incurred in implementation of this Act.

(2) **AUDITOR.**—

(A) **IN GENERAL.**—An audit under this subsection shall be performed under a contract that is awarded under competitive procedures (as defined in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)) by a person or entity that is not associated in any way with the Department of the Interior (except by way of a contract for the performance of an audit or other review).

(B) **SUPERVISION OF AUDITOR.**—The auditor selected under subparagraph (A) shall report to, and be supervised by, the Inspector General of the Department of the Interior, except that the auditor shall submit a copy of the biennial audit findings to the Secretary of the Interior at the time at which the findings are submitted to the Inspector General of the Department of the Interior.

(3) **REPORT TO CONGRESS.**—The Inspector General of the Department of the Interior shall promptly submit to the Committee on Resources of the House of Representatives and the Committee on Environment and Public Works of the Senate—

(A) a report on the results of each audit under this subsection; and

(B) a copy of each audit under this subsection.

INTERNATIONAL BRIDGE ACT OF 1972

[86 Stat. 731]

SEC. 5. SECRETARY OF TRANSPORTATION'S APPROVAL; COMMENCEMENT AND COMPLETION REQUIREMENTS; EXTENSION OF TIME LIMITS.

[33 U.S.C. 535c]

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. OWNERSHIP.

[33 U.S.C. 535e]

(a) **SALE, ASSIGNMENT, OR TRANSFER; [SECRETARY OF TRANSPORTATION'S] APPROVAL.**—Nothing in this Act shall be deemed to pre-

vent 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) STATE STATUS OF ORIGINAL APPLICANT UPON ACQUISITION OF RIGHT, TITLE, AND INTEREST AFTER TERMINATION OF PRIVATE ENTITY LICENSES, CONTRACTS, OR ORDERS.—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】~~.

【SEC. 11. REPORT OF SECRETARY OF TRANSPORTATION'S APPROVAL DURING FISCAL YEAR.

[33 U.S.C. 535h]

【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).】

MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT

[16 U.S.C. 1801 et seq.]

SEC. 311. ENFORCEMENT.

* * * * *

(d) JURISDICTION OF COURTS.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act. **【In the case of Guam or any possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Guam, except that in the case of American Samoa, the appropriate court is the United States District Court for the District of Hawaii, and except that in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands.】** *In the case of Hawaii or any possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Hawaii, except that in the case of Guam and Wake Island, the appropriate court is the United States District Court for the District of Guam, and in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for*

the District of the Northern Mariana Islands. Any such court may, at any time—

- (1) enter restraining orders or prohibitions;
 - (2) issue warrants, process in rem, or other process;
 - (3) prescribe and accept satisfactory bonds or other security;
- and
- (4) take such other actions as are in the interest of justice.

* * * * *

COASTAL WETLANDS PLANNING, PROTECTION AND RESTORATION ACT

[16 U.S.C. 3951 et seq.]

SEC. 303. PRIORITY LOUISIANA COASTAL WETLANDS RESTORATION PROJECTS.

[16 U.S.C. 3952]

* * * * *

(b) FEDERAL AND STATE PROJECT PLANNING.—

(1) PLAN PREPARATION.—The Task Force shall prepare a plan to identify coastal wetlands restoration projects, in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing the long-term conservation of coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration. Such restoration plan shall be completed within three years from the date of enactment of this title.

(2) PURPOSE OF THE PLAN.—The purpose of the restoration plan is to develop a comprehensive approach to restore and prevent the loss of, coastal wetlands in Louisiana. Such plan shall coordinate and integrate coastal wetlands restoration projects in a manner that will ensure the long-term conservation of the coastal wetlands of Louisiana.

(3) INTEGRATION OF EXISTING PLANS.—In developing the restoration plan, the Task Force shall seek to integrate the “Louisiana Comprehensive Coastal Wetlands Feasibility Study” conducted by the Secretary of the Army and the “Coastal Wetlands Conservation and Restoration Plan” prepared by the State of Louisiana’s Wetlands Conservation and Restoration Task Force.

(4) ELEMENTS OF THE PLAN.—The restoration plan developed pursuant to this subsection shall include—

- (A) identification of the entire area in the State that contains coastal wetlands;
- (B) identification, by map or other means, of coastal areas in Louisiana in need of coastal wetlands restoration projects;
- (C) identification of high priority coastal wetlands restoration projects in Louisiana needed to address the areas identified in subparagraph (B) and that would provide for the long-term conservation of restored wetlands and dependent fish and wildlife populations;

(D) a listing of such coastal wetlands restoration projects, in order of priority, to be submitted annually, incorporating any project identified previously in lists produced and submitted under subsection (a) of this section;

(E) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list;

(F) the proposed activities to be carried out pursuant to each coastal wetlands restoration project;

(G) the benefits to be realized by each such project;

(H) an estimated timetable for completion of each coastal wetlands restoration project;

(I) an estimate of the cost of each coastal wetlands restoration project;

(J) identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project listed in the plan;

(K) consultation with the public and provision for public review during development of the plan; and

(L) evaluation of the effectiveness of each coastal wetlands restoration project in achieving long-term solutions to arresting coastal wetlands loss in Louisiana.

(5) **PLAN MODIFICATION.**—The Task Force may modify the restoration plan from time to time as necessary to carry out the purposes of this section.

(6) **PLAN SUBMISSION.**—Upon completion of the restoration plan, the Secretary shall submit the plan to the Congress. The restoration plan shall become effective ninety days after the date of its submission to the Congress.

(7) **PLAN EVALUATION.**—Not less than three years after the completion and submission of the restoration plan required by this subsection and at least every three years thereafter, the Task Force shall provide a report to the Congress containing a scientific evaluation of the effectiveness of the coastal wetlands restoration projects carried out under the plan in creating, restoring, protecting and enhancing coastal wetlands *and improvements made to the quality of fish and wildlife conditions* in Louisiana.

* * * * *

FISHERIES FINANCING ACT

[110 Stat. 3615; Public Law 104-297]

SEC. 302. PROHIBITION OF CERTAIN LOAN GUARANTEES.

[46 U.S.C. 53706 note]

* * * * *

(b)(2) No loans may be provided or guaranteed by the Federal Government for the construction or rebuilding of a vessel intended for use as a fishing vessel (as defined in section 2101 of title 46, United States Code), if such vessel will be greater than 165 feet in registered length, of more than 750 gross registered tons (as measured under chapter 145 of title 46) or 1,900 gross registered tons (as measured under chapter 143 of that title), or have an engine or engines capable of producing a total of more than 3,000 shaft

horsepower, after such construction or rebuilding is completed. This prohibition shall not apply to vessels to be used in the menhaden fishery [or in] *in* tuna purse seine fisheries outside the exclusive economic zone of the United States or the area of the South Pacific Regional Fisheries Treaty, *in fisheries that are under the jurisdiction of the North Pacific Fishery Management Council and managed under a fishery management plan issued under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), or in the Pacific whiting fishery that is under the jurisdiction of the Pacific Fishery Management Council and managed under a fishery management plan issued under that Act. Any fishing vessel operated in fisheries under the jurisdiction of the North Pacific Fishery Management Council and managed under a fishery management plan issued under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), or in the Pacific whiting fishery under the jurisdiction of the Pacific Fishery Management Council and managed under a fishery management plan issued under that Act, and that is replaced by a vessel that is constructed or rebuilt with a loan or loan guarantee provided by the Federal Government may not be used to harvest fish in any fishery under the jurisdiction of any Regional Fishery Management Council, other than a fishery under the jurisdiction of the North Pacific Fishery Management Council or the Pacific Fishery Management Council.*

INTERNAL REVENUE CODE OF 1986

* * * * *

§ 9504. Sport Fish Restoration and Boating Trust Fund

(d) LIMITATION ON TRANSFERS TO TRUST FUND.—

(1) IN GENERAL.—Except as provided in paragraph (2), no amount may be appropriated or paid to the Sport Fish Restoration and Boating Trust Fund on and after the date of any expenditure from such Trust Fund which is not permitted by this section. The determination of whether an expenditure is so permitted shall be made without regard to—

(A) any provision of law which is not contained or referenced in this title or in a revenue Act, and

(B) whether such provision of law is a subsequently enacted provision or directly or indirectly seeks to waive the application of this subsection.

(2) EXCEPTION FOR PRIOR OBLIGATIONS.—Paragraph (1) shall not apply to any expenditure to liquidate any contract entered into (or for any amount otherwise obligated) before [August 1, 2015,] *October 1, 2023*, in accordance with the provisions of this section.

(e) CROSS REFERENCE.—For provision transferring motorboat fuels taxes to Sport Fish Restoration and Boating Trust Fund, see section 9503(c)(3).

OIL POLLUTION ACT OF 1990

[33 U.S.C. 2701 et seq.]

SEC. 7001. OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM.

[33 U.S.C. 2761]

(a) INTERAGENCY COORDINATING COMMITTEE ON OIL POLLUTION RESEARCH.—

(1) **ESTABLISHMENT.**—There is established an Interagency Coordinating Committee on Oil Pollution Research (hereinafter in this section referred to as the “Interagency Committee”).

(2) **PURPOSES.**—The Interagency Committee shall coordinate a comprehensive program of oil pollution research, technology development, and demonstration among the Federal agencies, in cooperation and coordination with industry, universities, research institutions, State governments, and other nations, as appropriate, and shall foster cost-effective research mechanisms, including the joint funding of research.

(3) **MEMBERSHIP.**—The Interagency Committee shall include representatives from the Coast Guard, the Department of Commerce (including the National Oceanic and Atmospheric Administration and the National Institute of Standards and Technology), the Department of Energy, the Department of the Interior (including the [Minerals Management Service] *Bureau of Safety and Environmental Enforcement*, the *Bureau of Ocean Energy Management*, and the United States Fish and Wildlife Service), the Department of Transportation (including the Maritime Administration and the Pipeline and Hazardous Materials Safety Administration), the Department of Defense (including the Army Corps of Engineers and the Navy), the Department of Homeland Security (including the United States Fire Administration in the Federal Emergency Management Agency), the Environmental Protection Agency, the National Aeronautics and Space Administration, *the United States Arctic Research Commission*, and such other Federal agencies the President may designate.

(4) **CHAIRMAN.**—A representative of the Coast Guard shall serve as Chairman.

(5) **VICE CHAIRPERSON.**—*A representative of the National Oceanic and Atmospheric Administration, a representative of the Bureau of Safety and Environmental Enforcement, and a representative of the Environmental Protection Agency shall serve, on a rotating basis, as vice chairperson of the Committee.*

(b) OIL POLLUTION RESEARCH AND TECHNOLOGY PLAN.—

(1) **IMPLEMENTATION PLAN.**—Within 180 days after the date of enactment of this Act, the Interagency Committee shall submit to Congress a plan for the implementation of the oil pollution research, development, and demonstration program established pursuant to subsection (c). The research plan shall—

(A) identify agency roles and responsibilities;

(B) assess the current status of knowledge on oil pollution prevention, response, and mitigation technologies and effects of oil pollution on the environment;

(C) identify significant oil pollution research gaps including an assessment of major technological deficiencies in responses to past oil discharges;

(D) establish research priorities and goals for oil pollution technology development related to prevention, response, mitigation, and environmental effects;

(E) estimate the resources needed to conduct the oil pollution research and development program established pursuant to subsection (c), and timetables for completing research tasks; and

(F) identify, in consultation with the States, regional oil pollution research needs and priorities for a coordinated, multidisciplinary program of research at the regional level.

(2) ADVICE AND GUIDANCE.—The Chairman, through the [Department of Transportation] *department in which the Coast Guard is operating*, shall contract with the National Academy of Sciences to—

(A) provide advice and guidance in the preparation and development of the research plan; and

(B) assess the adequacy of the plan as submitted, and submit a report to Congress on the conclusions of such assessment.

The National Institute of Standards and Technology shall provide the Interagency Committee with advice and guidance on issues relating to quality assurance and standards measurements relating to its activities under this section.

(c) OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM.—

* * * * *

(8) REGIONAL RESEARCH PROGRAM.—

(A) Consistent with the research plan in subsection (b), the Interagency Committee shall coordinate a program of competitive grants to universities or other research institutions, or groups of universities or research institutions, for the purposes of conducting a coordinated research program related to the regional aspects of oil pollution, such as prevention, removal, mitigation, and the effects of discharged oil on regional environments. For the purposes of this paragraph, a region means a Coast Guard district as set out in part 3 of title 33, Code of Federal Regulations [(1989)] (2010).

* * * * *

COAST GUARD AUTHORIZATION ACT OF 1998

[112 Stat. 3411]

SEC. 409. COAST GUARD CITY, USA.

[14 U.S.C. 639 note]

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] 30 days prior to approving such recognition.

PRIBILOF ISLANDS TRANSITION ACT

[114 Stat. 2794; Public Law 106—562]

SEC. 105. TERMINATION OF RESPONSIBILITIES.

[16 U.S.C. 1161 note]

(a) FUTURE OBLIGATION.—

(1) IN GENERAL.—**[The Secretary]** *Notwithstanding paragraph (2) and effective beginning on the date the Secretary publishes the notice of certification required by subsection (b)(5), the Secretary of Commerce shall not be considered to have any obligation to promote or otherwise provide for the development of any form of an economy not dependent on sealing on the Pribilof Islands, Alaska, including any obligation under section 206 of the Fur Seal Act of 1966 (16 U.S.C. 1166) or section 3(c)(1)(A) of Public Law 104-91 (16 U.S.C. 1165 note).*

(2) SAVINGS.—This subsection shall not affect any cause of action under section 206 of the Fur Seal Act of 1966 (16 U.S.C. 1166) or section 3(c)(1)(A) of Public Law 104-91 (16 U.S.C. 1165 note)—

(A) that arose before the date of the enactment of this title; and

(B) for which a judicial action is filed before the expiration of the 5-year period beginning on the date of the enactment of this title.

(3) RULE OF CONSTRUCTION.—Nothing in this title shall be construed to imply that—

(A) any obligation to promote or otherwise provide for the development in the Pribilof Islands of any form of an economy not dependent on sealing was or was not established by section 206 of the Fur Seal Act of 1966 (16 U.S.C. 1166), section 3(c)(1)(A) of Public Law 104-91 (16 U.S.C. 1165 note), or any other provision of law; or

(B) any cause of action could or could not arise with respect to such an obligation.

(4) [Omitted]

(b) PROPERTY CONVEYANCE AND CLEANUP.—

(1) IN GENERAL.—Subject to paragraph (2), there are terminated all obligations of the Secretary of Commerce and the United States to—

(A) convey property under **[section 205 of the Fur Seal Act of 1966 (16 U.S.C. 1165)]** *section 205(a) of the Fur Seal Act of 1966 (16 U.S.C. 1165(a))*; and

(B) carry out cleanup activities, including assessment, response, remediation, and monitoring, except for postremedial measures such as monitoring and operation and maintenance activities, related to National Oceanic and Atmospheric Administration administration of the Pribilof Islands, Alaska, under section 3 of Public Law 104-91 (16 U.S.C. 1165 note) and the Pribilof Islands Environmental Restoration Agreement between the National Oceanic and Atmospheric Administration and the State of Alaska, signed January 26, 1996.

(2) APPLICATION.—Paragraph (1) shall apply on and after the date on which the Secretary of Commerce certifies that—

(A) the State of Alaska has provided written confirmation that no further corrective action is required at the sites and operable units covered by the Pribilof Islands Environmental Restoration Agreement between the National Oceanic and Atmospheric Administration and the State of Alaska, signed January 26, 1996, with the exception of postremedial measures, such as monitoring and operation and maintenance activities;

(B) the cleanup required under section 3(a) of Public Law 104-91 (16 U.S.C. 1165 note) is complete;

(C) the properties specified in the document referred to in subsection (a) of section 205 of the Fur Seal Act of 1966 (16 U.S.C. 1165(a)) can be unconditionally offered for conveyance under that section; and

(D) all amounts appropriated under section 206(c)(1) of the Fur Seal Act of 1966, as amended by this title, have been obligated.

(3) FINANCIAL CONTRIBUTIONS FOR CLEANUP COSTS.—

(A) On and after the date on which section 3(b)(5) of Public Law 104-91 (16 U.S.C. 1165 note) is repealed pursuant to subsection (c), the Secretary of Commerce may not seek or require financial contribution by or from any local governmental entity of the Pribilof Islands, any official of such an entity, or the owner of land on the Pribilof Islands, for cleanup costs incurred pursuant to section 3(a) of Public Law 104-91 (as in effect before such repeal), except as provided in subparagraph (B).

(B) Subparagraph (A) shall not limit the authority of the Secretary of Commerce to seek or require financial contribution from any person for costs or fees to clean up any matter that was caused or contributed to by such person on or after March 15, 2000.

(4) CERTAIN RESERVED RIGHTS NOT CONDITIONS.—For purposes of paragraph (2)(C), the following requirements shall not be considered to be conditions on conveyance of property:

(A) Any requirement that a potential transferee must allow the National Oceanic and Atmospheric Administration continued access to the property to conduct environmental monitoring following remediation activities.

(B) Any requirement that a potential transferee must allow the National Oceanic and Atmospheric Administration access to the property to continue the operation, and eventual closure, of treatment facilities.

(C) Any requirement that a potential transferee must comply with institutional controls to ensure that an environmental cleanup remains protective of human health or the environment that do not unreasonably affect the use of the property.

(D) Valid existing rights in the property, including rights granted by contract, permit, right-of-way, or easement.

(E) The terms of the documents described in subsection (d)(2).

(5) NOTICE OF CERTIFICATION.—*The Secretary shall promptly publish and submit to the Committee on Natural Resources of the House of Representatives and the Committee on Commerce,*

Science, and Transportation of the Senate notice that the certification described in paragraph (2) has been made.

(c) REPEALS.—Effective on the date on which the Secretary of Commerce [makes the certification described in subsection (b)(2)] publishes the notice of certification required by subsection (b)(5), the following provisions are repealed:

(1) [Section 205] Subsections (a), (b), (c), and (d) of section 205 of the Fur Seal Act of 1966 (16 U.S.C. 1165).

(2) Section 3 of Public Law 104–91 (16 U.S.C. 1165 note).

(d) SAVINGS.—

(1) IN GENERAL.—Nothing in this title shall affect any obligation of the Secretary of Commerce, or of any Federal department or agency, under or with respect to any document described in paragraph (2) or with respect to any lands subject to such a document.

(2) DOCUMENTS DESCRIBED.—The documents referred to in paragraph (1) are the following:

(A) The Transfer of Property on the Pribilof Islands: Description, Terms, and Conditions, dated February 10, 1984, between the Secretary of Commerce and various Pribilof Island entities.

(B) The Settlement Agreement between Tanadgusix Corporation and the City of St. Paul, dated January 11, 1988, and approved by the Secretary of Commerce on February 23, 1988.

(C) The Memorandum of Understanding between Tanadgusix Corporation, Tanaq Corporation, and the Secretary of Commerce, dated December 22, 1976.

(e) NOTIFICATIONS.—

(1) IN GENERAL.—Not later than 30 days after the Secretary of Commerce makes a determination under subsection (f) that land on St. Paul Island, Alaska, not specified for transfer in the document entitled “Transfer of Property on the Pribilof Islands: Descriptions, Terms and Conditions” or section 709(a) of the Coast Guard Authorization Act of 2015, are in excess of the needs of the Secretary and the Federal Government, the Secretary shall notify the Alaska Native Village Corporation for St. Paul Island of the determination.

(2) ELECTION TO RECEIVE.—Not later than 60 days after the date receipt of the notification of the Secretary under paragraph (1), the Village Corporation for St. Paul Island shall notify the Secretary in writing whether the Village Corporation elects to receive all right, title and interest in the land or a portion of the land.

(3) TRANSFER.—If the Village Corporation provides notice under paragraph (2) that the Village Corporation elects to receive all right, title and interest in the land or a portion of the land, the Secretary shall transfer all right, title, and interest in the land or portion to the Village Corporation at no cost.

(4) OTHER DISPOSITION.—If the Village Corporation does not provide notice under paragraph (2) that the Village Corporation elects to receive all right, title and interest in the land or a portion of the land, the Secretary may dispose of the land in accordance with other applicable law.

(f) DETERMINATION.—

(1) *IN GENERAL.*—Not later than 2 years after the date of enactment of this subsection and not less than once every 5 years thereafter, the Secretary of Commerce shall determine whether property located on St. Paul Island and not transferred to the Natives of the Pribilof Islands is in excess of the smallest practicable tract enclosing land—

(A) needed by the Secretary for the purposes of carrying out the Fur Seal Act of 1966 (16 U.S.C. 1151 et seq.);

(B) in the case of land withdrawn by the Secretary on behalf of other Federal agencies, needed for carrying out the missions of those agencies for which land was withdrawn; or

(C) actually used by the Federal Government in connection with the administration of any Federal installation on St. Paul Island.

(2) *REPORT OF DETERMINATION.*—When a determination is made under paragraph (1), the Secretary shall report the determination to—

(A) the Committee on Natural Resources of the House of Representatives;

(B) the Committee on Commerce, Science and Transportation of the Senate; and

(C) the Alaska Native Village Corporation for St. Paul Island.

[(e)](g) DEFINITIONS.—

(1) *IN GENERAL.*—Except as provided in paragraph (2), the definitions set forth in section 101 of the Fur Seal Act of 1966 (16 U.S.C. 1151) shall apply to this section.

(2) *NATIVES OF THE PRIBILOF ISLANDS.*—For purposes of this section, the term “Natives of the Pribilof Islands” includes the Tanadgusix Corporation, the St. George Tanaq Corporation, and the city governments and tribal councils of St. Paul and St. George, Alaska.

COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2006

[120 Stat. 516; Public Law 109—241]

SEC. 421. DISTANT WATER TUNA FLEET.

[46 U.S.C. 8103 note]

* * * * *

(d) *REPORTS.*—**[On March 1, 2007, and annually thereafter]** Not later than July 1 of each year, 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.

SEC. 603. LIMITS ON LIABILITY.

[33 U.S.C. 2704 note]

* * * * *

(c) **REPORT ON LIABILITY LIMITS.—**

(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.

(C) Based on analyses under this paragraph and taking into account other factors impacting the Fund, recommendations on whether the liability limits need to be adjusted in order to prevent the principal of the Fund from declining to levels that are likely to be insufficient to cover expected claims.

(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 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).

COAST GUARD AUTHORIZATION ACT OF 2010

[Public Law 111—281; 124 Stat. 2986]

SEC. 710. HIGHER VOLUME PORT AREA REGULATORY DEFINITION CHANGE.

[(a) **IN GENERAL.**—Within 1 year after the date of enactment of this Act, the Commandant shall initiate a rulemaking proceeding to modify the definition of the term “higher volume port area” in section 155.1020 of the Coast Guard regulations (33 C.F.R. 155.1020) by striking “Port Angeles, WA” in paragraph (13) of that section and inserting “Cape Flattery, WA”.]

(a) **HIGHER VOLUME PORTS.**—

(1) **IN GENERAL.**—*Notwithstanding any other provision of law, the requirements of subparts D, F, and G of part 155 of title 33, Code of Federal Regulations, that apply to the higher volume port area for the Strait of Juan de Fuca at Port Angeles, Washington (including any water area within 50 nautical miles seaward), to and including Puget Sound, shall be deemed to apply, in the same manner, and to the same extent, to the Strait of Juan de Fuca at Cape Flattery, Washington (including any water area within 50 nautical miles seaward), to and including Puget Sound.*

(2) **EFFECTIVE DATE.**—*This subsection shall take effect on the date of the enactment of the Coast Guard Authorization Act of 2015.*

(b) **VESSEL RESPONSE PLAN REVIEWS.**—Within 5 years after the date of enactment of this Act, the Coast Guard shall complete its review of any changes to vessel response plans under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) resulting from [the modification of the higher volume port area definition required by subsection (a)] *higher volume port requirements made applicable under subsection (a).*

SEC. 825. INTERNATIONAL PORT AND FACILITY INSPECTION COORDINATION.

[6 U.S.C. 945 note]

(a) **COORDINATION.**—The Secretary of [the department in which the Coast Guard is operating] *Homeland Security* shall, to the extent practicable, conduct the assessments required by the following provisions of law concurrently, or develop a process by which [they are integrated and conducted by the Coast Guard] *the assessments are coordinated between the Coast Guard and Customs and Border Protection:*

- (1) Section 205 of the SAFE Port Act (6 U.S.C. 945).
- (2) Section 213 of that Act (6 U.S.C. 964).
- (3) Section 70108 of title 46, United States Code.

(b) **LIMITATION.**—Nothing in subsection (a) shall be construed to affect or diminish the Secretary’s authority or discretion—

- (1) to conduct an assessment of a foreign port at any time;

(2) to compel the Secretary to conduct an assessment of a foreign port so as to ensure that 2 or more assessments are conducted concurrently; or

(3) to cancel an assessment of a foreign port if the Secretary is unable to conduct 2 or more assessments concurrently.

(c) **MULTIPLE ASSESSMENT REPORT.**—The Secretary shall provide written notice to the Committee on Commerce, Science, and Transportation of the Senate and the Committees on Transportation and Infrastructure and Homeland Security of the House of Representatives whenever the Secretary conducts 2 or more assessments of the same port within a 3-year period.

PIPELINE SAFETY, REGULATORY CERTAINTY, AND JOB CREATION ACT OF 2011

[126 Stat. 1574; Public Law 112—90]

SEC. 9. ADMINISTRATIVE.

[49 U.S.C. 60117 note]

(a) **REVISION OF REGULATIONS.**—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation shall revise regulations issued under sections 191.5 and 195.52 of title 49, Code of Federal Regulations, to establish specific time limits for telephonic or electronic notice of accidents and incidents involving pipeline facilities to the Secretary and the National Response Center.

(b) **MINIMUM REQUIREMENTS.**—In revising the regulations, the Secretary, at a minimum, shall—

(1) establish time limits for telephonic or electronic notification of an accident or incident to require such notification at the earliest practicable moment following confirmed discovery of an accident or incident and not later than 1 hour following the time of such confirmed discovery;

(2) review procedures for owners and operators of pipeline facilities and the National Response Center to provide thorough and coordinated notification to all relevant State and local emergency response officials, including 911 emergency call centers, for the jurisdictions in which those pipeline facilities are located in the event of an accident or incident, and revise such procedures as appropriate; and

(3) require such owners and operators to revise their initial telephonic or electronic notice to the Secretary and the National Response Center with an estimate of the amount of the product released, an estimate of the number of fatalities and injuries, if any, and any other information determined appropriate by the Secretary within 48 hours of the accident or incident, to the extent practicable.

[(c) **UPDATING OF REPORTS.**—After receiving revisions described in subsection (b)(3), the National Response Center shall update the initial report on an accident or incident instead of generating a new report.]²

²Subsection (c) of section 9 of the Pipeline Safety, Regulatory Certainty, and Job Creation Act of 2011 (49 U.S.C. 60117 note) shall be deemed not to have been enacted.

COAST GUARD AND MARITIME TRANSPORTATION ACT OF
2012

[126 Stat. 1540]

SEC. 222. COAST GUARD POLAR ICEBREAKERS.

[126 Stat. 1560]

[(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 1 year 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 whether it is cost effective to reactivate the Polar Sea when 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 Representative 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.]

(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 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.

[(e)](d) STRATEGIES.—

(1) IN GENERAL.—Not later than 180 days after the date on which the analysis 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.

HOWARD COBLE COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2014

[128 Stat. 3022; Public Law 113—281]

[SEC. 610. SAFE VESSEL OPERATION IN THUNDER BAY] SEC. 610. SAFE VESSEL OPERATION IN THE GREAT LAKES.

[128 Stat. 3064]

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 marine sanctuary, *unless the designation documents for such Sanctuary do not allow taking up or discharging ballast water in such Sanctuary.*

SEC. 611. PARKING FACILITIES.

[128 Stat. 3064]

(a) ALLOCATION AND ASSIGNMENT.—

(1) **IN GENERAL.**—Subject to the requirements of this section, the Administrator of General Services, in coordination with the Commandant of the Coast Guard, shall allocate and assign the spaces in parking facilities at the Department of Homeland Security St. Elizabeths Campus to allow any member or employee of the Coast Guard, who is assigned to the Campus, to use such spaces[.] *at no cost to the Coast Guard, its members, or employees.*

(2) **TIMING.**—In carrying out paragraph (1), and in addition to the parking spaces allocated and assigned to Coast Guard members and employees in fiscal year 2014, the Administrator shall allocate and assign not less than—

(A) 300 parking spaces not later than September 30, 2015;

(B) 700 parking spaces not later than September 30, 2016; and

(C) 1,042 parking spaces not later than September 30, 2017.

(b) TRANSPORTATION MANAGEMENT REPORT.—Not later than 1 year after the date of the enactment of this Act, and each fiscal year thereafter in which spaces are allocated and assigned under subsection (a)(2), the Administrator shall provide 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—

(1) the impact of assigning and allocating parking spaces under subsection (a) on the congestion of roads connecting the St. Elizabeths Campus to the portions of Suitland Parkway and I-295 located in the Anacostia section of the District of Columbia; and

(2) progress made toward completion of essential transportation improvements identified in the Transportation Management Program for the St. Elizabeths Campus.

(c) REALLOCATION.—Notwithstanding subsection (a), the Administrator may revise the allocation and assignment of spaces to members and employees of the Coast Guard made under subsection (a) as necessary to accommodate employees of the Department of Homeland Security, other than the Coast Guard, when such employees are assigned to the St. Elizabeths Campus.