

**Calendar No. 112**

115TH CONGRESS }  
*1st Session* }

SENATE

{ REPORT  
115-89

COAST GUARD AUTHORIZATION ACT OF  
2017

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R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND  
TRANSPORTATION

ON

S. 1129



JUNE 5, 2017.—Ordered to be printed

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U.S. GOVERNMENT PUBLISHING OFFICE

69-010

WASHINGTON : 2017

SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

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### COAST GUARD AUTHORIZATION ACT OF 2017

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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. 1129]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1129) to authorize appropriations for the Coast Guard, 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 Coast Guard and the Federal Maritime Commission (FMC) for fiscal year (FY) 2018 and FY 2019, standardize regulations for incidental vessel discharges, change National Oceanic and Atmospheric Administration Commissioned Officer Corps (NOAA Corps) requirements, and for other purposes.

#### BACKGROUND AND NEEDS

The Coast Guard operates simultaneously under titles 10 (governing the armed forces) and 14 (governing the Coast Guard) of the United States Code, and numerous other authorities (e.g., parts of titles 6, 19, 33, 46). Its legal authorities enable the Coast Guard to conduct military operations in support of the Department of Defense (DoD) or directly for the President in accordance with title 14. Further, the Coast Guard can be transferred to the Department of the Navy by the President at any time or by Congress during time of war. The Coast Guard is under the Department of Home-

land Security (DHS). As such, the Coast Guard is the only U.S. military service that is situated outside the DoD.

The Coast Guard is composed of approximately 40,000 active-duty members, 7,500 reservists, 8,000 full-time civilian employees, and 30,000 volunteer auxiliaries. The service 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.<sup>1</sup> 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 Coast Guard’s 11 statutory missions can be broken down into 2 categories.<sup>2</sup> Its homeland security missions include the following: (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 the following: (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 Coast Guard 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 Coast Guard cutters and associated support staff have been deployed to the Persian Gulf since 2003 working in support of DoD combatant commanders.<sup>3</sup>

### Authorization levels and strength of force

This bill would authorize the Coast Guard through FY 2019. The authorization levels (dollars in millions) and number of active duty personnel authorized would be largely consistent with current authorizations and appropriations:

	FY 17 Enacted	FY 18 Authorization	FY 19 Authorization
Operating Expenses	\$7,079	\$7,300	\$7,592
Acquisitions, Construction, & Improvements	\$1,370	\$1,986	\$2,027
Environmental Compliance & Restoration	\$13.3	\$17.1	\$17.4
Reserve Training	\$112	\$143	\$146
Research, Development, Test, & Evaluation	\$36.3	\$20.3	\$20.7

	FY 17 Enacted	FY 18 Authorization	FY 19 Authorization
Number of Active Duty Personnel Authorized	43,000	43,000	43,000

<sup>1</sup>U.S. Coast Guard (USCG), Western Hemisphere Strategy.

<sup>2</sup>Homeland Security Act of 2002, H.R. 5005, 2002, 107th Congress, U.S.C. §888.

<sup>3</sup>USCG, “Patrol Forces Southwest Asia,” 12/21/2016, at <https://www.uscg.mil/lantarea/PATSFORSWA/default.asp>.

### **The Federal Maritime Commission**

The FMC was established as an independent Federal regulatory agency in 1961. The agency is a bipartisan committee of five commissioners who administer U.S. maritime law. In general, the FMC carries out the following duties: (1) monitors the activities of ocean carriers, terminal operators, ports, and ocean transportation intermediaries; (2) reviews rate agreements and the activities of carrier alliances; (3) maintains trade monitoring, enforcement, and dispute resolution programs; and (4) reviews service agreements, contracts, and arrangements for compliance with U.S. law. Traditionally, the FMC is reauthorized as part of the Coast Guard's reauthorization.

### **National Oceanic and Atmospheric Administration Commissioned Officer Corps and National Ocean Service**

The NOAA Corps is one of the seven uniformed services of the United States.<sup>4</sup> The 321 officers of the NOAA Corps make up only about 3 percent of NOAA's personnel, but as the operators of NOAA's ship and aircraft fleet, they are critical to NOAA. Their combination of scientific and operational expertise, coupled with a high degree of flexibility and deployability, allow them to serve throughout NOAA's line and staff offices and support nearly all of NOAA's programs and missions. NOAA Corps officers also regularly work with other services, commanding Navy underwater unmanned vehicle platoons, training with Navy scientific aircraft squadrons, and deploying on Coast Guard cutters. The NOAA Corps and the Coast Guard now have joint Officer Candidate School classes.

The National Ocean Service (NOS) is one of six line offices within NOAA.<sup>5</sup> The navigation, observations, and positioning sector of NOS is tasked with geodetic and hydrographic surveys, shoreline mapping, and building and maintaining the Nation's nautical charts. The hydrographic survey data are used to support a variety of maritime functions including safe navigation, port and harbor maintenance, coastal engineering, offshore resource development, managing sensitive marine habitats, selecting alternative energy sites, identifying geological hazards, and supporting inundation studies to understand the risks of coastal erosion, hurricanes, and tsunamis.

#### SUMMARY OF PROVISIONS

S. 1129, the Coast Guard Authorization Act of 2017, would do the following:

- Enhance the Coast Guard's maritime drug law enforcement capabilities.
- Provide enhanced ability for the placement and maintenance of aids to navigation.
- Authorize the Coast Guard to enter into multiyear contracts on certain new acquisitions.

<sup>4</sup>The United States has seven uniformed services, of which five are armed services (Army, Navy, Air Force, Marines and the Coast Guard) and two which are not armed (the US Public Health Service and the NOAA Corps).

<sup>5</sup>National Oceanic Atmospheric Administration's (NOAA) six line offices include: NOAA Marine & Aviation Operations (OMAO); NOAA Marine Fisheries Service (NMFS); National Ocean Service (NOS); Office of Oceanic and Atmospheric Research (OAR); National Weather Service (NWS); and National Environmental Satellite, Data, and Information Service (NESDIS).

- Provide the Coast Guard parity with a number of DoD authorities.
- Provide clarity to vessel owners for safety requirements.
- Increase the safety and flexibility for recreational boaters.
- Enhance the Coast Guard's ability to operate in the Arctic.
- Establish uniform national standards and requirements for treatment and management of ballast water and other discharges incidental to the normal operation of a vessel.
- Provide flexibility to commanding officers in granting leave to assist new parents.
- Enhance the authority of the FMC to allow collaboration among Commissioners and monitor compliance with applicable maritime law.

#### LEGISLATIVE HISTORY

On March 22, 2017, the Committee's Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard held a Coast Guard oversight hearing to examine the Coast Guard's missions, priorities, and FY 2018 budget request.

On May 9, 2017, the Committee's Subcommittee on Surface Transportation and Merchant Marine Infrastructure, Safety, and Security held a maritime transportation oversight hearing that, among other topics, examined opportunities and challenges for the FMC. Acting FMC Chairman Michael Khouri testified on alliances and market power issues, as well as on the FMC's authorities under the Shipping Act of 1984. FMC Commissioner Rebecca Dye testified on supply chain innovation teams and ways to facilitate greater information sharing. FMC Commissioner Mario Cordero testified on carrier consolidation, alliances, and supply chain technological advancement.

S. 1129, the Coast Guard Authorization Act of 2017, was introduced on May 16, 2017, by Senators Sullivan, Thune, and Nelson.

On May 18, 2017, the Committee met in open Executive Session and, by voice vote, ordered S. 1129 to be reported favorably with an amendment (in the nature of a substitute). Senators Thune and Nelson offered an amendment (in the nature of a substitute) and additional amendments were offered by Senators Baldwin, Blumenthal, Cantwell, Markey, Peters, and Sullivan, all of which were accepted.

S. 168, the Commercial Vessel Incidental Discharge Act (Senate Report 115-16), and S. 171, the NOAA Corps Amendments and Hydrographic Services Improvement Act Reauthorization and Amendments Act of 2017, were previously reported out of Committee on January 24, 2017. Both Acts were added as titles in the substitute amendment to S. 1129.

At the Committee's Executive Session, Senators Cantwell, Booker, Udall, Peters, Baldwin, and Duckworth asked to be recorded as "no" votes on S. 1129 due to the inclusion of S. 168 in the substitute amendment.

#### 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. 1129—Coast Guard Authorization Act of 2017*

Summary: S. 1129 would authorize appropriations totaling \$21.1 billion, primarily for ongoing activities of the Coast Guard (USCG). The bill also would authorize appropriations for the Federal Maritime Commission (FMC) and the National Oceanic and Atmospheric Administration (NOAA) and amend laws governing programs administered by all three agencies. Assuming appropriation of the specified amounts, CBO estimates that implementing the legislation would cost \$19.3 billion over the 2018–2020 period.

CBO also estimates that S. 1129 would increase direct spending for retention bonuses paid to USCG personnel by \$269 million over the 2018–2027 period. The bill also would affect revenues, but CBO estimates that any such changes would be insignificant. Because enacting the bill would affect direct spending and revenues, pay-as-you-go procedures apply.

CBO estimates that enacting S. 1129 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 2028.

S. 1129 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the cost of the mandates would fall below the annual thresholds established in UMRA for intergovernmental and private-sector mandates (\$78 million and \$156 million in 2017, respectively, adjusted annually for inflation).

Estimated cost to the Federal Government: The estimated budgetary effect of S. 1129 is shown in the following table. The costs of this legislation fall within budget functions 400 (transportation) and 300 (natural resources and environment).

	By fiscal year, in millions of dollars—						
	2017	2018	2019	2020	2021	2022	2017–2022
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
Coast Guard							
Authorization Level .....	0	9,465	9,804	0	0	0	19,269
Estimated Outlays .....	0	5,992	7,920	2,571	1,345	737	18,565
NOAA							
Authorization Level .....	0	183	183	183	183	0	732
Estimated Outlays .....	0	114	157	178	181	67	697
Federal Maritime Commission							
Authorization Level .....	0	28	28	0	0	0	56
Estimated Outlays .....	0	26	27	2	1	0	56
Total Changes							
Authorization Level .....	0	9,676	10,015	183	183	0	20,057
Estimated Outlays .....	0	6,132	8,104	2,751	1,527	804	19,318
INCREASES IN DIRECT SPENDING <sup>a</sup>							
Estimated Budget Authority .....	0	3	9	28	29	30	99
Estimated Outlays .....	0	3	9	28	29	30	99

Note: NOAA = National Oceanic and Atmospheric Administration.

<sup>a</sup>CBO estimates that enacting S. 1129 would increase direct spending by \$269 million over the 2017–2027 period.

Basis of estimate: For this estimate, CBO assumes that S. 1129 will be enacted before the end of fiscal year 2017, that the author-

ized amounts will be provided as specified in the bill, and that outlays will follow historical spending patterns.

*Spending Subject to Appropriation*

S. 1129 would authorize appropriations totaling \$20.1 billion over the 2018–2021 period. Most of that amount—\$19.3 billion—would support ongoing activities of the USCG over the next two years. The bill also would authorize appropriations totaling \$732 million over the 2018–2021 period for NOAA and \$56 million for the FMC.

Coast Guard. S. 1129 would authorize appropriations totaling \$9.5 billion in 2018 and \$9.8 billion in 2019 for ongoing activities of the Coast Guard. (The Congress provided about \$8 billion for the agency in 2017.) That amount includes:

- \$14.9 billion for operating expenses;
- \$4 billion for capital spending to acquire and maintain mission-related vessels, aircraft, facilities, and infrastructure;
- \$289 million for training reservists;
- \$41 million for research programs; and
- \$34 million for activities related to enforcing compliance with environmental regulations.

CBO estimates that implementing those provisions would cost \$18.6 billion over the 2018–2022 period and an additional \$0.7 billion after 2022.

NOAA. Title IX of the bill would authorize the appropriation of \$183 million annually over the 2018–2021 period for NOAA to carry out hydrographic activities including: nautical mapping and charting, collecting hydrographic data, maintaining a geodetic reference system (a worldwide coordinate system used for navigation purposes), and measuring tides and currents. (Information about the level of funding provided to NOAA for 2017 was not available at the time of this estimate; in 2016 NOAA allocated \$207 million to carry out similar activities.) CBO estimates that implementing title IX would cost \$697 million over the 2018–2022 period.

Federal Maritime Commission. Title VII would authorize the appropriation of \$28 million annually over the next two years for the FMC, which regulates shipping activities in the United States. (The Congress provided \$27 million for that agency in 2017.) CBO estimates implementing those provisions would cost \$56 million over the 2018–2022 period.

*Direct Spending and Revenues*

Enacting S. 1129 would increase direct spending mostly for continuation pay, a type of retention bonus paid to certain USCG servicemembers.

Continuation Pay. The National Defense Authorization Act of 2016 made significant changes to the retirement system that applies to members of the Uniformed Services, including most USCG servicemembers. Under the new retirement system, which will take effect on January 1, 2018, the agency is authorized to provide retention bonuses—called continuation pay—to members who have served for no less than 8 and no more than 12 years, if they commit to at least three additional years of service. The Secretary of Homeland Security has significant discretion in determining the amount of individuals' continuation pay, which is set at an amount that equals an individual's monthly basic pay times a multiplier of

between 2.5 and 13 for active-duty members and between 0.5 and 6 for part-time reservists. Roughly 29,000 individuals—including about 3,800 officers and 25,500 enlisted members—have the option of enrolling in the new retirement system.

Section 206 would specify that mandatory appropriations available to the USGC for retired pay could be used to cover the USCG's costs for continuation pay. Under current law, CBO expects that funding for continuation pay will be drawn from discretionary appropriations provided for the salaries and expenses of USCG servicemembers. As a result, by expanding the purposes for which the agency could use mandatory appropriations to include continuation pay, enacting S. 1129 would increase direct spending.

The magnitude and timing of spending for continuation pay over the 10-year period covered by this estimate is uncertain and depends on a variety of factors—in particular, the number of existing members who opt into the new system and qualify for the benefit during that period. Opt-in decisions of those individuals will turn on multiple factors including their assessments of the value of their benefits under the new retirement system—including continuation pay—compared to the value of their benefits under the old system. As noted above, the Secretary has considerable discretion in setting multipliers that will determine individuals' continuation pay. For this estimate, CBO expects the Secretary will set those multipliers at levels high enough to retain existing servicemembers at rates that would ensure a stable force structure during the upcoming transition between retirement systems.

Specifically, based on an analysis of information from the USCG about historical continuation rates and estimates of multipliers required to maintain the existing force structure, CBO estimates that continuation pay for most enlisted servicemembers will be set at the minimum level required by law, resulting in continuation payments of roughly two-and-one-half times an individual's monthly base pay. In contrast, CBO expects that multipliers for officers will be considerably higher. CBO estimates that payments to active-duty officers will be close to one year's worth of basic pay; reservists' payments will equal about four months' worth. At those rates, CBO expects that nearly all existing officers with 10 or fewer years of service as of January 2018 will opt into the new system when it takes effect that year. Opt-in rates for enlisted members will be somewhat lower, CBO expects.

Given those expectations for how USCG will use its continuation pay authority, CBO estimates that direct spending for continuation pay under the bill would total \$269 million over the 2018–2027 period. Payments would be modest in the first two years as relatively few individuals are expected to become eligible for continuation pay until 2020. Starting in that year, CBO expects spending for continuation pay would rise considerably, particularly for payments to officers, which would be steady thereafter, reflecting the expectation that a similar number of officers would become eligible in subsequent years. Overall spending for continuation payments would continue to climb gradually, reflecting both growth in the rate at which individuals qualify for benefits, and anticipated growth in rates of base pay for USCG servicemembers.

Other Provisions. CBO expects that enacting other provisions of S. 1129 would affect direct spending and revenues. However, based

on an analysis of information from the affected agencies about the anticipated effects of such provisions, CBO estimates that any such changes, on net, would be insignificant. Those provisions would:

- Increase civil penalties (which are recorded as revenues) for violations of regulations related to the use of cut-off switches for engines used on recreational vessels;
- Modify time frames and fees related to certificates of documentation for recreational vessels;
- Allow the USCG to spend, without further appropriation, amounts credited to the Abandoned Seafarers Fund for the support costs of certain alien seafarers stranded within U.S. jurisdictions;
- Permit the USCG to rehire certain civilian retirees to serve among the agency's acquisitions workforce without affecting federal annuities paid to those individuals;
- Establish criminal penalties for violations of a prohibition against wearing the uniform of NOAA's commissioned officer corps without proper authorization;
- Require any individual who enlists and fails to fulfill the service requirements of NOAA's commissioned officer corps to repay that agency an amount equal to its costs to train that individual; and
- Allow NOAA to collect and spend, without further appropriation, monetary gifts to finance costs associated with planning the construction of a new port facility.

Pay-As-You-Go considerations: The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR S. 1129 AS ORDERED REPORTED BY THE SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION ON MAY 18, 2017

	By fiscal year, in millions of dollars—																2017– 2022	2017– 2027
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027							
	NET INCREASE IN THE DEFICIT																	
Statutory Pay-As-You-Go Impact ....	0	3	9	28	29	30	32	33	34	35	36	99	269					

Increase in long-term direct spending and deficits: CBO estimates that enacting S. 1129 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 2028.

Intergovernmental and private-sector impact: S. 1129 would impose intergovernmental and private-sector mandates as defined in UMRA. CBO estimates that the cost of the mandates would fall below the annual thresholds established in UMRA (\$78 million for intergovernmental mandates and \$156 million for private-sector mandates in 2017, adjusted annually for inflation).

#### *Mandates That Apply to Both Public and Private Entities*

The bill would impose intergovernmental and private-sector mandates on operators of marine terminals, such as port authorities and owners or operators of drawbridges. The bill would require

those operators to submit reports on their business activities to the Federal Maritime Commission if requested. The bill would require owners or operators of drawbridges to notify the public of a temporary change to the operation of the bridge lasting 180 days or less. The bill also would require owners or operators of drawbridges to record drawbridge movements in a log and make the log available for inspection by the Coast Guard. CBO estimates that the cost of complying with those reporting requirements would be small.

Additionally, the bill could increase the costs of complying with existing mandates by making personnel in the NOAA commissioned officer corps eligible for protections under the Uniformed Services Employment and Reemployment Rights Act (USERRA). Protections under that act require public and private employers to grant various allowances to members of the uniformed services. Because the number of service members newly covered by USERRA would be so small (fewer than 400), CBO estimates that the incremental cost of compliance also would be small.

#### *Mandates That Apply to Public Entities Only*

The bill would preempt state and local laws in a number of ways. It would:

- Establish exclusive federal regulation of ballast water and other discharges of vessels through a national uniform standard and a set of best management practices;
- Exempt NOAA officers from an obligation to serve on juries if the service unreasonably conflicts with official duties or would adversely affect the readiness of a unit, command, or activity;
- Prohibit states from regulating engine cut-off switch requirements that are not identical to those authorized in the bill; and
- Allow health-care professionals to practice in states other than where they are licensed if they are members, employees, or contractors of the Coast Guard performing authorized duties.

Although those preemptions would limit the application of state and local laws, they would impose no duty on state or local governments that would result in additional spending or a loss of revenues.

#### *Mandates That Apply to Private Entities Only*

The bill would impose a mandate on ocean carriers by subjecting any joint negotiations with tug operators to antitrust laws. That is, the bill would prohibit ocean carriers from jointly negotiating with tug operators unless those negotiations meet the criteria of federal antitrust laws. Under the bill, those carriers would need to enter into contracts individually with tug operators, which could result in higher costs. Currently, only one group of ocean carriers has the authority to jointly negotiate with tug operators and that authority has not yet been used. Based on those facts and information from industry sources, CBO estimates that those costs would not be substantial.

The bill also would impose a private-sector mandate on manufacturers of recreational vessels by requiring the installation of an en-

engine cut-off switch on vessels 25 feet or less in length in accordance with an industry standard. (Cut-off switches turn off the engine if the operator is separated from the vessel.) Based on information from industry sources, CBO estimates that manufacturers would only need to install engine cut-off switches on about 5,000 vessels because manufacturers already include such switches on most recreational vessels covered by the mandate. On the basis of information about the cost of engine cut-off switches, CBO estimates that the cost of installing an engine cut-off switch on those vessels would be small. Additionally, the bill would require individuals to use an engine cut-off switch when operating a recreational vessel 25 feet or less in length. CBO estimates that the cost of using a cut-off switch would be small.

The bill also would prohibit individuals from wearing the uniform of the NOAA commission officer corps without authorization. CBO expects that the prohibition would affect few individuals. Consequently, the cost of the mandate would be negligible.

Previous CBO estimate: On March 3, 2017, CBO transmitted a cost estimate for S. 171, the National Oceanic and Atmospheric Administration Commissioned Officer Corps Amendments and Hydrographic Services Improvement Act Reauthorization and Amendments Act of 2017, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on January 24, 2017. Title IX of S. 1129 is similar to S. 171, and our estimate of the cost of implementing those provisions is the same.

On February 22, 2017, CBO transmitted a cost estimate for S. 168, the Commercial Vessel Incidental Discharge Act, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on January 24, 2017. S. 168 is similar to title VIII of S. 1129, and our estimate of the cost of implementing those provisions is the same.

Estimate prepared by: Federal costs: Megan Carroll (USCG) and Robert Reese (NOAA); Impact on State, local, and tribal governments: Jon Sperl; 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

This measure, 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 VII of S. 1129 would provide the FMC with discretionary information collection authority over marine terminal operators, similar to the FMC's existing authority over common carriers, and this authority, if used, could cover up to about 200 entities.

Title VIII, the Commercial Vessel Incidental Discharge Act, would streamline regulatory compliance for the owners and operators of approximately 70,000 vessels with respect to ballast water 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 would likely have a positive economic impact by improving the ease with which interstate commerce is conducted and reduce the compliance costs of businesses.

#### PRIVACY

This measure would not impact the personal privacy of individuals.

#### PAPERWORK

Title VIII of S. 1129 would replace a myriad of Federal and State vessel incidental discharge requirements with a single set of national requirements, and will likely reduce paperwork requirements for individuals and businesses. As noted above, title VII does provide the FMC with discretionary information collection authority over marine terminal operators, similar to the FMC's existing authority over common carriers, and the use of that authority could lead to new paperwork filings when necessary. S. 1129 also would require several reports from the Coast Guard and NOAA, as well as a study from the Government Accountability Office.

#### 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

##### *Section 1. Short title; table of contents.*

This section would provide a short title for the bill and a table of contents.

##### *Section 2. Effective dates.*

This section would set effective dates for the provisions in this Act.

#### *Title I – Authorizations*

##### *Section 101. Authorization of appropriations.*

This section would authorize \$7.3 billion and \$7.6 billion in discretionary funds for the Coast Guard for FY 2018 and FY 2019, respectively. As reflected in the table above, this is a slight increase over FY 2017 enacted levels that accounts for inflation and increased demands on the Coast Guard. It also would authorize \$1.9 billion for FY 2018 and \$2.0 billion for FY 2019 for building new Offshore Patrol Cutters and continuing other acquisition programs.

*Section 102. Authorized levels of military strength and training.*

This section would authorize an end-of-year strength for active duty Coast Guard personnel of 43,000 and set military training student loads for FY 2018 and FY 2019, consistent with current levels.

*Title II – Coast Guard*

*Section 201. Primary duties.*

This section would clarify the Coast Guard's role in providing for national security and as a member of the armed forces at all times.

*Section 202. Training; emergency response providers.*

This section would allow the Coast Guard to fill empty seats for training that has already been paid for under a Coast Guard contract with non-Coast Guard emergency personnel. Allocated seats for contracted training often go unfilled due to unforeseen circumstances encountered by Coast Guard personnel. The training is already contracted for and empty seats are a lost opportunity.

*Section 203. Commissioned service retirement.*

This section would extend the Commandant of the Coast Guard's (Commandant) existing authority to reduce total commissioned time needed to retire from 10 to 8 years for another 2 years, until 2019. This provides a needed management tool and parity with the DoD services.

*Section 204. Officer promotion zones.*

This section would allow the Commandant to increase the number of officers reviewed each year for promotion without changing the authorized number that can be selected. The overall result would be an increase in attrition allowing for increased upward mobility throughout the officer ranks.

*Section 205. Officer Evaluation Report.*

This section would require the Commandant to align lieutenant junior grade evaluations with those of ensigns or reduce the frequency of lieutenant junior grade evaluations and require a report to Congress following surveys of promotion boards, assignment officers, and other Coast Guard officers on the value of the Officer Evaluation Report (OER) to their specific process and the amount of time spent on each OER throughout the rating chain.

*Section 206. Retired pay; amounts for payments in connection with modernized retirement system.*

This section would address gaps in funding for the new blended retirement system implemented as part of the 2016 National Defense Authorization Act (NDAA) (P.L. 114–92). This section was previously scored as part of the 2016 NDAA and does not request additional funds. It clarifies the Coast Guard's authority to pay for the new plan out of its retirement pay account.

*Section 207. Inclusion of vessel for investigation purposes.*

This section would allow the Coast Guard to conduct investigations for Commandant owned vessels in parity with aircraft investigations, including inspecting record keeping.

*Section 208. Leave for the birth or adoption of a child.*

This section would authorize Coast Guard members to use birth or adoption leave incrementally at the discretion of the commanding officer. It would provide more flexibility in the leave policy and increase surge capability during times of crisis.

*Section 209. Aviation cadets; appointment as Reserve officers; cross reference.*

This section would provide a technical correction to section 373(a) of title 14, United States Code, by clarifying the law is referring to aviation cadets only.

*Section 210. Clothing at time of discharge for good of service; repeal.*

This section would repeal an unused section of law that required the Coast Guard to issue an overcoat to individuals departing the Service.

*Section 211. Multiyear contracts.*

This section would authorize the Coast Guard to use multiyear contracts to procure the tenth, eleventh, and twelfth National Security Cutters.

*Section 212. Coast Guard ROTC Program.*

This section would direct the Coast Guard to report to Congress on the feasibility and need of creating a Coast Guard ROTC program.

*Section 213. National Coast Guard Museum.*

This section would modify certain limitations on how Federal funds could be spent with respect to the National Coast Guard Museum. The Secretary would be directed to use, to the maximum extent practicable, non-appropriated and non-Federal funds and would be directed to prioritize the use of any appropriated operations and maintenance funds for preserving Coast Guard artifacts.

*Section 214. Polar icebreakers.*

This section would require the Coast Guard to report to Congress on the plan to recapitalize the Coast Guard cutter POLAR STAR so as to maintain heavy ice breaking capability until the Coast Guard's new icebreakers are complete.

*Section 215. Great Lakes icebreaker acquisition.*

This section would authorize the Coast Guard, out of funds made available pursuant to section 2702(2) of title 14, United States Code, to construct an icebreaker for the Great Lakes. It also would require an acquisition plan for such an icebreaker.

*Title III – Marine Safety**Section 301. Coast Guard advisory committees.*

This section would provide technical corrections streamlining all 11 Coast Guard advisory committees and move them into title 14 of the United States Code.

*Section 302. Clarification of logbook and entry requirements.*

This section would eliminate the term “official” from maritime logbook requirements, allowing the use of a wider variety of logbooks, including electronic. This section also would exempt ferries and certain passenger vessels from logbook requirements.

*Section 303. Technical amendments; licenses, certifications of registry, and merchant mariner documents.*

This section would clarify language in existing law in regards to mariner licensing and documentation.

*Section 304. Numbering for undocumented barges.*

This section would eliminate the requirement for the Coast Guard to enforce the numbering of all barges. The original legislation was created to address abandoned barges. This problem has been reduced due to civil penalties and the cost-benefit analysis of implementing this rule did not support the numbering requirement.

*Section 305. Equipment requirements; exemption from throwable personal flotation devices.*

This section would exempt recreational whitewater vessels from having to carry an additional flotation cushion. This would only apply to whitewater rafts and canoes that require all occupants to wear flotation devices while underway and would require the carriage of a throwable rescue rope.

*Section 306. Ensuring maritime coverage.*

This section would direct the Coast Guard to ensure continuity of coverage for locations that are losing Coast Guard assets during the recapitalization of vessels and aircraft.

*Section 307. Deadline for compliance with alternate safety compliance program.*

This section would delay the implementation of the Alternate Safety Compliance Program to 3 years after the date on which the Coast Guard promulgates the final rule.

*Section 308. Fishing, fish tender, and fish processing vessel certification.*

This section would further define the meaning of “built” in section 4503 of title 46, United States Code, by explaining the meaning of “keel is laid.”

*Section 309. Termination of unsafe operations; technical amendment.*

This section would provide a technical change, fixing a reference in section 4503 of title 46, United States Code.

*Section 310. Installation and use of engine cut-off switches on recreational vessel.*

This section would require the mandatory use of factory installed cut-off switches for recreational vessels. It would only apply to vessels less than 26 feet, without a cabin, and only when underway.

*Section 311. Visual distress signals and alternative use.*

This section would require the Coast Guard to develop a performance standard for the alternative use and possession of distress signals, including authorizing electronic position indicating radio beacons and Personal Locating Beacons.

*Section 312. Renewal period for documented recreational vessels.*

This section would adjust the renewal period for recreational vessels from 1 year to 5 years. This would only affect recreational vessels certified by the Federal Government.

*Section 313. Exception from survival craft requirements.*

This section would exempt certain fishing vessels that already carry a secondary vessel from the requirement for carrying an out-of-water survival craft. It would pertain mostly to seining vessels that work with a small skiff while fishing.

*Section 314. Inland waterway and river tender, and bay class icebreaker acquisition plan.*

This section would require the Coast Guard to report to Congress on its plan to replace its fleet of aging inland waterway and river tenders, as well as the bay class icebreakers. These tenders are used on our rivers for maintenance of aids to navigation. The average tender is more than 40 years old.

*Section 315. Arctic planning criteria.*

This section would require the Coast Guard to report to Congress on the capabilities available in the Arctic to respond to an oil spill. The report will include equipment and assets available, as well as location and response times.

*Section 316. Fishing safety grant program.*

This section would extend the current Fishing Safety Training and Fishing Safety Research grant programs at their current funding levels until FY 2019.

*Section 317. Safety standards.*

This section would require the Coast Guard to conduct dockside exams on certain fishing vessels every 2 years instead of every 5 years, if requested by the owner or operator.

*Section 318. Commercial fishing vessel safety outreach strategy.*

This section would require the Coast Guard to submit to Congress its plan for conducting outreach to the commercial fishing vessel industry.

*Title IV – Maritime Security**Section 401. Maritime border security cooperation.*

This section would require the Secretary of the department in which the Coast Guard is operating to enter into partnerships with other Federal, State, and local government agencies to leverage technology to improve monitoring of the maritime border.

*Section 402. Currency Detection Canine Team Program.*

This section would authorize the Secretary of the department in which the Coast Guard is operating to establish a program to allow for the use of canines trained to detect currency for purposes of maritime law enforcement. These canine teams may also be included in underway vessel boardings. The section would authorize the Secretary to cooperate with other Federal agencies to meet this requirement.

*Section 403. Confidential investigative expenses.*

This section would amend section 658 of title 14, United States Code, to increase the amount of funds available for confidential investigative expenses from \$45,000 to \$250,000 per FY.

*Section 404. Monitoring of illegal, unreported, and unregulated fishing.*

This section would authorize the Secretary of the department in which the Coast Guard is operating to develop a 1 year pilot program to determine the impact of persistent aircraft-based surveillance on illegal maritime activities in the Alaskan and Western Pacific regions.

*Section 405. Strategic assets in the Arctic.*

This section would require the Commandant to submit a report to Congress on the progress toward implementing the strategic objectives described in the United States Coast Guard Arctic Strategy. The report would include plans to provide communication within the Arctic, plans to prevent marine casualties, the feasibility of establishing vessel traffic services, and an assessment of assets and infrastructure necessary to meet the strategic objectives.

*Section 406. Fleet requirements assessment and strategy.*

This section would require the Commandant to consult with stakeholders and submit to Congress an assessment of its at-sea operational fleet requirements to support its 11 statutory missions.

*Section 407. Comptroller General report on certain task forces.*

This section would require the Government Accountability Office to conduct a review of Joint Interagency Task Force (JIATF) West's effectiveness as compared to JIATF-South, as well as assessing the effectiveness and redundancy of DHS's three Joint Task Forces as compared to JIATF-South.

*Title V – Miscellaneous**Section 501. Ship shoal lighthouse transfer; repeal.*

This section would repeal section 27 of the Coast Guard Authorization Act of 1991 (P.L. 102–241), which authorized the Secretary of Transportation to transfer the rights, title, and interest of the United States in the Ship Shoal Lighthouse to the city of Berwick, Louisiana because the city has declined to accept title to the lighthouse.

*Section 502. Acquisition workforce expedited hiring authority.*

This section would reinstate the Commandant's authority to designate shortage category positions and hire highly qualified persons to fill them. The section also would allow annuitants receiving benefits from the Civil Service Retirement and Disability Fund to elect to retain those benefits if hired by the Commandant to fulfill a position designated in the shortage category.

*Section 503. Drawbridges.*

This section would require the Secretary of the department in which the Coast Guard is operating to issue a deviation approval letter and publish a notice in the Federal Register if a temporary change (less than 180 days) is made to the drawbridge schedule. Additionally, the operator of the drawbridge would be required to notify the public, law enforcement, and State regulatory agencies of the temporary change. Further, if a temporary change to the schedule is denied, the reason for the denial must be provided. The Secretary also would require drawbridge logs to be kept by operators, and the Coast Guard would be allowed to inspect the logs and determine whether efficiency adjustments are needed for maritime and vehicular traffic.

*Section 504. Incentive contract; Coast Guard yard and industrial establishments.*

This section would authorize commanding officers of the Coast Guard Yard or a Coast Guard industrial establishment to enter into an incentive order or cost-plus-incentive order with wage-grade industrial employees whose performance has improved during the term of a project order. This authority could only be used with sufficient justification that such action will benefit the Federal Government.

*Section 505. Coast Guard health-care professionals; licensure portability.*

This section would expand the portability of medical licenses for health-care professionals in the Coast Guard to allow such professionals to operate in any of the States, territories, or other possessions of the United States, regardless of where the health-care professional is licensed.

*Section 506. Land exchange; Ayakulik Island, Alaska.*

This section would authorize the Secretary of the Interior to enter into a land-exchange agreement, which would transfer ownership of a tract of Federal land in Women's Bay Alaska to private

ownership, in exchange for the transfer of Ayakulik Island to Federal control.

*Section 507. Abandoned seafarers fund amendments.*

This section would amend the Seafarers Fund by making the funds available directly to the Secretary of the department in which the Coast Guard is operating rather than needing an annual appropriation, and would amend the reimbursement of the fund to include a surcharge of 25 percent of the total amount reimbursed.

*Section 508. Small shipyard contracts.*

This section would provide the Coast Guard the ability to choose where alterations, conversions, and repairs of its vessels will be conducted based on economic and military considerations, and clarify that such decisions may not be restricted by a particular type of shipyard or geographical area.

*Section 509. Western Challenger; certificate of documentation.*

This section would allow the Secretary of the department in which the Coast Guard is operating to issue a fisheries endorsement in addition to a coastwise endorsement for the F/V *Western Challenger*.

*Section 510. Radar refresher training.*

This section would eliminate the requirement for mariners to complete refresher or recertification training to maintain a radar observer endorsement.

*Section 511. Vessel response plan audit.*

This section would require an audit by the Comptroller General of the United States on the Coast Guard's verification and approval process for vessel response plans.

*Section 512. Center of Expertise for Great Lakes Oil Spill Research and Response.*

This section would require the Coast Guard to establish a Center of Expertise on fresh water oil spill near or on the Great Lakes.

*Title VI – Department of Commerce Vessels*

*Section 601. Waivers for certain contracts.*

This section would provide the Secretary of Commerce with the authority to waive bond requirements for the alteration, repair, and construction of vessels used for purposes related to “An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes,” approved on August 6, 1947 (33 U.S.C. 883a et seq.). Current contracting practices already ensure that the shipyards are financially sound and the bonding requirements discourages many shipyards from bidding on projects. The DoD, Department of Transportation, and the Coast Guard already have the authority to waive the bond requirement.

*Title VII – Federal Maritime Commission**Section 701. Short title; table of contents.*

This section would provide a short title and a table of contents.

*Section 702. Authorization of appropriations.*

This section would authorize appropriations for FY 2018 and 2019 for the FMC at \$28.49 million, or \$1 million above the enacted level for FY 2017, and about \$3.8 million above the previously authorized level.

*Section 703. Record of meetings and votes.*

This section would allow for limited instances in which a majority of FMC Commissioners can communicate without requiring a full public meeting. This change is modeled on the authority provided to the Surface Transportation Board in the Surface Transportation Board Reauthorization Act of 2015 and proposed authority for the Federal Communications Commission.

During such communications, no vote could be taken, the FMC General Counsel would be required to be present, and only FMC Commissioners or staff could attend. In addition, the FMC would be required to disclose meeting topics and participants within 2 business days of the meeting, unless the discussion relates to an ongoing proceeding, in which case the disclosure would be made on the date of the final Commission decision. This section also would require the FMC to provide a summary with as much general information as possible on any sensitive matter withheld from the public based on current law.

*Section 704. Public participation.*

This section would require that, not later than 7 days after an agreement between ocean common carriers or marine terminal operators is filed, the FMC must seek public comment on the agreement filing. This change is intended to largely conform to existing practice. This section also would clarify the scope of the Commission's collection of information authority during the review of such agreement filings.

*Section 705. Preventing deceptive practices.*

This section would prohibit unlicensed ocean transportation intermediaries, such as freight forwarders, from soliciting or advertising themselves as licensed ocean transportation intermediaries. This change is broadly similar to the requirements for brokers registered with the Federal Motor Carriers Safety Administration. The change is intended to address recent complaints of fraudulent or deceptive practices.

*Section 706. Reports filed with the Commission.*

This section would provide the FMC with the authority to collect information from marine terminal operators in a manner similar to its authority to collect information from common carriers. This change is intended to address recent concerns with the Commission's ability to secure such information from marine terminal operators in enforcing the provisions of the Shipping Act of 1984 and carrying out other functions of the Commission.

*Section 707. Transparency.*

This section would require the FMC to submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives quarterly reports on its unfinished regulatory proceedings. This section also would specify the contents of those reports. This change is intended to increase the transparency of the regulatory process at the FMC.

*Section 708. Treatment of tug operators.*

This section would subject a group of two or more common carriers to antitrust laws in their negotiations with tug operators. This change is intended to treat negotiations between common carriers and tug operators in a similar manner, for the purposes of antitrust law, as the negotiations between common carriers and truck, rail, or air operators.

*Section 709. Prohibitions and penalties.*

This section would prohibit a common carrier from knowingly and willfully accepting cargo from, or transporting cargo for the account of, a freight forwarder that does not have a bond, insurance, or other surety required by law. This change is intended to correct an inconsistency in which this practice was already prohibited for non-vessel-operating common carriers, but not for freight forwarders, despite the fact that both non-vessel-operating common carriers and freight forwarders are ocean transportation intermediaries that are required to have a bond, insurance, or other surety under existing law.

*Title VIII – The Vessel Incidental Discharge Act*

This title would include the provisions, with minor technical changes, of S. 168, the Commercial Vessel Incidental Discharge Act, which was reported favorably by this Committee, by voice vote, on January 24, 2017 (Senate Report 115–016).

*Title IX – The National Oceanic and Atmospheric Administration Commissioned Officer Corps Amendments and Hydrographic Services Improvement Act Reauthorization and Amendments Act of 2017**Section 901. Short title.*

This section would designate the short title of this bill as the “National Oceanic and Atmospheric Administration Commissioned Officer Corps Amendments and Hydrographic Services Improvements Act Reauthorization and Amendments Act of 2017.”

*Section 902. References to the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002.*

References for amendments or repeal would be considered to be made to a section or provision of the NOAA Corps Act of 2002.

*Subtitle A. General Provisions**Section 911. Strength and distribution in grade.*

This section would establish the commissioned grades for officers in the NOAA Corps, and authorizes the Secretary of Commerce to determine the proportion of officers assigned to ranks below Lieutenant Commander. This section would require the Secretary to annually determine the number of officers authorized for service in each grade, but would protect officers from demotion, pay cuts, or separation from the service as a result of the Secretary's determination.

*Section 912. Recalled officers.*

Occasionally, the NOAA Corps needs to recall officers from retired status for temporary duty such as for disaster response (e.g., Hurricane Katrina, Deepwater Horizon) or to serve on personnel boards. It cannot do so if it is at authorized strength, reducing its ability to have a "surge" capacity.

This section would require that, in determining the number of officers in each grade, officers serving in positions of importance and responsibility (33 U.S.C. 3028) and officers recalled from retirement for temporary duty (for example, during a disaster response), or officers detailed outside of the Administration would not be counted in, or against, the total number of authorized officers in the NOAA Corps.

*Section 913. Obligated service requirement.*

The NOAA Corps currently does not have any legislative authority to bind officers to service by contract or obligation. Theoretically, an officer could receive training (costs up to \$100,000, depending on type of training) and resign from the NOAA Corps shortly thereafter. The other Services require an obligated service for appointment, training, promotion, etc. of officers to ensure they receive an adequate return on investment in these categories.

This section would authorize the Secretary of Commerce to bind NOAA Corps officers to an obligation of service. It also would authorize the Secretary to seek reimbursement from officers who do not meet their obligated service requirements, and would characterize that as a debt owed to the United States. This section would allow the Secretary to waive an obligation of service requirement for an officer that is not qualified for service.

*Section 914. Training and physical fitness.*

This section would authorize the Secretary of Commerce to carry out training programs and to require officers to maintain a state of physical fitness substantially equivalent to that required for officers in the Coast Guard.

*Section 915. Recruiting materials.*

This section would authorize the use of advertising materials for recruitment and retention (such as videos or pamphlets) by the Secretary of Commerce.

*Section 916. Technical correction.*

This section would correct a definition of active-duty NOAA Corps officers.

*Subtitle B. Parity and Recruitment*

*Section 921. Education loans.*

The NOAA Corps does not have the same education loan repayment recruiting incentives as the other Services. This is particularly an issue when trying to increase NOAA Corps diversity—many other organizations use these types of incentives to recruit minority students with a science and engineering background.

This section would authorize the Secretary of Commerce to create an education loan repayment program for certain qualified NOAA Corps officers.

*Section 922. Interest payments.*

This section would authorize the Secretary of Commerce to create an interest payment program for student loans of certain active-duty NOAA Corps officers.

*Section 923. Student pre-commissioning program.*

This section would authorize the Secretary of Commerce to provide financial assistance to support tuition and other education-related costs of a currently-enrolled student if the student agrees to serve for a certain number of years as a NOAA Corps officer upon completion of his or her educational program.

*Section 924. Limitation on educational assistance.*

This section would limit the total amount expended by the Secretary of Commerce for educational assistance programs (sections 201, 202, 203) for NOAA Corps officers to the amount saved by the creation of the Officer Candidate rank (section 306).

*Section 925. Applicability of certain provisions of title 10, United States Code, and extension of certain authorities applicable to members of the armed forces to commissioned officer corps.*

This section would extend the following additional title 10 authorities to the NOAA Corps that include: (1) prohibition on unauthorized wearing of a uniform; (2) rules regarding wearing religious apparel in uniform; (3) exemption for serving on certain juries; (4) administration of the oath; (5) benefits and services for separated members; (6) family programs; (7) notary service; (8) mental health resources; and (9) educational assistance.

It also would give authority to allow the Secretary of Commerce to accept certain voluntary services, such as the implementation of an ombudsman program. Ombudsman programs are intended to improve communication between the command and the family members of service members within the command.

*Section 926. Applicability of certain provisions of title 37, United States Code.*

This section would extend additional title 37 authorities to the NOAA Corps as follows: (1) accession bonuses for officers with critical skills; (2) housing allowances while on field or sea duty and

housing allowances for dependents of deceased members; (3) personal spending allowances; (4) recruiting expenses; and (5) funeral honors duty allowances.

*Section 927. Legion of Merit award.*

This section would amend 1121 of title 10, United States Code, to allow the officers of the NOAA Corps to receive the Legion of Merit Award.

*Section 928. Prohibition of retaliatory personnel actions.*

This section would amend section 1034 of title 10, United States Code, to include members of the NOAA Corps in whistleblower protections provided to members of the military.

*Section 929. Penalties for wearing uniform without authority.*

This section would amend section 702 of title 18, United States Code, to include NOAA Corps officers in a provision that makes it criminal to wear a uniform without authority.

*Section 930. Application of certain provisions of competitive service law.*

This section would amend section 3304 of title 5, United States Code, to allow former NOAA Corps officers to be eligible for consideration to competitive service positions.

*Section 931. Employment and reemployment rights.*

This section would amend section 4303 of title 38, United States Code, to extend the definition of uniformed services to include NOAA Corps officers for the purposes of employment and reemployment rights granted by chapter 43 of that title.

*Section 932. Treatment of commission in commissioned officer corps for purposes of certain hiring decisions.*

This section would define that an officer who has served in the commissioned officer corps for at least 3 years be deemed in a career or career-conditional position. An officer would therefore be qualified to apply for positions limited to individuals currently employed within the Administration.

*Section 933. Direct hire authority.*

This section would allow for the direct hire of a NOAA Corps officer, up to 5 years after leaving the service, into the Federal workforce. To be considered, the officer would have had to meet the service obligation defined in section 103 and have been discharged under conditions other than dishonorable.

*Subtitle C. Appointments and Promotion of Officers*

*Section 941. Appointments.*

This section would allow for officers to be reappointed at the same grade they held when they separated from the NOAA Corps. It would allow officers to temporarily separate and pursue personnel goals (like starting a family) or other opportunities outside the service, while providing a mechanism for their return to active duty.

This section would authorize officers to be commissioned from the following sources: (1) officer training school; (2) military service academies; and (3) licensed officers of the merchant marine with at least 2 years of service on a U.S. vessel.

Finally, this section would require the Secretary of Commerce to coordinate with the Secretary of Defense and the Secretary of the department in which the Coast Guard is operating to promote inter-service transfers of officers and would give preference to inter-service transfers in recruiting new NOAA Corps officers, as appropriate.

*Section 942. Personnel boards.*

This section would specify that the membership of personnel boards may include officers serving in or above the grade of the officers under consideration by the board, and may include recalled, retired officers.

The current law does not allow retired or active officers below the pay grade of commander to serve on personnel boards, and makes it very difficult to form personnel boards, due to the NOAA Corps' inherent small size. This would help to ensure the diversity of the boards.

*Section 943. Delegation of authority.*

This section would require the President to delegate authority for appointments and promotions to the Deputy Secretary of Commerce or NOAA Administrator for periods when the position of Secretary of Commerce is vacant.

*Section 944. Assistant Administrator of the Office of the Marine and Aviation Operations.*

This section would require that the position of the Director for the Office of Marine and Aviation Operations carry the title of Assistant Administrator to be consistent with the other NOAA line offices. The Office of Marine and Aviation Operations is responsible for the oversight of the vessel and aircraft fleets and for the administration of the commissioned officer corps.

*Section 945. Temporary appointments.*

This section would establish a mechanism for junior officers to be temporarily appointed by the President alone.

*Section 946. Officer candidates.*

This section would authorize the Secretary of Commerce to create an officer candidate rank for individuals who are in training before receiving their commission.

Currently, officers entering the NOAA Corps for initial training are directly commissioned as officers (Ensigns) on their first day. All other services have a period where the individual is an "officer candidate" before receiving a commission. This section would give NOAA the authority to create an "officer candidate" rank, with reduced pay. This would result in savings of approximately \$115,000 annually, which could be used to pay for officer precommissioning and education programs established elsewhere in this bill.

*Section 947. Procurement of personnel.*

This section would authorize the Secretary of Commerce to make expenditures in order to recruit NOAA Corps officers.

*Subtitle D. Separation and Retirement of Officers**Section 951. Involuntary retirement or separation.*

This section would enable deferral of involuntary retirement or separation due to medical conditions for officers of any rank. Currently, the NOAA Corps can defer involuntary separation of Lieutenant Commanders and below, but it cannot for Commanders and Captains.

*Section 952. Separation pay.*

This section would clarify that separation pay may not be paid to an officer discharged after two missed promotion opportunities if he or she is not genuinely seeking a promotion.

*Subtitle E. Hydrographic Services and Other Matters**Section 961. Reauthorization of Hydrographic Services Improvement Act of 1998.*

This section would reauthorize the Hydrographic Services Improvement Act of 1998 through FY 2021. The bill would use \$5 million and \$2 million of the authorized appropriations for Arctic hydrographic surveys and continental shelf delineation, respectively. It would limit administrative expenses associated with contract management to not more than 5 percent.

*Section 962. System for tracking and reporting all-inclusive cost of hydrographic surveys.*

This section would require the Secretary of Commerce within 1 year after enactment to develop and implement a system to track and report the full cost of hydrographic data collection, to include costs relating to vessel acquisition, vessel repair, and administration of contacts to procure data.

*Section 963. Homeport of certain research vessels.*

This section would allow the Secretary of Commerce to accept non-Federal funds for the purpose of cost estimates, designs, and permits necessary for construction to support NOAA vessels in Ketchikan, Alaska and St. Petersburg, Florida; and would require NOAA to complete strategic plans for such within the 180 days.

## 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 5. GOVERNMENT ORGANIZATION AND EMPLOYEES

## PART III. EMPLOYEES

## SUBPART B. EMPLOYMENT AND RETENTION

## CHAPTER 33. EXAMINATION, SELECTION, AND PLACEMENT

## SUBCHAPTER I. EXAMINATION, CERTIFICATION, AND APPOINTMENT

**§ 3304. Competitive service; examinations**

\* \* \* \* \*

(f)(1) Preference eligibles or veterans who have been separated from the armed forces *and members of the commissioned officer corps of the National Oceanic and Atmospheric Administration (or its predecessor organization the Coast and Geodetic Survey) separated from such uniformed service* under honorable conditions after 3 years or more of active service may not be denied the opportunity to compete for vacant positions for which the agency making the announcement will accept applications from individuals outside its own workforce under merit promotion procedures.

(2) If selected, a preference eligible [or veteran], *veteran, or member* described in paragraph (1) shall receive a career or career-conditional appointment, as appropriate.

(3) This subsection shall not be construed to confer an entitlement to veterans' preference that is not otherwise required by law.

(4) The area of consideration for all merit promotion announcements which include consideration of individuals of the Federal workforce shall indicate that preference eligibles and veterans who have been separated from the armed forces *and members of the commissioned officer corps of the National Oceanic and Atmospheric Administration (or its predecessor organization the Coast and Geodetic Survey) separated from such uniformed service* under honorable conditions after 3 years or more of active service are eligible to apply. The announcements shall be publicized in accordance with section 3327.

(5) The Office of Personnel Management shall prescribe regulations necessary for the administration of this subsection. The regulations shall ensure that an individual who has completed an initial tour of active duty is not excluded from the application of this subsection because of having been released from such tour of duty shortly before completing 3 years of active service, having been honorably released from such duty.

## TITLE 10. ARMED FORCES

## SUBTITLE A. GENERAL MILITARY LAW

## PART II. PERSONNEL

## CHAPTER 53. MISCELLANEOUS RIGHTS AND BENEFITS

**§ 1044a. Authority to act as notary**

(a) The persons named in subsection (b) have the general powers of a notary public and of a consul of the United States in the performance of all notarial acts to be executed by any of the following:

(1) Members of any of the [armed forces] *uniformed services*.

(2) Other persons eligible for legal assistance under the provisions of section 1044 of this title or regulations of the Department of Defense.

(3) Persons serving with, employed by, or accompanying the armed forces outside the United States and outside the Commonwealth of Puerto Rico, Guam, and the Virgin Islands.

(4) Other persons subject to the Uniform Code of Military Justice (chapter 47 of this title) outside the United States.

(b) Persons with the powers described in subsection (a) are the following:

(1) All judge advocates, including reserve judge advocates when not in a duty status.

(2) All civilian attorneys serving as legal assistance attorneys.

(3) All adjutants, assistant adjutants, and personnel adjutants, including reserve members when not in a duty status.

(4) All other members of the [armed forces] *uniformed services*, including reserve members when not in a duty status, who are designated by regulations of the [armed forces] *uniformed services* or by statute to have those powers.

(5) For the performance of notarial acts at locations outside the United States, all employees of a military department or the Coast Guard who are designated by regulations of the Secretary concerned or by statute to have those powers for exercise outside the United States.

(c) No fee may be paid to or received by any person for the performance of a notarial act authorized in this section.

(d) The signature of any such person acting as notary, together with the title of that person's office, is prima facie evidence that the signature is genuine, that the person holds the designated title, and that the person is authorized to perform a notarial act.

#### **§ 1121. Legion of Merit: award**

The President, under regulations to be prescribed by him, may award a decoration called the "Legion of Merit", having suitable appurtenances and devices and not more than four degrees, to any member of the [armed forces] *uniformed services* of the United States or of any friendly foreign nation who, after September 8, 1939, has distinguished himself by exceptionally meritorious conduct in performing outstanding services.

#### **§ 1588. Authority to accept certain voluntary services**

(a) **AUTHORITY TO ACCEPT SERVICES.**—Subject to subsection (b) and notwithstanding section 1342 of title 31, the Secretary concerned may accept from any person the following services:

(1) Voluntary medical services, dental services, nursing services, or other health-care related services.

(2) Voluntary services to be provided for a museum or a natural resources program.

(3) Voluntary services to be provided for programs providing services to members of the [armed forces] *uniformed services* and the families of such members, including the following programs:

(A) Family support programs.

(B) Child development and youth services programs.

- (C) Library and education programs.
  - (D) Religious programs.
  - (E) Housing referral programs.
  - (F) Programs providing employment assistance to spouses of such members.
  - (G) Morale, welfare, and recreation programs, to the extent not covered by another subparagraph of this paragraph.
- (4) Voluntary services as a member of a funeral honors detail under section 1491 of this title.
  - (5) Legal services voluntarily provided as legal assistance under section 1044 of this title.
  - (6) Voluntary services as a proctor for administration to secondary school students of the test known as the "Armed Services Vocational Aptitude Battery".
  - (7) Voluntary translation or interpretation services offered with respect to a foreign language by a person (A) who is registered for such foreign language on the National Foreign Language Skills Registry under section 1596b of this title, or (B) who otherwise is approved to provide voluntary translation or interpretation services for national security purposes, as determined by the Secretary of Defense.
  - (8) Voluntary services to support programs of a committee of the Employer Support of the Guard and Reserve as authorized by the Secretary of Defense.
  - (9) Voluntary services to facilitate accounting for missing persons.
  - (10) Voluntary legal support services provided by law students through internship and externship programs approved by the Secretary concerned.

\* \* \* \* \*

(g) *SECRETARY CONCERNED FOR ACCEPTANCE OF SERVICES FOR PROGRAMS SERVING MEMBERS OF NOAA CORPS AND THEIR FAMILIES.*—For purposes of the acceptance of services described in subsection (a)(3), the term "Secretary concerned" in subsection (a) shall include the Secretary of Commerce with respect to members of the commissioned officer corps of the National Oceanic and Atmospheric Administration.

**§ 2153. Capstone course: newly selected general and flag officers**

(a) **REQUIREMENT.**—Each officer selected for promotion to the grade of brigadier general or, in the case of the Navy or the commissioned officer corps of the National Oceanic and Atmospheric Administration, rear admiral (lower half) shall be required, after such selection, to attend a military education course designed specifically to prepare new general and flag officers to work with the [other armed forces] other uniformed services.

(b) **WAIVER AUTHORITY.**—

(1) Subject to paragraph (2), the Secretary of Defense or the Secretary of Commerce, as applicable, may waive subsection (a)—

(A) in the case of an officer whose immediately previous assignment was in a joint duty assignment and who is thoroughly familiar with joint matters;

(B) when necessary for the good of the service;

(C) in the case of an officer whose proposed selection for promotion is based primarily upon scientific and technical qualifications for which joint requirements do not exist (as determined under regulations prescribed under section 619(e)(4) of this title); and

(D) in the case of a medical officer, dental officer, veterinary officer, medical service officer, nurse, biomedical science officer, or chaplain.

(2) The authority of the Secretary of Defense to grant a waiver under paragraph (1) may only be delegated to the Deputy Secretary of Defense, an Under Secretary of Defense, or an Assistant Secretary of Defense. Such a waiver may be granted only on a case-by-case basis in the case of an individual officer.

## TITLE 14. COAST GUARD

### PART I. REGULAR COAST GUARD

#### CHAPTER 1. ESTABLISHMENT AND DUTIES

#### § 2. Primary duties

The Coast Guard shall—

(1) enforce or assist in the enforcement of all applicable Federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States;

(2) engage in maritime air surveillance or interdiction to enforce or assist in the enforcement of the laws of the United States;

(3) administer laws and promulgate and enforce regulations for the promotion of safety of life and property on and under the high seas and waters subject to the jurisdiction of the United States, covering all matters not specifically delegated by law to some other executive department;

(4) develop, establish, maintain, and operate, with due regard to the requirements of national defense, aids to maritime navigation, icebreaking facilities, and rescue facilities for the promotion of safety on, under, and over the high seas and waters subject to the jurisdiction of the United States;

(5) pursuant to international agreements, develop, establish, maintain, and operate icebreaking facilities on, under, and over waters other than the high seas and waters subject to the jurisdiction of the United States;

(6) engage in oceanographic research of the high seas and in waters subject to the jurisdiction of the United States; and

(7) maintain a state of readiness to function as a specialized service in the Navy in time of war, [including the fulfillment of Maritime Defense Zone command responsibilities] *and at all times assist in the defense of the United States.*

## TITLE 14. COAST GUARD

## PART I. REGULAR COAST GUARD

## 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 funds appropriated to the Coast Guard on 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, including the design, fabrication, and installation of exhibits or displays in which such artifacts are included.]

(b) EXPENDITURES.—*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, including the design, fabrication, and installation of exhibits or displays in which such artifacts are included.*

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

## TITLE 14. COAST GUARD

## PART I. REGULAR COAST GUARD

## CHAPTER 7. COOPERATION WITH OTHER AGENCIES

**§ 141a. Training; emergency response providers**

(a) *IN GENERAL.*—The Commandant (or the Commandant's designee) may, on a reimbursable or a nonreimbursable basis, make training available to public safety personnel whenever the Commandant (or the Commandant's designee) determines that—

(1) a member of the Coast Guard, who was scheduled to participate in such training, is unable or unavailable to participate in such training;

(2) no other member of the Coast Guard, who is assigned to the unit to which the member of the Coast Guard described in paragraph (1), is able or available to participate in such training; and

(3) such training, if made available to public safety personnel, would further the goal of interoperability among Federal agencies, non-Federal governmental agencies, or both.

(b) *DEFINITION OF EMERGENCY RESPONSE PROVIDER.*—In this section, the term “emergency response provider” has the meaning given the term in section 101 of title 6.

(c) *TREATMENT OF REIMBURSEMENT.*—Any reimbursement for training that the Coast Guard receives under this section shall be credited to the appropriation used to pay the costs for such training.

(d) *STATUS; LIMITATION ON LIABILITY.*—

(1) *STATUS.*—Any individual to whom, as an emergency response provider, training is made available under this section shall not be considered a Federal employee for any purpose, including the purposes of—

(A) chapter 81 of title 5 (relating to compensation for injury); or

(B) sections 2671 through 2680 of title 28 (relating to tort claims).

(2) *LIMITATION ON LIABILITY.*—The individual described in paragraph (1) or that individual's employer shall be liable for any claim arising out of such training.

## TITLE 14. COAST GUARD

## PART I. REGULAR COAST GUARD

## CHAPTER 11. PERSONNEL OFFICERS

## B. SELECTION FOR PROMOTION

**§ 256. Promotion zones**

(a) Before convening a selection board to recommend officers for promotion to any grade above lieutenant (junior grade) and below rear admiral (lower half), the Secretary shall establish a promotion zone for the grade to be considered. The promotion zone for each grade shall consist of the most senior officers of that grade on the active duty promotion list who are eligible for consideration for promotion to the next higher grade and who have not previously been placed in a promotion zone for selection for promotion to the next

higher grade. The number of officers in each zone shall be determined after considering—

- (1) the needs of the service;
- (2) the estimated numbers of vacancies available in future years to provide comparable opportunity for promotion of officers in successive year groups; and
- (3) the extent to which current terms of service in that grade conform to a desirable career promotion pattern.

However, such number of officers shall not exceed the number to be selected for promotion divided by **【six-tenths】** *one-half*.

(b) Promotion zones from which officers will be selected for promotion to the grade of rear admiral (lower half) shall be established by the Secretary as the needs of the service require.

## TITLE 14. COAST GUARD

### PART I. REGULAR COAST GUARD

#### CHAPTER 11. PERSONNEL OFFICERS

##### D. DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS

#### **§ 291. Voluntary retirement after twenty years' service**

(a) *IN GENERAL.*—Any regular commissioned officer of the *Coast Guard* who has completed twenty years' active service in the Coast Guard, Navy, Army, Air Force, or Marine Corps, or the Reserve components thereof, including active duty for training, at least ten years of which shall have been active commissioned service, may, upon his own application, in the discretion of the **【President】** *Secretary*, be retired from active service.

(b) *ACTIVE COMMISSIONED SERVICE.*—*The Secretary may authorize the Commandant, through fiscal year 2019, to reduce the requirement under subsection (a) for at least ten years of active service as a commissioned officer to a period of not less than eight years.*

## TITLE 14. COAST GUARD

### PART I. REGULAR COAST GUARD

#### CHAPTER 11. PERSONNEL ENLISTED MEMBERS

#### **§ 373. Aviation cadets; appointment as Reserve officers**

(a) An aviation cadet *designated under section 371* who fulfills the eligibility requirements of section 2003 of title 10 for designation as a naval aviator may be appointed as ensign in the Coast Guard Reserve and designated a Coast Guard aviator.

(b) Aviation cadets who complete their training at approximately the same time are considered for all purposes to have begun their commissioned service on the same date, and the decision of the Secretary in this regard is conclusive.

## TITLE 14. COAST GUARD

## PART I. REGULAR COAST GUARD

## CHAPTER 11. PERSONNEL GENERAL PROVISIONS

**§ 424b. Retired pay; amounts for payments in connection with modernized retirement system**

*Of the amounts appropriated for retirement pay under this chapter in any fiscal year, the Secretary may use such sums as are necessary for the following purposes (in addition to other amounts that may be available for such purposes) as such purposes relate to a member:*

- (1) Lump sum payment of certain retired pay under section 1415 of title 10.*
- (2) Thrift Savings Plan contributions under section 8440e(e) of title 5.*
- (3) Continuation pay under section 356 of title 37.*

**§ 431. Leave policies for the Coast Guard**

**[Not later than 1 year]**

*(a) IN GENERAL.—Except as provided in subsection (b), not later than 1 year after the date on which the Secretary of the Navy promulgates a new rule, policy, or memorandum pursuant to section 704 of title 10, United States Code, with respect to leave associated with the birth or adoption of a child, the Secretary of the department in which the Coast Guard is operating shall promulgate a similar rule, policy, or memorandum that provides leave to officers and enlisted members of the Coast Guard that is equal in duration and compensation to that provided by the Secretary of the Navy.*

*(b) LEAVE ASSOCIATED WITH THE BIRTH OR ADOPTION OF A CHILD.—Notwithstanding section 701 of title 10 or any other provision of law, the Secretary of the department in which the Coast Guard is operating shall ensure that any rule, policy, or memorandum that provides leave associated with the birth or adoption of a child to an officer or enlisted member of the Coast Guard permits, for not later than 1 year after the date of such birth or adoption and at the discretion of the Commanding Officer—*

- (1) the officer or member, as applicable, to take such leave in increments; and*
- (2) flexible work schedules (as defined in regulation promulgated by the Secretary) for the officer or member, as applicable, until all such leave is expended.*

## TITLE 14. COAST GUARD

## PART I. REGULAR COAST GUARD

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

**[§ 482. Clothing at time of discharge for good of service**

**[Enlisted members discharged for bad conduct, undesirability, unsuitability, or inaptitude may be furnished civilian clothing, including an overcoat when necessary, the cost of such furnished clothing not to exceed \$30, per person.]**

## TITLE 14. COAST GUARD

## PART I. REGULAR COAST GUARD

## CHAPTER 15. ACQUISITIONS

## SUBCHAPTER I. GENERAL PROVISIONS

**§ 563a. Acquisition workforce expedited hiring authority**

*For purposes of section 3304 of title 5, the Commandant of the Coast Guard may—*

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

**§ 563b. Acquisition workforce reemployment authority**

*(a) IN GENERAL.—Except as provided in subsection (b), if an annuitant receiving an annuity from the Civil Service Retirement and Disability Fund becomes employed in any category of acquisition positions designated by the Commandant of the Coast Guard under section 563a of this title, the annuity of an annuitant so employed shall continue. An annuitant so reemployed shall not be considered an employee for purposes of subchapter III of chapter 83 or chapter 84 of title 5.*

*(b)(1) ELECTION.—An annuitant retired under section 8336(d)(1) or 8414(b)(1)(A) of title 5, receiving an annuity from the Civil Service Retirement and Disability Fund, who becomes employed in a position within the Coast Guard after the date of enactment of the Coast Guard Authorization Act of 2017, may elect to be subject to section 8344 or 8468 of such title (as the case may be).*

*(A) DEADLINE.—An election for coverage under this subsection shall be filed not later than 90 days after the Commandant takes reasonable actions to notify employees who may file an election.*

*(B) COVERAGE.—If an employee files an election under this subsection, coverage shall be effective beginning on the first day of the first applicable pay period beginning on or after the date of the filing of the election.*

*(2) APPLICATION.—Paragraph (1) shall apply to an individual who is eligible to file an election under paragraph (1) and does not file a timely election under this subsection.*

## TITLE 14. COAST GUARD

## PART I. REGULAR COAST GUARD

## CHAPTER 17. ADMINISTRATION

**§ 658. Confidential investigative expenses**

Not more than ~~[\$45,000]~~ \$250,000 each fiscal year appropriated for necessary expenses for the operation of the Coast Guard shall be available for investigative expenses of a confidential character, to be expended on the approval or authority of the Commandant and payment to be made on his certificate of necessity for confidential purposes, and his determination shall be final and conclusive upon the accounting officers of the Government.

**§667a. Construction of Coast Guard vessels and assignment of vessel projects**

*The assignment of Coast Guard vessel conversion, alteration, and repair projects shall be based on economic and military considerations and may not be restricted by a requirement that certain parts of Coast Guard shipwork be assigned to a particular type of shipyard or geographical area or by a similar requirement.*

**§ 678. Aircraft and vessel accident investigations**

(a) IN GENERAL.—Whenever the Commandant of the Coast Guard conducts an accident investigation of an accident involving an aircraft or vessel under the jurisdiction of the Commandant, the records and report of the investigation shall be treated in accordance with this section.

(b) PUBLIC DISCLOSURE OF CERTAIN ACCIDENT INVESTIGATION INFORMATION.—

(1) IN GENERAL.—Subject to paragraph (2), the Commandant, upon request, shall publicly disclose unclassified tapes, scientific reports, and other factual information pertinent to an aircraft or vessel accident investigation.

(2) CONDITIONS.—The Commandant shall only disclose information requested pursuant to paragraph (1) if the Commandant determines—

(A) that such tapes, reports, or other information would be included within and releasable with the final accident investigation report; and

(B) that release of such tapes, reports, or other information—

(i) would not undermine the ability of accident or safety investigators to continue to conduct the investigation; and

(ii) would not compromise national security.

(3) RESTRICTION.—A disclosure under paragraph (1) may not be made by or through officials with responsibility for, or who are conducting, a safety investigation with respect to the accident.

(c) OPINIONS REGARDING CAUSATION OF ACCIDENT.—Following an aircraft or vessel accident referred to in subsection (a)—

(1) if the evidence surrounding the accident is sufficient for the investigators who conduct the accident investigation to come to an opinion as to the cause or causes of the accident, the final report of the accident investigation shall set forth the opinion of the investigators as to the cause or causes of the accident; and

(2) if the evidence surrounding the accident is not sufficient for the investigators to come to an opinion as to the cause or causes of the accident, the final report of the accident investigation shall include a description of those factors, if any, that, in the opinion of the investigators, substantially contributed to or caused the accident.

(d) USE OF INFORMATION IN CIVIL OR CRIMINAL PROCEEDINGS.—For purposes of any civil or criminal proceeding arising from an aircraft or vessel accident referred to in subsection (a), any opinion of the accident investigators as to the cause of, or the factors contributing to, the accident set forth in the accident investigation re-

port may not be considered as evidence in such proceeding, nor may such report be considered an admission of liability by the United States or by any person referred to in such report.

(e) DEFINITIONS.—For purposes of this section—

(1) the term “accident investigation” means any form of investigation by Coast Guard personnel of an aircraft *or vessel* accident referred to in subsection (a), other than a safety investigation; and

(2) the term “safety investigation” means an investigation by Coast Guard personnel of an aircraft *or vessel* accident referred to in subsection (a) that is conducted solely to determine the cause of the accident and to obtain information that may prevent the occurrence of similar accidents.

## TITLE 14. COAST GUARD

### PART III. COAST GUARD AUTHORIZATIONS AND REPORTS TO CONGRESS

#### CHAPTER 27. AUTHORIZATIONS

#### **§ 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) \$6,986,815,000 for fiscal year 2017.

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

【(A) \$1,945,000,000 for fiscal year 2016; and

【(B) \$1,945,000,000 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) \$134,237,000 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.】

**§2702. Authorization of appropriations**

*Funds are authorized to be appropriated for each of fiscal years 2018 and 2019 for necessary expenses of the Coast Guard as follows:*

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

*(A) \$7,300,000,000 for fiscal year 2018; and*

*(B) \$7,592,000,000 for fiscal year 2019.*

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

*(A) \$1,985,845,000 for fiscal year 2018, to remain available through September 30, 2022; and*

*(B) \$2,027,547,745 for fiscal year 2019, to remain available through September 30, 2023.*

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

*(A) \$142,956,336 for fiscal year 2018; and*

*(B) \$145,958,419 for fiscal year 2019.*

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

*(A) \$17,051,721 for fiscal year 2018, to remain available through September 30, 2022; and*

*(B) \$17,409,807 for fiscal year 2019, to remain available through September 20, 2023.*

*(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) \$20,307,690 for fiscal year 2018; and*

*(B) \$20,734,151 for fiscal year 2019.*

**【§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.】**

**§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 2018 and 2019.

(b) *MILITARY TRAINING STUDENT LOADS.*—The Coast Guard is authorized average military training student loads for each of fiscal years 2018 and 2019 as follows:

- (1) For recruit and special training, 2,500 student years.
- (2) For flight training, 165 student years.
- (3) For professional training in military and civilian institutions, 350 student years.
- (4) For officer acquisition, 1,200 student years.

TITLE 18. CRIMES AND CRIMINAL PROCEDURE

PART I. CRIMES

CHAPTER 33. EMBLEMS, INSIGNIA, AND NAMES

**§ 702. Uniform of armed forces and Public Health Service**

Whoever, in any place within the jurisdiction of the United States or in the Canal Zone, without authority, wears the uniform or a distinctive part thereof or anything similar to a distinctive part of the uniform of any of the armed forces of the United States, Public Health [Service or any] Service, the commissioned officer corps of the National Oceanic and Atmospheric Administration, or any auxiliary of such, shall be fined under this title or imprisoned not more than six months, or both.

TITLE 37. PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

CHAPTER 3. BASIC PAY

**§ 203. Rates**

\* \* \* \* \*

(f)(1) *An officer candidate enrolled in the basic officer training program of the commissioned officer corps of the National Oceanic and Atmospheric Administration is entitled, while participating in such program, to monthly officer candidate pay at monthly rate equal to the basic pay of an enlisted member in the pay grade E-5 with less than 2 years service.*

(2) *An individual who graduates from such program shall receive credit for the time spent participating in such program as if such time were time served while on active duty as a commissioned officer. If the individual does not graduate from such program, such time shall not be considered creditable for active duty or pay.*

CHAPTER 7. ALLOWANCES OTHER THAN TRAVEL AND TRANSPORTATION ALLOWANCES

**§ 414. Personal money allowance**

(a) *ALLOWANCE FOR OFFICERS SERVING IN CERTAIN RANKS OR POSITIONS.*—In addition to other pay or allowances authorized by this title, an officer who is entitled to basic pay is entitled to a personal money allowance of—

(1) \$500 a year, while serving in the grade of lieutenant general or vice admiral, or in an equivalent grade or rank;

(2) \$1,200 a year, in place of any other personal money allowance authorized by this section, while serving as Surgeon General of the Public Health Service or the director of the commissioned officer corps of the National Oceanic and Atmospheric Administration;

(3) \$2,200 a year, in addition to the personal money allowance authorized by clause (1), while serving as a senior member of the Military Staff Committee of the United Nations;

(4) \$2,200 a year, while serving in the grade of general or admiral, or in an equivalent grade or rank; or

(5) \$4,000 a year, in place of any other personal money allowance authorized by this section, while serving as Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, Commandant of the Coast Guard, or Chief of the National Guard Bureau.

(b) ALLOWANCE FOR CERTAIN NAVAL OFFICERS.—In addition to other pay or allowances authorized by law, an officer who is serving in one of the following positions is entitled to the amount set forth for that position, to be paid annually out of naval appropriations for pay, and to be spent in his discretion for the contingencies of his position—

(1) President of the Naval Postgraduate School—\$400;

(2) Commandant of Midshipmen at the Naval Academy—\$800;

(3) President of the Naval War College—\$1,000;

(4) Superintendent of the Naval Academy—\$5,200; and

(5) Director of Naval Intelligence—\$5,200.

(c) ALLOWANCE FOR SENIOR ENLISTED MEMBERS.—In addition to other pay or allowances authorized by this title, a noncommissioned officer is entitled to a personal money allowance of \$2,000 a year while serving as the Sergeant Major of the Army, the Master Chief Petty Officer of the Navy, the Chief Master Sergeant of the Air Force, the Sergeant Major of the Marine Corps, the Master Chief Petty Officer of the Coast Guard, the Senior Enlisted Advisor to the Chairman of the Joint Chiefs of Staff, or the Senior Enlisted Advisor to the Chief of the National Guard Bureau.

## TITLE 38. VETERANS' BENEFITS

### PART I. GENERAL PROVISIONS

#### CHAPTER 1. GENERAL

#### § 101. Definitions

\* \* \* \* \*

(21) The term “active duty” means—

(A) full-time duty in the Armed Forces, other than active duty for training;

(B) full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service (i) on or after July 29, 1945, or (ii) before that date under circumstances affording entitlement to “full military benefits” or (iii) at any time, for the purposes of chapter 13 of this title;

(C) full-time duty as a commissioned officer *in the commissioned officer corps* of the National Oceanic and Atmospheric Administration or its predecessor organization the Coast and Geodetic Survey (i) on or after July 29, 1945, or (ii) before that date (I) while on transfer to one of the Armed Forces, or (II) while, in time of war or national emergency declared by the President, assigned to duty on a project for one of the Armed Forces in an area determined by the Secretary of Defense to be of immediate military hazard, or (III) in the Philippine Islands on December 7, 1941, and continuously in such islands thereafter, or (iii) at any time, for the purposes of chapter 13 of this title;

(D) service as a cadet at the United States Military, Air Force, or Coast Guard Academy, or as a midshipman at the United States Naval Academy; and

(E) authorized travel to or from such duty or service.

### § 4303. Definitions

For the purposes of this chapter—

\* \* \* \* \*

(16) The term “uniformed services” means the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, *the commissioned officer corps of the National Oceanic and Atmospheric Administration*, System members of the National Urban Search and Rescue Response System during a period of appointment into Federal service under section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and any other category of persons designated by the President in time of war or national emergency.

## TITLE 40. PUBLIC BUILDINGS, PROPERTY, AND WORKS

### SUBTITLE II. PUBLIC BUILDINGS AND WORKS

#### PART A. GENERAL

#### CHAPTER 31. GENERAL

#### SUBCHAPTER III. BONDS

### § 3134. Waivers for certain contracts

(a) MILITARY.—The Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, *Secretary of Homeland Security*, or the Secretary of Transportation may waive this subchapter with respect to cost-plus-a-fixed fee and other cost-type contracts for the construction, alteration, or repair of any public building or public work of the Federal Government and with respect to contracts for manufacturing, producing, furnishing, constructing, altering, repairing, processing, or assembling vessels, aircraft, munitions, materiel, or supplies for the Army, Navy, Air Force, *Secretary of Homeland Security*, or Coast Guard, respectively, regardless of the terms of the contracts as to payment or title.

(b) TRANSPORTATION.—The Secretary of Transportation may waive this subchapter with respect to contracts for the construc-

tion, alteration, or repair of vessels when the contract is made under sections 1535 and 1536 of title 31, subtitle V of title 46, or the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1735 et seq.), regardless of the terms of the contracts as to payment or title.

(c) *COMMERCE.*—*The Secretary of Commerce may waive this subchapter with respect to contracts for the construction, alteration, or repair of vessels, regardless of the terms of the contracts as to payment or title, when the contract is made under the Act entitled “An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes”, approved August 6, 1947 (33 U.S.C. 883a et seq.).*

## TITLE 46. SHIPPING

### SUBTITLE I. GENERAL

#### CHAPTER 3. FEDERAL MARITIME COMMISSION

#### **§ 303. Record of meetings and votes**

**¶**The Federal Maritime Commission, through its secretary, shall keep a record of its meetings and the votes taken on any action, order, contract, or financial transaction of the Commission. **¶**

#### **§ 303. Meetings**

(a) *IN GENERAL.*—*The Federal Maritime Commission shall be deemed to be an agency for purposes of section 552b of title 5.*

(b) *RECORD.*—*The Commission, through its secretary, shall keep a record of its meetings and the votes taken on any action, order, contract, or financial transaction of the Commission.*

(c) *NONPUBLIC COLLABORATIVE DISCUSSIONS.*—

(1) *IN GENERAL.*—*Notwithstanding section 552b of title 5, a majority of the Commissioners may hold a meeting that is not open to public observation to discuss official agency business if—*

(A) *no formal or informal vote or other official agency action is taken at the meeting;*

(B) *each individual present at the meeting is a Commissioner or an employee of the Commission; and*

(C) *the General Counsel of the Commission is present at the meeting.*

(2) *DISCLOSURE OF NONPUBLIC COLLABORATIVE DISCUSSIONS.*—*Except as provided under paragraph (3), not later than 2 business days after the conclusion of a meeting under paragraph (1), the Commission shall make available to the public, in a place easily accessible to the public—*

(A) *a list of the individuals present at the meeting; and*

(B) *a summary of the matters discussed at the meeting, except for any matters the Commission properly determines may be withheld from the public under section 552b(c) of title 5.*

(3) *EXCEPTION.*—*If the Commission properly determines matters may be withheld from the public under section 552b(c) of title 5, the Commission shall provide a summary with as much general information as possible on those matters withheld from the public.*

(4) *ONGOING PROCEEDINGS.*—If a meeting under paragraph (1) directly relates to an ongoing proceeding before the Commission, the Commission shall make the disclosure under paragraph (2) on the date of the final Commission decision.

(5) *PRESERVATION OF OPEN MEETINGS REQUIREMENTS FOR AGENCY ACTION.*—Nothing in this subsection may be construed to limit the applicability of section 552b of title 5 with respect to a meeting of the Commissioners other than that described in this subsection.

(6) *STATUTORY CONSTRUCTION.*—Nothing in this subsection may be construed—

(A) to limit the applicability of section 552b of title 5 with respect to any information which is proposed to be withheld from the public under paragraph (2)(B) of this subsection;

or

(B) to authorize the Commission to withhold from any individual any record that is accessible to that individual under section 552a of title 5.

### **§ 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】** \$28,490,000 for each of fiscal years 2018 and 2019 for the activities of the Commission authorized under this chapter and subtitle IV.

## TITLE 46. SHIPPING

### SUBTITLE I. GENERAL

## **CHAPTER 7—COAST GUARD ADVISORY COMMITTEES**

### **§ 701. Administration**

(a) *EMPLOYEE STATUS.*—A member of an advisory committee or advisory council established under this chapter shall not be considered an employee of the Federal Government by reason of service on such committee or council, except for the purposes of the following provisions of law:

(1) Section 5703 of title 5 (relating to travel expenses).

(2) Chapter 81 of title 5 (relating to compensation for work injuries).

(3) Chapter 171 of title 28 and any other Federal statute relating to tort liability.

(4) If the member is a special Government employee—

(A) chapter 73 of title 5;

(B) sections 201, 202, 203, 205, 207, 208, and 209 of title 18;

(C) the Ethics in Government Act of 1978 (5 U.S.C. App); and

(D) any other provision of law relating to employee conduct, political activities, ethics, conflict of interest, and corruption that applies to a special Government employee.

(b) *COMPENSATION.*—A member of an advisory committee or advisory council established under this chapter who is not otherwise a Federal employee shall not receive pay by reason of service on such committee or council.

(c) *ACCEPTANCE OF VOLUNTEER SERVICES.*—A member of an advisory committee or advisory council established under this chapter may serve on a voluntary basis without pay without regard to section 1342 of title 31 or any other law.

**§ 702. Chemical Transportation Advisory Committee**

(a) *ESTABLISHMENT.*—There is established a Chemical Transportation Advisory Committee (referred to in this section as the “Committee”).

(b) *FUNCTION.*—The Committee, acting through the Commandant (or the Commandant’s designee), is authorized to advise, consult with, report to, and make recommendations to the Secretary on matters relating to the safe and secure marine transportation of hazardous materials.

(c) *ORGANIZATION.*—

(1) *MEETING.*—The Committee shall, at least once each calendar year, meet at the call of the Commandant (or the Commandant’s designee).

(2) *MEMBERSHIP.*—

(A) *IN GENERAL.*—The Committee shall consist of not more than 25 members.

(B) *POINTS OF VIEW.*—Each member of the Committee shall represent the point of view of 1 of the following entities or groups associated with marine transportation of hazardous materials:

(i) *Chemical manufacturing.*

(ii) *Marine handling or transportation of chemicals.*

(iii) *Vessel design and construction.*

(iv) *Marine safety or security.*

(v) *Marine environmental protection.*

(C) *NEEDS OF THE COAST GUARD.*—The Commandant (or the Commandant’s designee) shall, based on the needs of the Coast Guard, determine the number of members who represent a specific point of view.

(D) *RULE OF CONSTRUCTION.*—Neither this subsection nor any other provision of law or policy shall be construed to require an equal distribution of members representing specific points of view among the membership of the Committee.

(3) *STATUS OF MEMBERS.*—For the purposes of Federal law, including the Ethics in Government Act of 1978 and chapter 11 of title 18, each member of the Committee is hereby deemed a representative of the member’s respective special interest entity or group, and not a special Government employee (as defined in section 202(a) of title 18).

(4) *NOMINATIONS; APPOINTMENTS; SERVICE.*—

(A) *NOMINATIONS.*—As necessary, the Secretary shall publish, in the Federal Register, a notice soliciting nominations for membership on the Committee.

(B) *APPOINTMENTS.*—

(i) *IN GENERAL.*—After timely notice is published, the Secretary shall, as necessary, appoint members to the Committee.

(ii) *LIMITATIONS.*—The Secretary may not seek, consider, or otherwise use information concerning the po-

litical affiliation of a nominee in making an appointment to the Committee.

(iii) REAPPOINTMENTS.—The Secretary may reappoint a member to the Committee more than once.

(C) SERVICE.—Each member of the Committee shall serve at the pleasure of the Secretary.

(5) TERM; VACANCY.—

(A) TERM.—

(i) IN GENERAL.—The term of each member of the Committee shall expire on December 31 of the third full year after the effective date of the appointment.

(ii) EXTENSIONS.—Notwithstanding clause (i), paragraph (4), or any other provision of law or policy, the Commandant (or the Commandant's designee) may extend the term of a member of the Committee to December 31 of the fifth full year after the effective date of the appointment.

(B) VACANCY.—In the case of an appointment to fill a vacancy on the Committee, the Secretary shall appoint an individual for a full term.

(6) CHAIRPERSON; VICE CHAIRPERSON.—

(A) IN GENERAL.—The Commandant (or the Commandant's designee) shall designate 1 member of the Committee as the Chairperson and another member of the Committee as the Vice Chairperson, both of whom shall serve in such capacity at the pleasure of the Commandant (or the Commandant's designee) and for a term to be fixed by the Commandant (or the Commandant's designee).

(B) RECOMMENDATIONS.—The Commandant (or the Commandant's designee) may solicit, from the Committee, recommendations with regard to the members whom the Commandant (or the Commandant's designee) shall designate as the Chairperson and the Vice Chairperson.

(C) VACANCY.—The Vice Chairperson shall act as Chairperson in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairperson.

(7) DESIGNATED FEDERAL OFFICER.—The Commandant (or the Commandant's designee) shall designate a Designated Federal Officer to the Committee in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(d) FEDERAL ADVISORY COMMITTEE ACT; TERMINATION.—

(1) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee.

(2) TERMINATION.—The Committee shall terminate on September 30, 2027.

### **§ 703. Commercial Fishing Safety Advisory Committee**

(a) ESTABLISHMENT.—There is established a Commercial Fishing Safety Advisory Committee (referred to in this section as the "Committee").

(b) FUNCTION.—The Committee, acting through the Commandant (or the Commandant's designee)—

(1) shall advise, consult with, report to, and make recommendations to the Secretary on matters relating to the safe operation of vessels to which chapter 45 of this title applies, in-

cluding navigation safety, safety equipment and procedures, marine insurance, vessel design, construction, maintenance and operation, and personnel qualifications and training;

(2) shall review proposed regulations promulgated pursuant to chapter 45 of this title;

(3) shall submit recommendations described in paragraph (1) to the Secretary in writing;

(4) may submit any recommendations described in paragraph (1) at any time and frequency as determined to be appropriate by the Committee;

(5) shall to review proposed regulations promulgated pursuant to chapter 45 of this title; and

(6) shall make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary.

(c) ORGANIZATION.—

(1) MEETING.—The Committee shall, at least once each calendar year, meet at the call of the Commandant (or the Commandant's designee).

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Committee shall consist of 18 members.

(B) EXPERIENCE.—Each member of the Committee shall have particular expertise, knowledge, and experience regarding the commercial fishing industry.

(C) POINTS OF VIEW.—Except as provided in subparagraph (D), a member of the Committee shall represent the point of view of an entity or group, as follows:

(i) 10 members representing the commercial fishing industry who—

(I) reflect a regional and representational balance; and

(II) have experience in the operation of vessels to which chapter 45 of this title applies or as a crew member or processing line worker on a fish processing vessel.

(ii) 1 member representing naval architects or marine engineers.

(iii) 1 member representing manufacturers of equipment for vessels to which chapter 45 of this title applies.

(iv) 1 member representing education or training professionals related to fishing vessel, fish processing vessel, or fish tender vessel safety or personnel qualifications.

(v) 1 member representing underwriters that insure vessels to which chapter 45 of this title applies.

(vi) 1 member representing owners of vessels to which chapter 45 of this title applies.

(D) EXCEPTION.—

(i) IN GENERAL.—Subject to clause (ii), 3 members of the Committee shall represent the general public.

(ii) EXPERIENCE.—Whenever possible, a member who represents the general public shall be either—

(I) an independent expert or consultant in maritime safety;

(II) a marine surveyor who provides services to vessels to which chapter 45 of this title applies; or

(III) a person familiar with issues affecting fishing communities and families of fishermen.

(3) *STATUS OF MEMBERS.*—For the purposes of Federal law, including the Ethics in Government Act of 1978 and chapter 11 of title 18—

(A) a member of the Committee, whom the Secretary appoints to represent a point of view of an entity or group under paragraph (2)(C), is hereby deemed a representative of the member's respective special interest entity or group, and not a special Government employee (as defined in section 202(a) of title 18); and

(B) a member of the Committee, whom the Secretary may appoint to represent the general public, is hereby deemed a special Government employee (as defined in section 202(a) of title 18).

(4) *NOMINATIONS; APPOINTMENTS; SERVICE.*—

(A) *NOMINATIONS.*—As necessary, the Secretary shall publish, in the Federal Register, a notice soliciting nominations for membership on the Committee.

(B) *APPOINTMENTS.*—

(i) *IN GENERAL.*—After timely notice is published, the Secretary shall, as necessary, appoint members to the Committee.

(ii) *LIMITATIONS.*—The Secretary may not seek, consider, or otherwise use information concerning the political affiliation of a nominee in making an appointment to the Committee.

(iii) *REAPPOINTMENTS.*—The Secretary may reappoint a member to the Committee more than once.

(5) *TERM; VACANCY.*—

(A) *TERM.*—

(i) *IN GENERAL.*—The term of each member of the Committee shall expire on December 31 of the third full year after the effective date of the appointment.

(ii) *EXTENSIONS.*—Notwithstanding clause (i), paragraph (4), or any other provision of law or policy, the Commandant (or the Commandant's designee) may extend the term of a member of the Committee to December 31 of the fifth full year after the effective date of the appointment.

(B) *VACANCY.*—In the case of an appointment to fill a vacancy on the Committee, the Secretary shall appoint an individual for a full term.

(6) *CHAIRPERSON; VICE CHAIRPERSON.*—

(A) *IN GENERAL.*—The Committee shall elect a Chairperson and Vice Chairperson from among its members.

(B) *RECOMMENDATIONS.*—The Commandant (or the Commandant's designee) may solicit, from the Committee, recommendations with regard to the members whom the Commandant (or the Commandant's designee) shall designate as the Chairperson and the Vice Chairperson.

(C) *VACANCY.*—*The Vice Chairperson shall act as Chairperson in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairperson.*

(7) *DESIGNATED FEDERAL OFFICER.*—*The Commandant (or the Commandant’s designee) shall designate a Designated Federal Officer to the Committee in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).*

(d) *CONSULTATION.*—*The Commandant (or the Commandant’s designee) shall, whenever practicable—*

(1) *consult with the Committee before taking any significant action relating to the safe operation of vessels to which chapter 45 of this title applies;*

(2) *consider the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding the safe operation of vessels to which chapter 45 of this title applies;*

(3) *make all recommendations made by the Committee in paragraph (b) public and available for comment within 30 days of receiving the recommendation from the Committee;*

(4) *respond in writing to all public comments made regarding recommendations made by the Committee in paragraph (b);*

(5) *respond in writing to any recommendations or resolutions made by the Committee in paragraph (b) and provide reasoning for acceptance or rejection to all recommendations within 60 days of receiving the recommendation; and*

(6) *make all responses in paragraph (5) available to the Congress and the public at the time the response is transmitted.*

(e) *FEDERAL ADVISORY COMMITTEE ACT; TERMINATION.*—

(1) *FACA.*—*The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee.*

(2) *TERMINATION.*—*The Committee shall terminate on September 30, 2027.*

#### **§ 704. Great Lakes Pilotage Advisory Committee**

(a) *ESTABLISHMENT.*—

(1) *IN GENERAL.*—*The Secretary shall establish a Great Lakes Pilotage Advisory Committee (referred to in this section as the “Committee”).*

(2) *DUTIES.*—*The Committee—*

(A) *may review proposed Great Lakes pilotage regulations and policies and make recommendations to the Secretary that the Committee considers appropriate;*

(B) *may advise, consult with, report to, and make recommendations to the Secretary on matters relating to Great Lakes pilotage;*

(C) *may make available to the Congress recommendations that the Committee makes to the Secretary; and*

(D) *shall meet at the call of—*

(i) *the Secretary, who shall call such a meeting at least once during each calendar year; or*

(ii) *a majority of the Committee.*

(b) *ORGANIZATION.*—

(1) *IN GENERAL.*—

(A) *MEMBERSHIP.*—*The Committee shall consist of 7 members appointed by the Secretary in accordance with*

this subsection, each of whom has at least 5 years practical experience in maritime operations.

(B) *TERM.*—The term of each member is for a period of not more than 5 years, specified by the Secretary.

(C) *NOTICE.*—Before filling a position on the Committee, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the Committee.

(2) *REPRESENTATION.*—The membership of the Committee shall include—

(A) the President of each of the 3 Great Lakes pilotage districts, or the President's representative;

(B) 1 member representing the interests of vessel operators that contract for Great Lakes pilotage services;

(C) 1 member representing the interests of Great Lakes ports;

(D) 1 member representing the interests of shippers whose cargoes are transported through Great Lakes ports; and

(E) a member with a background in finance or accounting, who—

(i) must have been recommended to the Secretary by a unanimous vote of the other members of the Committee, and

(ii) may be appointed without regard to requirement in paragraph (1) that each member have 5 years of practical experience in maritime operations.

(c)(1) *CHAIRPERSON; VICE CHAIRPERSON.*—The Committee shall elect 1 of its members as the Chairperson and 1 of its members as the Vice Chairperson. The Vice Chairperson shall act as Chairperson in the absence or incapacity of the Chairperson, or in the event of a vacancy in the office of the Chairperson.

(2) *OBSERVER.*—The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. The Secretary's designated representative shall act as the executive secretary of the Committee and shall perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App.).

(d) *RECOMMENDATIONS.*—

(1) *IN GENERAL.*—The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to Great Lakes pilotage.

(2) *CONSIDERATION.*—The Secretary shall consider the information, advice, and recommendations of the Committee in formulating policy regarding matters affecting Great Lakes pilotage.

(3) *APPROVAL.*—Any recommendations to the Secretary under subsection (a)(2)(B) must have been approved by at least all but 1 of the members then serving on the Committee.

(e)(1) *COMPENSATION.*—Notwithstanding section 701, a member of the Committee, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive—

(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-18 of the General Schedule under section 5332 of title 5 including travel time; and

(B) travel or transportation expenses under section 5703 of title 5.

(2) *EMPLOYEE STATUS.*—Notwithstanding section 701, a member of the Committee shall not be considered to be an officer or employee of the United States for any purpose based on their receipt of any payment under this subsection.

(f) *FEDERAL ADVISORY COMMITTEE ACT; TERMINATION.*—

(1) *FACA.*—The Federal Advisory Committee Act (5 U.S.C. App.) applies to the Committee, except that the Committee terminates on September 30, 2020.

(2) *RENEWAL.*—2 years before the termination date set forth in paragraph (1) of this subsection, the Committee shall submit to the Congress its recommendation regarding whether the Committee should be renewed and continued beyond the termination date.

**§705. Lower Mississippi River Waterway Safety Advisory Committee**

(a) *ESTABLISHMENT.*—There is established a Lower Mississippi River Waterway Safety Advisory Committee (referred to in this section as the “Committee”).

(b) *FUNCTION.*—The Committee, acting through the Commandant (or the Commandant’s designee), is authorized to advise, consult with, report to, and make recommendations to the Secretary on matters relating to communication, surveillance, traffic management, anchorages, development and operation of New Orleans Vessel Traffic Services, and other related topics dealing with and actions relating to navigational safety on the Lower Mississippi River.

(c) *ORGANIZATION.*—

(1) *MEETING.*—The Committee shall, at least once each calendar year, meet at the call of the Commandant (or the Commandant’s designee).

(2) *MEMBERSHIP.*—

(A) *IN GENERAL.*—The Committee shall consist of 24 members.

(B) *EXPERIENCE.*—Each member of the Committee shall have expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels on the Lower Mississippi River and its connecting navigable waterways, including the Gulf of Mexico.

(C) *POINTS OF VIEW.*—Except as provided in subparagraph (D), each member of the Committee shall represent the point of view of an entity or group, as follows:

(i) 5 members representing River Port Authorities between Baton Rouge, Louisiana, and the head of passes of the Lower Mississippi River, of which—

(I) 1 member shall be from the Port of St. Bernard; and

(II) 1 member from the Port of Plaquemines.

(ii) 2 members representing vessel owners or ship owners domiciled in the State of Louisiana.

(iii) 2 members representing organizations which operate harbor tugs or barge fleets in the geographical area covered by the Committee.

(iv) 2 members representing companies which transport cargo or passengers on the navigable waterways in the geographical area covered by the Committee.

(v) 3 members representing State Commissioned Pilot organizations, with 1 member each representing—

(I) the New Orleans-Baton Rouge Steamship Pilots Association;

(II) the Crescent River Port Pilots Association; and

(III) the Association Branch Pilots.

(vi) 3 members representing consumers, shippers, or importers and exporters that utilize vessels which utilize the navigable waterways covered by the Committee.

(vii) 2 members representing those licensed merchant mariners, other than pilots, who perform shipboard duties on those vessels which utilize navigable waterways covered by the Committee.

(viii) 1 member representing an organization that serves in a consulting or advisory capacity to the maritime industry.

(ix) 1 member representing an environmental organization.

**(D) ADDITIONAL MEMBERS.—**

(i) **IN GENERAL.**—3 members of the Committee shall represent the general public.

(ii) **WATER TRANSPORTATION FACILITIES.**—Whenever possible, 2 of the 3 members who represent the general public shall be individuals who utilize water transportation facilities located in the geographic area that the Committee covers.

**(3) STATUS OF MEMBERS.**—For the purposes of Federal law, including the Ethics in Government Act of 1978 and chapter 11 of title 18—

(A) each member of the Committee, whom the Secretary appoints to represent the point of view of an entity or group set out in paragraph (2)(C), is hereby deemed a representative of the member's respective special interest entity or group, and not a special Government employee (as defined in section 202(a) of title 18); and

(B) each member of the Committee, whom the Secretary appoints to represent the general public, is hereby deemed a special Government employee (as defined in section 202(a) of title 18).

**(4) NOMINATIONS; APPOINTMENTS; SERVICE.—**

(A) **NOMINATIONS.**—As necessary, the Secretary shall publish, in the Federal Register, a notice soliciting nominations for membership on the Committee.

**(B) APPOINTMENTS.—**

(i) **IN GENERAL.**—After timely notice is published, the Secretary shall, as necessary, appoint members to the Committee.

(ii) **LIMITATIONS.**—The Secretary may not seek, consider, or otherwise use information concerning the political affiliation of a nominee in making an appointment to the Committee.

(iii) *REAPPOINTMENTS.*—The Secretary may re-appoint a member to the Committee more than once.

(C) *SERVICE.*—Each member of the Committee shall serve at the pleasure of the Secretary.

(5) *TERM; VACANCY.*—

(A) *TERM.*—

(i) *IN GENERAL.*—The term of each member of the Committee shall expire on December 31 of the third full year after the effective date of the appointment.

(ii) *EXTENSION.*—Notwithstanding clause (i), paragraph (4), or any other provision of law or policy, the Commandant (or the Commandant's designee) may extend the term of a member of the Committee to December 31 of the fifth full year after the effective date of the appointment.

(B) *VACANCY.*—In the case of an appointment to fill a vacancy on the Committee, the Secretary shall appoint an individual for a full term.

(6) *CHAIRPERSON; VICE CHAIRPERSON.*—

(A) *IN GENERAL.*—The Commandant (or the Commandant's designee) shall designate 1 member of the Committee as the Chairperson and another member of the Committee as the Vice Chairperson, both of whom shall serve in such capacity at the pleasure of the Commandant (or the Commandant's designee) and for a term to be fixed by the Commandant (or the Commandant's designee).

(B) *RECOMMENDATIONS.*—The Commandant (or the Commandant's designee) may solicit, from the Committee, recommendations with regard to the members whom the Commandant (or the Commandant's designee) shall designate as the Chairperson and the Vice Chairperson.

(C) *VACANCY.*—The Vice Chairperson shall act as Chairperson in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairperson.

(7) *DESIGNATED FEDERAL OFFICER.*—The Commandant (or the Commandant's designee) shall designate a Designated Federal Officer to the Committee in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(d) *CONSULTATION.*—The Commandant (or the Commandant's designee) shall, whenever practicable, consult with the Committee before taking any significant action relating to navigation safety in the Lower Mississippi River.

(e) *FEDERAL ADVISORY COMMITTEE ACT; TERMINATION.*—

(1) *FACA.*—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee.

(2) *TERMINATION.*—The Committee shall terminate on September 30, 2027.

#### **§ 706. Merchant Marine Personnel Advisory Committee**

(a) *ESTABLISHMENT.*—There is established a Merchant Marine Personnel Advisory Committee (referred to in this section as the "Committee").

(b) *FUNCTION.*—The Committee, acting through the Commandant (or the Commandant's designee), is authorized to advise, consult with, report to, and make recommendations to the Secretary on mat-

ters relating to personnel in the United States merchant marine, including training, qualifications, certification, documentation, and fitness standards.

(c) *MEETING.*—The Committee shall, at least once each calendar year, meet at the call of the Commandant (or the Commandant's designee).

(d) *MEMBERSHIP.*—

(1) *IN GENERAL.*—The Committee shall consist of 19 members.

(2) *POINTS OF VIEW.*—Except as provided in subparagraph (C), each member of the Committee shall represent the point of view of an entity or group, as follows:

(A) 9 members representing the interests of mariners—

(i) each of whom—

(I) shall be a citizen of the United States; and

(II) shall hold an active license or certificate issued under chapter 71 of this title or a merchant mariner document issued under chapter 73 of this title; and

(ii) among whom shall be—

(I) 3 deck officers representing the interests of merchant marine deck officers, of whom—

(aa) 2 shall be licensed for oceans any gross tons;

(bb) 1 shall be licensed for inland river route with a limited or unlimited tonnage;

(cc) 2 shall have a master's license or a master of towing vessels license;

(dd) 1 shall have significant tanker experience; and

(ee) to the extent practicable—

(AA) 1 shall represent the interests of labor; and

(BB) 1 shall represent the interests of management;

(II) 3 engineering officers representing the interests of merchant marine engineering officers, of whom—

(aa) 2 shall be licensed as chief engineer any horsepower;

(bb) 1 shall be licensed as either a limited chief engineer or a designated duty engineer; and

(cc) to the extent practicable—

(AA) 1 shall represent the interests of labor; and

(BB) 1 shall represent the interests of management;

(III) 2 unlicensed seamen, of whom—

(aa) 1 shall represent the interests of able-bodied seamen; and

(bb) 1 shall represent the interests of qualified members of the engine department; and

(IV) 1 pilot representing the interests of merchant marine pilots.

(B) 6 members representing the interests of marine educators—

(i) each of whom shall be a marine educator; and

(ii) among whom shall be—

(I) 3 marine educators who shall represent the interests of maritime academies, including—

(aa) 2 who shall represent the interests of State maritime academies; and

(bb) 1 who shall represent either the viewpoint of the State maritime academies or the United States Merchant Marine Academy; and

(II) 3 marine educators who shall represent the interests of other maritime training institutions, 1 of whom shall represent the interests of the small vessel industry.

(C) 2 members representing the interests of shipping companies employed in ship operation management.

(D) 2 members of the Committee shall represent the general public.

(3) STATUS OF MEMBERS.—

(A) IN GENERAL.—For the purposes of Federal law, including the Ethics in Government Act of 1978 and chapter 11 of title 18—

(i) a member of the Committee, whom the Secretary appoints to represent the point of view of an entity or group set out in paragraph (2)(B), is hereby deemed a representative of the member's respective special interest entity or group, and not a special Government employee (as defined in section 202(a) of title 18); and

(ii) a member of the Committee, whom the Secretary appoints to represent the general public, is hereby deemed a special Government employee (as defined in section 202(a) of title 18).

(B) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to prohibit the nomination or appointment of a Federal employee to serve as a member of the Committee representing the interests of the United States Merchant Marine Academy.

(4) NOMINATIONS; APPOINTMENTS; SERVICE.—

(A) NOMINATIONS.—As necessary, the Secretary shall publish, in the Federal Register, a notice soliciting nominations for membership on the Committee.

(B) APPOINTMENTS.—

(i) IN GENERAL.—After timely notice is published, the Secretary shall, as necessary, appoint members to the Committee.

(ii) LIMITATIONS.—The Secretary may not seek, consider, or otherwise use information concerning the political affiliation of a nominee in making an appointment to the Committee.

(iii) REAPPOINTMENT.—The Secretary may reappoint a member to the Committee more than once.

(C) SOLICITING NOMINATIONS.—Notwithstanding subparagraphs (A) and (B), the Secretary may—

(i) with regard to the appointment of a member or members to represent the interests of the State maritime academies, solicit nominations for membership on the Committee from each State maritime academy or a joint nomination from some or all State maritime academies; and

(ii) with regard to the appointment of a member to represent the interests of the United States Merchant Marine Academy, solicit a nomination for membership on the Committee from the Secretary of Transportation.

(D) SERVICE.—Each member of the Committee shall serve at the pleasure of the Secretary.

(5) TERM; VACANCY.—

(A) TERM.—

(i) IN GENERAL.—The term of each member of the Committee shall expire on December 31 of the third full year after the effective date of the appointment.

(ii) EXTENSIONS.—Notwithstanding clause (i), paragraph (4), or any other provision of law or policy, the Commandant (or the Commandant's designee) may extend the term of a member of the Committee to December 31 of the fifth full year after the effective date of the appointment.

(iii) VACANCY.—In the case of an appointment to fill a vacancy on the Committee, the Secretary shall appoint an individual for a full term.

(6) CHAIRPERSON; VICE CHAIRPERSON.—

(A) IN GENERAL.—The Commandant (or the Commandant's designee) shall designate 1 member of the Committee as the Chairperson and another member of the Committee as the Vice Chairperson, both of whom shall serve in such capacity at the pleasure of the Commandant (or the Commandant's designee) and for a term to be fixed by the Commandant (or the Commandant's designee).

(B) RECOMMENDATIONS.—The Commandant (or the Commandant's designee) may solicit, from the Committee, recommendations with regard to the members whom the Commandant (or the Commandant's designee) shall designate as the Chairperson and the Vice Chairperson.

(C) VACANCY.—The Vice Chairperson shall act as Chairperson in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairperson.

(7) DESIGNATED FEDERAL OFFICER.—The Commandant (or the Commandant's designee) shall designate a Designated Federal Officer to the Committee in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(e) FEDERAL ADVISORY COMMITTEE ACT; TERMINATION.—

(1) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee.

(2) TERMINATION.—The Committee shall terminate on September 30, 2027.

**§ 707. Merchant Mariner Medical Advisory Committee**

(a) *ESTABLISHMENT.*—There is established a Merchant Mariner Medical Advisory Committee (referred to in this section as the “Committee”).

(b) *FUNCTION.*—The Committee, acting through the Commandant (or the Commandant’s designee), is authorized to advise, consult with, report to, and make recommendations to the Secretary on matters relating to—

- (1) medical certification determinations of merchant mariners;
- (2) medical standards and guidelines for the physical qualifications of operators of commercial vessels;
- (3) medical examiner education; and
- (4) medical research.

(c) *ORGANIZATION.*—

(1) *MEETING.*—The Committee shall, at least once each calendar year, meet at the call of the Commandant (or the Commandant’s designee).

(2) *MEMBERSHIP.*—

(A) *IN GENERAL.*—The Committee shall consist of 14 members.

(B) *RESTRICTION.*—No member of the Committee shall be a regular Federal employee.

(C) *EXPERIENCE.*—Of the members of the Committee—

(i) 10 members shall be healthcare professionals with particular expertise, knowledge, or experience regarding the medical examinations of merchant mariners or occupational medicine; and

(ii) 4 members shall be professional mariners with knowledge and experience in mariners’ occupational requirements.

(3) *STATUS OF MEMBERS.*—For the purposes of Federal law, including the Ethics in Government Act of 1978 and chapter 11 of title 18, each member of the Committee is hereby deemed a special Government employee (as defined in section 202(a) of title 18).

(4) *NOMINATIONS; APPOINTMENTS; SERVICE.*—

(A) *NOMINATIONS.*—As necessary, the Secretary shall publish, in the Federal Register, a notice soliciting nominations for membership on the Committee.

(B) *APPOINTMENTS.*—

(i) *IN GENERAL.*—After timely notice is published, the Secretary shall, as necessary, appoint members to the Committee.

(ii) *LIMITATIONS.*—The Secretary may not seek, consider, or otherwise use information concerning the political affiliation of a nominee in making an appointment to the Committee.

(iii) *REAPPOINTMENTS.*—The Secretary may reappoint a member to the Committee more than once.

(C) *SERVICE.*—Each member of the Committee shall serve at the pleasure of the Secretary.

(5) *TERM; VACANCY.*—

(A) *TERM.*—

(i) *IN GENERAL.*—The term of each member of the Committee shall expire on December 31 of the third full year after the effective date of the appointment.

(ii) *EXTENSIONS.*—Notwithstanding clause (i), paragraph (4), or any other provision of law or policy, the Commandant (or the Commandant’s designee) may extend the term of a member of the Committee to December 31 of the fifth full year after the effective date of the appointment.

(iii) *VACANCY.*—In the case of an appointment to fill a vacancy on the Committee, the Secretary shall appoint an individual for a full term.

(6) *CHAIRPERSON; VICE CHAIRPERSON.*—

(A) *IN GENERAL.*—The Commandant (or the Commandant’s designee) shall designate 1 member of the Committee as the Chairperson and another member of the Committee as the Vice Chairperson, both of whom shall serve in such capacity at the pleasure of the Commandant (or the Commandant’s designee) and for a term to be fixed by the Commandant (or the Commandant’s designee).

(B) *RECOMMENDATIONS.*—The Commandant (or the Commandant’s designee) may solicit, from the Committee, recommendations with regard to the members whom the Commandant (or the Commandant’s designee) shall designate as the Chairperson and the Vice Chairperson.

(C) *VACANCY.*—The Vice Chairperson shall act as Chairperson in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairperson.

(7) *DESIGNATED FEDERAL OFFICER.*—The Commandant (or the Commandant’s designee) shall designate a Designated Federal Officer to the Committee in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(d) *FEDERAL ADVISORY COMMITTEE ACT; TERMINATION.*—

(1) *FACA.*—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee.

(2) *TERMINATION.*—The Committee shall terminate on September 30, 2027.

**§ 708. National Boating Safety Advisory Council**

(a) *ESTABLISHMENT.*—There is established a National Boating Safety Advisory Council (referred to in this section as the “Council”).

(b) *ORGANIZATION.*—

(1) *MEETING.*—The Council shall, at least once each calendar year, meet at the call of the Commandant (or the Commandant’s designee).

(2) *MEMBERSHIP.*—

(A) *IN GENERAL.*—The Council shall consist of 21 members.

(B) *EXPERIENCE.*—Each member of the Council shall have particular expertise, knowledge, and experience in recreational boating safety.

(C) *POINTS OF VIEW.*—Except as provided in subparagraph (D), each member of the Council shall represent the point of view of an entity or group, as follows:

(i) 7 members representing State officials responsible for State boating safety programs.

(ii) 7 members representing manufacturers, wholesale distributors, or retail distributors of recreational vessels or associated equipment.

(iii) At least 5 members representing national recreational boating organizations.

(D) *ADDITIONAL MEMBERS.*—Not more than 2 members of the Council may represent the general public.

(E) *PANELS.*—Additional individuals from an entity or group set out in subparagraph (C) may be appointed to panels of the Council to assist the Council in performing its duties.

(3) *STATUS OF MEMBERS.*—For the purposes of Federal law, including the Ethics in Government Act of 1978 and chapter 11 of title 18—

(A) a member of the Council, whom the Secretary appoints to represent the point of view of an entity or group set out in paragraph (2)(C), is hereby deemed a representative of the member's respective special interest entity or group, and not a special Government employee (as defined in section 202(a) of title 18); and

(B) in the event that the Secretary appoints a member to represent the general public, such member of the Council is hereby deemed a special Government employee (as defined in section 202(a) of title 18).

(4) *NOMINATIONS; APPOINTMENTS; SERVICE.*—

(A) *NOMINATIONS.*—As necessary, the Secretary shall publish, in the Federal Register, a notice soliciting nominations for membership on the Council.

(B) *APPOINTMENTS.*—

(i) *IN GENERAL.*—After timely notice is published, the Secretary shall, as necessary, appoint members to the Council.

(ii) *LIMITATIONS.*—The Secretary may not seek, consider, or otherwise use information concerning the political affiliation of a nominee in making an appointment to the Council.

(iii) *VACANCY.*—The Secretary may reappoint a member to the Council more than once.

(C) *SERVICE.*—Each member of the Council shall serve at the pleasure of the Secretary.

(5) *TERM; VACANCY.*—

(A) *TERM.*—

(i) *IN GENERAL.*—The term of each member of the Council shall expire on December 31 of the third full year after the effective date of the appointment.

(ii) *EXTENSIONS.*—Notwithstanding clause (1), paragraph (4), or any other provision of law or policy, the Commandant (or the Commandant's designee) may extend the term of a member of the Council to December 31 of the fifth full year after the effective date of the appointment.

(iii) *VACANCY.*—*In the case of an appointment to fill a vacancy on the Council, the Secretary shall appoint an individual for a full term.*

(6) *CHAIRPERSON; VICE CHAIRPERSON.*—

(A) *IN GENERAL.*—*The Commandant (or the Commandant’s designee) shall designate 1 member of the Council as the Chairperson and another member of the Council as the Vice Chairperson, both of whom shall serve in such capacity at the pleasure of the Commandant (or the Commandant’s designee) and for a term to be fixed by the Commandant (or the Commandant’s designee).*

(B) *RECOMMENDATIONS.*—*The Commandant (or the Commandant’s designee) may solicit, from the Council, recommendations with regard to the members whom the Commandant (or the Commandant’s designee) shall designate as the Chairperson and the Vice Chairperson.*

(C) *VACANCY.*—*The Vice Chairperson shall act as Chairperson in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairperson.*

(7) *DESIGNATED FEDERAL OFFICER.*—*The Commandant (or the Commandant’s designee) shall designate a Designated Federal Officer to the Council in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).*

(c) *CONSULTATION.*—*In addition to the consultation required by section 4302 of this title, the Commandant (or the Commandant’s designee) shall, whenever practicable, consult with the Council on boating safety matters related to chapter 131 of this title.*

(d) *FEDERAL ADVISORY COMMITTEE ACT; TERMINATION.*—

(1) *FACA.*—*The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Council.*

(2) *TERMINATION.*—*The Council shall terminate on September 30, 2027.*

**§ 709. National Maritime Security Advisory Committee**

(a) *ESTABLISHMENT.*—*There is established a National Maritime Security Advisory Committee (referred to in this section as the “Committee”).*

(b) *FUNCTION.*—*The Committee, acting through the Commandant (or the Commandant’s designee), is authorized to advise, consult with, report to, and make recommendations to the Secretary on matters relating to national maritime security.*

(c) *ORGANIZATION.*—

(1) *MEETING.*—*The Committee shall, at least once each calendar year, meet at the call of the Commandant (or the Commandant’s designee).*

(2) *MEMBERSHIP.*—

(A) *IN GENERAL.*—*The Committee shall consist of not less than 8 members, but not more than 12 members.*

(B) *EXPERIENCE.*—*Each member of the Committee shall have at least 5 years practical experience in maritime security operations.*

(C) *POINTS OF VIEW.*—*Each member of the Committee shall represent the point of view of an entity or group, as follows:*

(i) *At least 1 member representing the port authorities.*

(ii) *At least 1 member representing the facilities owners or operators.*

(iii) *At least 1 member representing the terminal owners or operators.*

(iv) *At least 1 member representing the vessel owners or operators.*

(v) *At least 1 member representing the maritime labor organizations.*

(vi) *At least 1 member representing the academic community.*

(vii) *At least 1 member representing State or local governments.*

(viii) *At least 1 member representing the maritime industry.*

(ix) *Not more than 4 members, each representing an entity or group, the point of view of which or the area of expertise of which the Commandant (or the Commandant's designee) determines would aid the Committee's deliberations.*

(3) *STATUS OF MEMBERS.—For the purposes of Federal law, including the Ethics in Government Act of 1978 and chapter 11 of title 18, each member of the Committee is hereby deemed a representative of the member's respective special interest entity or group, and not a special Government employee (as defined in section 202(a) of title 18).*

(4) *NOMINATIONS; APPOINTMENTS; SERVICE.—*

(A) *NOMINATIONS.—As necessary, the Secretary shall publish in the Federal Register, a notice soliciting nominations for membership on the Committee.*

(B) *APPOINTMENTS.—*

(i) *IN GENERAL.—After timely notice is published, the Secretary shall appoint members to the Committee.*

(ii) *LIMITATIONS.—The Secretary may not seek, consider, or otherwise use information concerning the political affiliation of an individual in making an appointment to the Committee.*

(iii) *REAPPOINTMENTS.—The Secretary may reappoint a member to the Committee more than once.*

(C) *SERVICE.—Each member of the Committee shall serve at the pleasure of the Secretary.*

(D) *BACKGROUND EXAMINATIONS.—The Secretary may require an individual to have passed an appropriate security background examination before appointment to the Committee.*

(5) *TERM; VACANCY.—*

(A) *TERM.—*

(i) *IN GENERAL.—The term of each member of the Committee shall expire on December 31 of the third full year after the effective date of the appointment.*

(ii) *EXTENSIONS.—Notwithstanding clause (i), paragraph (4), or any other provision of law or policy, the Commandant (or the Commandant's designee) may extend the term of a member of the Committee to Decem-*

ber 31 of the fifth full year after the effective date of the appointment.

(iii) VACANCY.—In the case of an appointment to fill a vacancy on the Committee, the Secretary shall appoint an individual for a full term.

(6) CHAIRPERSON; VICE CHAIRPERSON.—

(A) IN GENERAL.—The Commandant (or the Commandant's designee) shall designate 1 member of the Committee as the Chairperson and another member of the Committee as the Vice Chairperson, both of whom shall serve in such capacity at the pleasure of the Commandant (or the Commandant's designee) and for a term to be fixed by the Commandant (or the Commandant's designee).

(B) RECOMMENDATIONS.—The Commandant (or the Commandant's designee) may solicit, from the Committee, recommendations with regard to the members whom the Commandant (or the Commandant's designee) shall designate as the Chairperson and the Vice Chairperson.

(C) VACANCY.—The Vice Chairperson shall act as Chairperson in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairperson.

(7) DESIGNATED FEDERAL OFFICER.—The Commandant (or the Commandant's designee) shall designate a Designated Federal Officer to the Committee in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(d) FEDERAL ADVISORY COMMITTEE ACT; TERMINATION.—

(1) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee.

(2) TERMINATION.—The Committee shall terminate on September 30, 2027.

**§ 710. National Offshore Safety Advisory Committee**

(a) ESTABLISHMENT.—There is established a National Offshore Safety Advisory Committee (referred to in this section as the "Committee").

(b) FUNCTION.—The Committee, acting through the Commandant (or the Commandant's designee), is authorized to advise, consult with, report to, and make recommendations to the Secretary on matters relating to activities directly involved with, or in support of, the exploration of offshore mineral and energy resources insofar as such activities relate to matters within Coast Guard jurisdiction.

(c) ORGANIZATION.—

(1) MEETING.—The Committee shall, at least once each calendar year, meet at the call of the Commandant (or the Commandant's designee).

(2) MEMBERSHIP.—

(A) IN GENERAL.—The Committee shall consist of 15 members.

(B) POINTS OF VIEW.—Except as provided in subparagraph (C), each member of the Committee shall represent the point of view of an entity or group, as follows:

(i) 2 members representing companies, organizations, enterprises, or similar entities engaged in the production of petroleum.

(ii) 2 members representing companies, organizations, enterprises, or similar entities engaged in offshore drilling.

(iii) 2 members representing companies, organizations, enterprises or similar entities engaged in the support, by offshore supply vessels or other vessels, of offshore operations.

(iv) 1 member representing a company, organization, enterprise or similar entity engaged in the construction of offshore facilities.

(v) 1 member representing a company, organization, enterprise or similar entity providing diving services to the offshore industry.

(vi) 1 member representing a company, organization, enterprise or similar entity providing safety and training services to the offshore industry.

(vii) 1 member representing a company, organization, enterprise or similar entity providing subsea engineering, construction or remotely operated vehicle support to the offshore industry.

(viii) 2 members representing employees of companies, organizations, enterprises or similar entities engaged in offshore operations, 1 of whom should have recent practical experience on vessels or units involved in the offshore industry.

(ix) 1 member representing a company, organization, enterprise or similar entity providing environmental protection, compliance or response services to the offshore industry.

(x) 1 member representing a company, organization, enterprise or similar entity engaged in offshore oil exploration or production on the Outer Continental Shelf of Alaska.

(C) *ADDITIONAL MEMBER.*—1 member of the Committee shall represent the general public.

(3) *STATUS OF MEMBERS.*—For the purposes of Federal law, including the Ethics in Government Act of 1978 and chapter 11 of title 18—

(A) a member of the Committee, whom the Secretary appoints to represent the point of view of an entity or group set out in paragraph (2)(C), is hereby deemed a representative of the member's respective special interest entity or group, and not a special Government employee (as defined in section 202(a) of title 18); and

(B) a member of the Committee, whom the Secretary appoints to represent the general public, is hereby deemed a special Government employee (as defined in section 202(a) of title 18).

(4) *NOMINATIONS; APPOINTMENTS; SERVICE.*—

(A) *NOMINATIONS.*—As necessary, the Secretary shall publish, in the Federal Register, a notice soliciting nominations for membership on the Committee.

(B) *APPOINTMENTS.*—

(i) *IN GENERAL.*—After timely notice is published, the Secretary shall, as necessary, appoint members to the Committee.

(ii) *LIMITATIONS.*—The Secretary may not seek, consider, or otherwise use information concerning the political affiliation of a nominee in making an appointment to the Committee.

(iii) *REAPPOINTMENTS.*—The Secretary may reappoint a member to the Committee more than once.

(C) *SERVICE.*—Each member of the Committee shall serve at the pleasure of the Secretary.

(5) *TERM; VACANCY.*—

(A) *TERM.*—

(i) *IN GENERAL.*—The term of each member of the Committee shall expire on December 31 of the third full year after the effective date of the appointment.

(ii) *EXTENSIONS.*—Notwithstanding clause (i), paragraph (4), or any other provision of law or policy, the Commandant (or the Commandant's designee) may extend the term of a member of the Committee to December 31 of the fifth full year after the effective date of the appointment.

(iii) *VACANCY.*—In the case of an appointment to fill a vacancy on the Committee, the Secretary shall appoint an individual for a full term.

(6) *CHAIRPERSON; VICE CHAIRPERSON.*—

(A) *IN GENERAL.*—The Commandant (or the Commandant's designee) shall designate one member of the Committee as the Chairperson and another member of the Committee as the Vice Chairperson, both of whom shall serve in such capacity at the pleasure of the Commandant (or the Commandant's designee) and for a term to be fixed by the Commandant (or the Commandant's designee).

(B) *RECOMMENDATIONS.*—The Commandant (or the Commandant's designee) may solicit, from the Committee, recommendations with regard to the members whom the Commandant (or the Commandant's designee) shall designate as the Chairperson and the Vice Chairperson.

(C) *VACANCY.*—The Vice Chairperson shall act as Chairperson in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairperson.

(7) *DESIGNATED FEDERAL OFFICER.*—The Commandant (or the Commandant's designee) shall designate a Designated Federal Officer to the Committee in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(d) *FEDERAL ADVISORY COMMITTEE ACT; TERMINATION.*—

(1) *FACA.*—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee.

(2) *TERMINATION.*—The Committee shall terminate on September 30, 2027.

### **§ 711. Navigation Safety Advisory Council**

(a) *ESTABLISHMENT.*—There is established a Navigation Safety Advisory Council (referred to in this section as the "Council").

(b) *FUNCTION.*—The Council, acting through the Commandant (or the Commandant's designee), is authorized to advise, consult with, report to, and make recommendations to the Secretary on matters relating to maritime collisions, rammings and groundings, Inland Rules of the Road, International Rules of the Road, navigation regulations and equipment, routing measures, marine information, and aids to navigation systems.

(c) *ORGANIZATION.*—

(1) *MEETING.*—The Council shall, at least once each calendar year, meet at the call of the Commandant (or the Commandant's designee).

(2) *MEMBERSHIP.*—

(A) *IN GENERAL.*—The Council shall consist of not more than 21 members.

(B) *EXPERIENCE.*—Each member of the Council shall have expertise in Inland and International vessel navigation Rules of the Road, aids to maritime navigation, maritime law, vessel safety, or port safety.

(C) *POINTS OF VIEW.*—Each member of the Council shall represent the point of view of one of the following entities or groups:

(i) Commercial vessel owners or operators.

(ii) Professional mariners.

(iii) Recreational boaters.

(iv) State agencies responsible for vessel or port safety.

(v) The Maritime Law Association.

(3) *STATUS OF MEMBERS.*—For the purposes of Federal law, including the Ethics in Government Act of 1978 and chapter 11 of title 18, each member of the Council is hereby deemed a representative of the member's respective special interest entity or group, and not a special Government employee (as defined in section 202(a) of title 18).

(4) *NOMINATIONS; APPOINTMENTS; SERVICE.*—

(A) *NOMINATIONS.*—As necessary, the Secretary shall publish, in the Federal Register, a notice soliciting nominations for membership on the Council.

(B) *APPOINTMENTS.*—

(i) *IN GENERAL.*—After timely notice is published, the Secretary shall, as necessary, appoint members to the Council.

(ii) *LIMITATIONS.*—The Secretary may not seek, consider, or otherwise use information concerning the political affiliation of a nominee in making an appointment to the Council.

(iii) *REAPPOINTMENTS.*—The Secretary may reappoint a member to the Council more than once.

(C) *SERVICE.*—Each member of the Council shall serve at the pleasure of the Secretary.

(5) *TERM; VACANCY.*—

(A) *TERM.*—

(i) *IN GENERAL.*—The term of each member of the Council shall expire on December 31 of the third full year after the effective date of the appointment.

(ii) *EXTENSIONS.*—Notwithstanding clause (i), paragraph (4), or any other provision of law or policy, the Commandant (or the Commandant’s designee) may extend the term of a member of the Council to December 31 of the fifth full year after the effective date of the appointment.

(iii) *REAPPOINTMENTS.*—In the case of an appointment to fill a vacancy on the Council, the Secretary shall appoint an individual for a full term.

(6) *CHAIRPERSON; VICE CHAIRPERSON.*—

(A) *IN GENERAL.*—The Commandant (or the Commandant’s designee) shall designate 1 member of the Council as the Chairperson and another member of the Council as the Vice Chairperson, both of whom shall serve in such capacity at the pleasure of the Commandant (or the Commandant’s designee) and for a term to be fixed by the Commandant (or the Commandant’s designee).

(B) *RECOMMENDATIONS.*—The Commandant (or the Commandant’s designee) may solicit, from the Council, recommendations with regard to the members whom the Commandant (or the Commandant’s designee) shall designate as the Chairperson and the Vice Chairperson.

(C) *VACANCY.*—The Vice Chairperson shall act as Chairperson in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairperson.

(7) *DESIGNATED FEDERAL OFFICER.*—The Commandant (or the Commandant’s designee) shall designate a Designated Federal Officer to the Council in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(d) *FEDERAL ADVISORY COMMITTEE ACT; TERMINATION.*—

(1) *FACA.*—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Council.

(2) *TERMINATION.*—The Council shall terminate on September 30, 2027.

**§ 712. Towing Safety Advisory Committee**

(a) *ESTABLISHMENT.*—There is established a Towing Safety Advisory Committee (referred to in this section as the “Committee”).

(b) *FUNCTION.*—The Committee, acting through the Commandant (or the Commandant’s designee), is authorized to advise, consult with, report to, and make recommendations to the Secretary on matters relating to shallow-draft inland navigation, coastal waterway navigation, and towing safety.

(c) *ORGANIZATION.*—

(1) *MEETING.*—The Committee shall, at least once each calendar year, meet at the call of the Commandant (or the Commandant’s designee).

(2) *MEMBERSHIP.*—

(A) *IN GENERAL.*—The Committee shall consist of 18 members.

(B) *EXPERIENCE.*—Each member of the Committee shall have particular expertise, knowledge, and experience regarding—

(i) shallow-draft inland navigation or coastal waterway navigation; and

(ii) towing safety.

(C) *POINTS OF VIEW.*—Except as provided in subparagraph (D), each member of the Committee shall represent the point of view of an entity or group, as follows:

(i) 7 members representing the barge and towing industry, reflecting a regional geographic balance.

(ii) 1 member representing the offshore mineral and oil supply vessel industry.

(iii) 1 member representing Masters or Pilots of towing vessels who have experience on the Western Rivers and the Gulf Intracoastal Waterway.

(iv) 1 member representing Masters of towing vessels who have experience in offshore service.

(v) 1 member representing Masters of towing vessels who have experience in harbor-assist operations.

(vi) 1 member representing towing vessel engineers.

(vii) 2 members representing port districts, authorities, or terminal operators.

(viii) 1 member representing shippers.

(ix) 1 member representing shippers who are engaged in the chartering or shipping of oil or hazardous materials by barge.

(D) *ADDITIONAL MEMBERS.*—2 members of the Committee shall represent the general public.

(3) *STATUS OF MEMBERS.*—For the purposes of Federal law, including the Ethics in Government Act of 1978 and chapter 11 of title 18—

(A) a member of the Committee, whom the Secretary appoints to represent the point of view of an entity or group set out in paragraph (2)(C), is hereby deemed a representative of the member's respective special interest entity or group, and not a special Government employee (as defined in section 202(a) of title 18); and

(B) a member of the Committee, whom the Secretary appoints to represent the general public, is hereby deemed a special Government employee (as defined in section 202(a) of title 18).

(4) *NOMINATIONS; APPOINTMENTS; SERVICE.*—

(A) *NOMINATIONS.*—As necessary, the Secretary shall publish, in the Federal Register, a notice soliciting nominations for membership on the Committee.

(B) *APPOINTMENTS.*—

(i) *IN GENERAL.*—After timely notice is published, the Secretary shall, as necessary, appoint members to the Committee.

(ii) *LIMITATIONS.*—The Secretary may not seek, consider, or otherwise use information concerning the political affiliation of an individual in making an appointment to the Committee.

(iii) *REAPPOINTMENTS.*—The Secretary may reappoint a member to the Committee more than once.

(C) *SERVICE.*—Each member of the Committee shall serve at the pleasure of the Secretary.

(5) *TERM; VACANCY.*—

(A) *TERM.*—

(i) *IN GENERAL.*—The term of each member of the Committee shall expire on December 31 of the third full year after the effective date of the appointment.

(ii) *EXTENSIONS.*—Notwithstanding clause (i), paragraph (4), or any other provision of law or policy, the Commandant (or the Commandant's designee) may extend the term of a member of the Committee to December 31 of the fifth full year after the effective date of the appointment.

(iii) *VACANCY.*—In the case of an appointment to fill a vacancy on the Committee, the Secretary shall appoint an individual for a full term.

(6) *CHAIRPERSON; VICE CHAIRPERSON.*—

(A) *IN GENERAL.*—The Commandant (or the Commandant's designee) shall designate 1 member of the Committee as the Chairperson and another member of the Committee as the Vice Chairperson, both of whom shall serve in such capacity at the pleasure of the Commandant (or the Commandant's designee) and for a term to be fixed by the Commandant (or the Commandant's designee).

(B) *RECOMMENDATIONS.*—The Commandant (or the Commandant's designee) may solicit, from the Committee, recommendations with regard to the members whom the Commandant (or the Commandant's designee) shall designate as the Chairperson and the Vice Chairperson.

(C) *VACANCY.*—The Vice Chairperson shall act as Chairperson in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairperson.

(7) *DESIGNATED FEDERAL OFFICER.*—The Commandant (or the Commandant's designee) shall designate a Designated Federal Officer to the Committee in accordance with the Federal Advisory Committee Act (5 U.S.C. App.).

(d) *CONSULTATION.*—The Commandant (or the Commandant's designee) shall, whenever practicable, consult with the Committee before taking any significant action affecting shallow-draft inland navigation, coastal waterway navigation, and towing safety.

(e) *FEDERAL ADVISORY COMMITTEE ACT; TERMINATION.*—

(1) *FACA.*—The Federal Advisory Committee Act (5 U.S.C. App.) shall apply to the Committee.

(2) *TERMINATION.*—The Committee shall terminate on September 30, 2027.

## TITLE 46. SHIPPING

### SUBTITLE II. VESSELS AND SEAMEN

#### PART B. INSPECTION AND REGULATION OF VESSELS

##### CHAPTER 43. RECREATIONAL VESSELS

### § 4302. Regulations

(a) \* \* \*

(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] 708 of this title about the considerations referred to in clauses (1)-(3) of this subsection.

(d) \* \* \*

## TITLE 46. SHIPPING

### SUBTITLE II. VESSELS AND SEAMEN

#### PART B. INSPECTION AND REGULATION OF VESSELS

##### CHAPTER 31. GENERAL

#### § 3104. Survival craft

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

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

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

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

(c) INNOVATIVE AND NOVEL DESIGNS.—The Secretary may, in lieu of the requirements set out in part 117 or part 180 of title 46, Code of Federal Regulations, as in effect on the date of the enactment of the Coast Guard Authorization Act of 2016, allow a passenger vessel to be equipped with a life-saving appliance or arrangement of an innovative or novel design that—

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

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

(d) AUXILIARY CRAFT.—

(1) EXCEPTION.—*Subject to paragraph (2), this section shall not apply to a vessel carrying an auxiliary craft on board, except an inflatable liferaft, if the auxiliary craft—*

*(A) is readily accessible during an emergency; and*

*(B) is capable of safely holding all individuals on board the vessel.*

(2) *REQUIREMENT.*—A vessel described in paragraph (1) may not exceed the rated capacity on the capacity plate of the auxiliary craft if the auxiliary craft is equipped with a Coast Guard required capacity plate.

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

## TITLE 46. SHIPPING

### SUBTITLE II. VESSELS AND SEAMEN

#### PART B. INSPECTION AND REGULATION OF VESSELS

##### CHAPTER 45. UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

#### § 4502. Safety standards

(a) \* \* \*

(f) To ensure compliance with the requirements of this chapter, the Secretary—

(1) shall require the individual in charge of a vessel described in subsection (b) to keep a record of equipment maintenance, and required instruction and drills;

[(2)] shall examine at dockside a vessel described in subsection (b) at least once every 5 years, and shall issue a certificate of compliance to a vessel meeting the requirements of this chapter; and

(2) shall examine at dockside a vessel described in subsection (b) at least once every 5 years, but may require an exam at dockside every 2 years for certain vessels described in subsection (b) requested by the owner or operator;

(3) shall issue a certificate of compliance to a vessel meeting the requirements of this chapter and satisfying the requirements in paragraph (2); and

[(3)](4) shall complete the first dockside examination of a vessel under this subsection not later than October 15, 2015.

(g)(1) The individual in charge of a vessel described in subsection (b) must pass a training program approved by the Secretary that meets the requirements in paragraph (2) of this subsection and hold a valid certificate issued under that program.

(2) The training program shall—

(A) be based on professional knowledge and skill obtained through sea service and hands-on training, including training in seamanship, stability, collision prevention, navigation, fire fighting and prevention, damage control, personal survival, emergency medical care, emergency drills, and weather;

(B) require an individual to demonstrate ability to communicate in an emergency situation and understand information found in navigation publications;

(C) recognize and give credit for recent past experience in fishing vessel operation; and

(D) provide for issuance of a certificate to an individual that has successfully completed the program.

(3) The Secretary shall prescribe regulations implementing this subsection. The regulations shall require that individuals who are issued a certificate under paragraph (2)(D) must com-

plete refresher training at least once every 5 years as a condition of maintaining the validity of the certificate.

(4) The Secretary shall establish an electronic database listing the names of individuals who have participated in and received a certificate confirming successful completion of a training program approved by the Secretary under this section.

(h) A vessel to which this chapter applies shall be constructed in a manner that provides a level of safety equivalent to the minimum safety standards the Secretary may establish for recreational vessels under section 4302, if—

- (1) subsection (b) of this section applies to the vessel;
- (2) the vessel is less than 50 feet overall in length; and
- (3) the vessel is built after January 1, 2010.

(i)(1) The Secretary shall establish a Fishing Safety Training Grants Program to provide funding to municipalities, port authorities, other appropriate public entities, not-for-profit organizations, and other qualified persons that provide commercial fishing safety training—

(A) to conduct fishing vessel safety training for vessel operators and crewmembers that—

- (i) in the case of vessel operators, meets the requirements of subsection (g); and
- (ii) in the case of crewmembers, meets the requirements of subsection (g)(2)(A), such requirements of subsection (g)(2)(B) as are appropriate for crewmembers, and the requirements of subsections (g)(2)(D), (g)(3), and (g)(4); and

(B) for purchase of safety equipment and training aids for use in those fishing vessel safety training programs.

(2) The Secretary shall award grants under this subsection on a competitive basis.

(3) The Federal share of the cost of any activity carried out with a grant under this subsection shall not exceed 75 percent.

(4) There is authorized to be appropriated \$3,000,000 for each of fiscal years **【2015 through 2017】** *2015 through 2019* for grants under this subsection.

(j)(1) The Secretary shall establish a Fishing Safety Research Grant Program to provide funding to individuals in academia, members of non-profit organizations and businesses involved in fishing and maritime matters, and other persons with expertise in fishing safety, to conduct research on methods of improving the safety of the commercial fishing industry, including vessel design, emergency and survival equipment, enhancement of vessel monitoring systems, communications devices, de-icing technology, and severe weather detection.

(2) The Secretary shall award grants under this subsection on a competitive basis.

(3) The Federal share of the cost of any activity carried out with a grant under this subsection shall not exceed 75 percent.

(4) There is authorized to be appropriated \$3,000,000 for each fiscal years **【2015 through 2017】** *2015 through 2019* for activities under this subsection.

**§ 4504. Fishing, fish tender, and fish processing vessel certification**

(a) A vessel to which this subsection applies may not be operated unless the vessel—

(1) meets all survey and classification requirements prescribed by the American Bureau of Shipping or another similarly qualified organization approved by the Secretary; and

(2) has on board a certificate issued by the American Bureau of Shipping or that other organization evidencing compliance with this subsection.

(b) Except as provided in subsection (d), subsection (a) 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) Except as provided in paragraph (2), subsection (a) 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) Subsection (a) does not apply to a fishing vessel or fish tender vessel to which section 4502(b) of this title applies, if the vessel—

(A) is at least 50 feet overall in length, and not more than **[79]** 180 feet overall in length as listed on the vessel's certificate of documentation or certificate of number; and

(B)(i) is built after the date of the enactment of the Coast Guard Authorization Act of 2016; and

(ii) complies with—

(I) the requirements described in subsection (e);

or

(II) the alternative requirements established by the Secretary under subsection (f).

(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]** *Subject to paragraph (3), beginning on the date that is 3 years after the date that the Secretary prescribes an alternate safety compliance program, a fishing vessel, fish processing vessel, or fish tender vessel to which section 4502(b) of this title applies shall comply with the alternate safety compliance program 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]** *prescribes an alternate safety compliance program under paragraph (1), shall comply with the alternate safety compliance program.*

[(3) Alternative safety compliance programs may be developed for purposes of paragraph (1) for specific regions and fisheries.]

(3) *For purposes of paragraph (1), a separate alternate safety compliance program may be developed for a specific region or specific fishery.*

(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) The requirements referred to in subsection (c)(2)(B)(ii)(I) are the following:

(1) The vessel is designed by an individual licensed by a State as a naval architect or marine engineer, and the design incorporates standards equivalent to those prescribed by a classification society to which the Secretary has delegated authority under section 3316 or another qualified organization approved by the Secretary for purposes of this paragraph.

(2) Construction of the vessel is overseen and certified as being in accordance with its design by a marine surveyor of an organization accepted by the Secretary.

(3) The vessel—

(A) completes a stability test performed by a qualified individual;

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

(C) has an assigned loading mark.

(4) The vessel is not substantially altered without the review and approval of an individual licensed by a State as a naval architect or marine engineer before the beginning of such substantial alteration.

(5) The vessel undergoes a condition survey at least twice in 5 years, not to exceed 3 years between surveys, to the satisfaction of a marine surveyor of an organization accepted by the Secretary.

(6) The vessel undergoes an out-of-water survey at least once every 5 years to the satisfaction of a certified marine surveyor of an organization accepted by the Secretary.

(7) Once every 5 years and at the time of a substantial alteration to such vessel, compliance of the vessel with the requirements of paragraph (3) is reviewed and updated as necessary.

(8) For the life of the vessel, the owner of the vessel maintains records to demonstrate compliance with this subsection

and makes such records readily available for inspection by an official authorized to enforce this chapter.

(f)(1) Not later than 10 years after the date of the enactment of the Coast Guard Authorization Act of 2016, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that provides an analysis of the adequacy of the requirements under subsection (e) in maintaining the safety of the fishing vessels and fish tender vessels which are described in subsection (c)(2) and which comply with the requirements of subsection (e).

(2) If the report required under this subsection includes a determination that the safety requirements under subsection (e) are not adequate or that additional safety measures are necessary, then the Secretary may establish an alternative safety compliance program for fishing vessels or fish tender vessels (or both) which are described in subsection (c)(2) and which comply with the requirements of subsection (e).

(3) The alternative safety compliance program established under this subsection shall include requirements for—

- (A) vessel construction;
- (B) a vessel stability test;
- (C) vessel stability and loading instructions;
- (D) an assigned vessel loading mark;
- (E) a vessel condition survey at least twice in 5 years, not to exceed 3 years between surveys;
- (F) an out-of-water vessel survey at least once every 5 years;
- (G) maintenance of records to demonstrate compliance with the program, and the availability of such records for inspection; and
- (H) such other aspects of vessel safety as the Secretary considers appropriate.

(g) *For purposes of this section, a keel is laid when a structure, adequate of serving as a keel for a vessel greater than 79 feet in length is identified for use in the construction of a specific vessel and is so affirmed by a marine surveyor.*

[(g)](h) 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.

#### **§ 4505. Termination of unsafe operations**

An official authorized to enforce this chapter—

- (1) may direct the individual in charge of a vessel to which this chapter applies to immediately take reasonable steps necessary for the safety of individuals on board the vessel if the official observes the vessel being operated in an unsafe condition that the official believes creates an especially hazardous condition, including ordering the individual in charge to return

the vessel to a mooring and to remain there until the situation creating the hazard is corrected or ended; and

(2) may order the individual in charge of an uninspected fish processing vessel that does not have on board the certificate required under section **[4503(1)] 4503(a)** of this title to return the vessel to a mooring and to remain there until the vessel is in compliance with that section.

**[§ 4508. Commercial fishing safety advisory committee**

**[(a) The Secretary shall establish a Commercial Fishing Safety Advisory Committee. The Committee—**

**[(1) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to the safe operation of vessels to which this chapter applies, including navigation safety, safety equipment and procedures, marine insurance, vessel design, construction, maintenance and operation, and personnel qualifications and training;**

**[(2) may review proposed regulations under this chapter;**

**[(3) may make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary; and**

**[(4) shall meet at the call of the Secretary, who shall call such a meeting at least once during each calendar year.**

**[(b)(1) The Committee shall consist of eighteen members with particular expertise, knowledge, and experience regarding the commercial fishing industry as follows:**

**[(A) ten members who shall represent the commercial fishing industry and who—**

**[(i) reflect a regional and representational balance; and**

**[(ii) have experience in the operation of vessels to which this chapter applies or as a crew member or processing line worker on a fish processing vessel;**

**[(B) three members who shall represent the general public, including, whenever possible—**

**[(i) an independent expert or consultant in maritime safety;**

**[(ii) a marine surveyor who provides services to vessels to which this chapter applies; and**

**[(iii) a person familiar with issues affecting fishing communities and families of fishermen;**

**[(C) one member each of whom shall represent—**

**[(i) naval architects and marine engineers;**

**[(ii) manufacturers of equipment for vessels to which this chapter applies;**

**[(iii) education or training professionals related to fishing vessel, fish processing vessel, or fish tender vessel safety or personnel qualifications;**

**[(iv) underwriters that insure vessels to which this chapter applies; and**

**[(v) owners of vessels to which this chapter applies.**

**[(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee, and, after timely notice is published,**

appoint the members of the Committee. An individual may be appointed to a term as a member of the Committee more than once. The Secretary may not seek or use information concerning the political affiliation of individuals in making appointments to the Committee.

[(3)(A) A member of the Committee shall serve a term of three years.

[(B) If a vacancy occurs in the membership of the Committee, the Secretary shall appoint a member to fill the remainder of the vacated term.

[(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

[(5) The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to vessels to which this chapter applies which are under the jurisdiction of their respective agencies. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 App. U.S.C.).

[(c)

[(1) The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to the safe operation of vessels to which this chapter applies.

[(2) The Secretary shall consider the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding the safe operation of vessels to which this chapter applies.

[(d)(1) A member of the Committee who is not an officer or employee of the United States or a member of the Armed Forces, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive—

[(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-18 of the General Schedule under section 5332 of title 5 including travel time; and

[(B) travel or transportation expenses under section 5703 of title 5.

[(2) Payments under this section do not render a member of the Committee an officer or employee of the United States or a member of the Armed Forces for any purpose.

[(3) A member of the Committee who is an officer or employee of the United States or a member of the Armed Forces may not receive additional pay based on the member's service to the Committee.

[(4) The provisions of this section relating to an officer or employee of the United States or a member of the Armed Forces do not apply to a member of a reserve component of the Armed Forces unless that member is in an active status.

[(e)(1) The Federal Advisory Committee Act (5 App. U.S.C.) applies to the Committee, except that the Committee terminates on September 30, 2020.

[(2) Two years prior to the termination date referred to in paragraph (1) of this subsection, the Committee shall submit to Congress its recommendation regarding whether the Committee should be renewed and continued beyond the termination date.]

## TITLE 46. SHIPPING

### SUBTITLE II. VESSELS AND SEAMEN

#### PART E. MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS

##### CHAPTER 71. LICENSES AND CERTIFICATES OF REGISTRY

#### § 7106. Duration of licenses

(a) IN GENERAL.—A license issued under this part is valid for a 5-year period and may be renewed for additional 5-year periods; except that the validity of a license issued to a radio officer is conditioned on the continuous possession by the holder of a first-class or second-class radiotelegraph operator license issued by the Federal Communications Commission.

(b) ADVANCE RENEWALS.—A renewed license issued under this part may be issued up to 8 months in advance but is not effective until the date that the previously issued license expires or until the completion of any active suspension or revocation of that previously issued [merchant mariner’s document] *license*, whichever is later.

#### § 7107. Duration of certificates of registry

(a) IN GENERAL.—A certificate of registry issued under this part is valid for a 5-year period and may be renewed for additional 5-year periods; except that the validity of a certificate issued to a medical doctor or professional nurse is conditioned on the continuous possession by the holder of a license as a medical doctor or registered nurse, respectively, issued by a State.

(b) ADVANCE RENEWALS.—A renewed certificate of registry issued under this part may be issued up to 8 months in advance but is not effective until the date that the previously issued certificate of registry expires or until the completion of any active suspension or revocation of that previously issued [merchant mariner’s document] *certificate of registry*, whichever is later.

#### § 7115. Merchant mariner medical advisory committee

[(a) ESTABLISHMENT.—

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

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

[(A) medical certification determinations for issuance of licences, certificates of registry, and merchant mariners’ documents;

- [(B) medical standards and guidelines for the physical qualifications of operators of commercial vessels;
- [(C) medical examiner education; and
- [(D) medical research.

[(b) MEMBERSHIP.—

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

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

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

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

[(c) APPOINTMENTS; TERMS; VACANCIES.—

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

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

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

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

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

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

## TITLE 46. SHIPPING

## SUBTITLE II. VESSELS AND SEAMEN

## PART E. MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS

## CHAPTER 75. GENERAL PROCEDURES FOR LICENSING, CERTIFICATION, AND DOCUMENTATION

**§ 7507. Authority to extend the duration of licenses, certificates of registry, and merchant mariner documents**

(a) LICENSES AND CERTIFICATES OF REGISTRY.—Notwithstanding sections 7106 and 7107, the Secretary of the department in which the Coast Guard is operating may—

(1) extend for not more than one year an expiring license or certificate of registry issued for an individual under chapter 71 if the Secretary determines that the extension is required to enable the Coast Guard to eliminate a backlog in processing applications for those [licenses or certificates of registry] *merchant mariner documents* or in response to a national emergency or natural disaster, as deemed necessary by the Secretary; or

(2) issue for not more than five years an expiring license or certificate of registry issued for an individual under chapter 71 for the exclusive purpose of aligning the expiration date of such license or certificate of registry with the expiration date of [a merchant mariner's document] *a license or a certificate of registry*.

(b) MERCHANT MARINER DOCUMENTS.—Notwithstanding section 7302(g), the Secretary may—

(1) extend for not more than one year an expiring merchant mariner's document issued for an individual under chapter 73 if the Secretary determines that the extension is required to enable the Coast Guard to eliminate a backlog in processing applications for those licenses or certificates of registry or in response to a national emergency or natural disaster, as deemed necessary by the Secretary; or

(2) issue for not more than five years an expiring merchant mariner's document issued for an individual under chapter 73 for the exclusive purpose of aligning the expiration date of such merchant mariner's document with the expiration date of a merchant mariner's document.

(c) MANNER OF EXTENSION.—Any extensions granted under this section may be granted to individual seamen or a specifically identified group of seamen.

## TITLE 46. SHIPPING

## SUBTITLE II. VESSELS AND SEAMEN

## PART F. MANNING OF VESSELS

## CHAPTER 81. GENERAL

**§ 8108. Merchant marine personnel advisory committee**

[(a) ESTABLISHMENT.—The Secretary shall establish a Merchant Marine Personnel Advisory Committee (in this section referred to as “the Committee”). The Committee—

[(1) shall act solely in an advisory capacity to the Secretary through the Commandant of the Coast Guard on matters relating to personnel in the United States merchant marine, including training, qualifications, certification, documentation, and fitness standards, and other matters as assigned by the Commandant;

[(2) shall review and comment on proposed Coast Guard regulations and policies relating to personnel in the United States merchant marine, including training, qualifications, certification, documentation, and fitness standards;

[(3) may be given special assignments by the Secretary and may conduct studies, inquiries, workshops, and fact finding in consultation with individuals and groups in the private sector and with State or local governments;

[(4) shall advise, consult with, and make recommendations reflecting its independent judgment to the Secretary;

[(5) shall meet not less than twice each year; and

[(6) may make available to Congress recommendations that the Committee makes to the Secretary.

[(b) MEMBERSHIP.—

[(1) IN GENERAL.—The Committee shall consist of not more than 19 members who are appointed by and serve terms of a duration determined by the Secretary. Before filling a position on the Committee, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the Committee.

[(2) REQUIRED MEMBERS.—Subject to paragraph (3), the Secretary shall appoint as members of the Committee—

[(A) 9 United States citizens with active licenses or certificates issued under chapter 71 or merchant mariner documents issued under chapter 73, including—

[(i) 3 deck officers who represent the viewpoint of merchant marine deck officers, of whom—

[(I) 2 shall be licensed for oceans any gross tons;

[(II) 1 shall be licensed for inland river route with a limited or unlimited tonnage;

[(III) 2 shall have a master’s license or a master of towing vessels license;

[(IV) 1 shall have significant tanker experience; and

[(V) to the extent practicable—

[(aa) 1 shall represent the viewpoint of labor; and

[(bb) another shall represent a management perspective;  
 [(ii) 3 engineering officers who represent the viewpoint of merchant marine engineering officers, of whom—

[(I) 2 shall be licensed as chief engineer any horsepower;

[(II) 1 shall be licensed as either a limited chief engineer or a designated duty engineer; and

[(III) to the extent practicable—

[(aa) 1 shall represent a labor viewpoint; and

[(bb) another shall represent a management perspective;

[(iii) 2 unlicensed seamen, of whom—

[(I) 1 shall represent the viewpoint of able-bodied seamen; and

[(II) another shall represent the viewpoint of qualified members of the engine department; and

[(iv) 1 pilot who represents the viewpoint of merchant marine pilots;

[(B) 6 marine educators, including—

[(i) 3 marine educators who represent the viewpoint of maritime academies, including—

[(I) 2 who represent the viewpoint of State maritime academies and are jointly recommended by such State maritime academies; and

[(II) 1 who represents either the viewpoint of the State maritime academies or the United States Merchant Marine Academy; and

[(ii) 3 marine educators who represent the viewpoint of other maritime training institutions, 1 of whom shall represent the viewpoint of the small vessel industry;

[(C) 2 individuals who represent the viewpoint of shipping companies employed in ship operation management; and

[(D) 2 members who are appointed from the general public.

[(3) CONSULTATION.—The Secretary shall consult with the Secretary of Transportation in making an appointment under paragraph (2)(B)(i)(II).

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

[(d) SUBCOMMITTEES.—The Committee may establish and disestablish subcommittees and working groups for any purpose consistent with this section, subject to conditions imposed by the Committee. Members of the Committee and additional persons drawn from the general public may be assigned to such subcommittees and working groups. Only Committee members may chair subcommittee or working groups.

[(e) TERMINATION.—The Committee shall terminate on September 30, 2020.]

## TITLE 46. SHIPPING

### SUBTITLE II. VESSELS AND SEAMEN

#### PART F. MANNING OF VESSELS

##### CHAPTER 93. GREAT LAKES PILOTAGE

### **§ 9307. Great Lakes pilotage advisory committee**

[(a) The Secretary shall establish a Great Lakes Pilotage Advisory Committee. The Committee—

[(1) may review proposed Great Lakes pilotage regulations and policies and make recommendations to the Secretary that the Committee considers appropriate;

[(2) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to Great Lakes pilotage;

[(3) may make available to the Congress recommendations that the Committee makes to the Secretary; and

[(4) shall meet at the call of—

[(A) the Secretary, who shall call such a meeting at least once during each calendar year; or

[(B) a majority of the Committee.

[(b)(1) The Committee shall consist of seven members appointed by the Secretary in accordance with this subsection, each of whom has at least 5 years practical experience in maritime operations. The term of each member is for a period of not more than 5 years, specified by the Secretary. Before filling a position on the Committee, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the Committee.

[(2) The membership of the Committee shall include—

[(A) the President of each of the 3 Great Lakes pilotage districts, or the President's representative;

[(B) one member representing the interests of vessel operators that contract for Great Lakes pilotage services;

[(C) one member representing the interests of Great Lakes ports;

[(D) one member representing the interests of shippers whose cargoes are transported through Great Lakes ports; and

[(E) a member with a background in finance or accounting, who—

[(i) must have been recommended to the Secretary by a unanimous vote of the other members of the Committee, and

[(ii) may be appointed without regard to requirement in paragraph (1) that each member have 5 years of practical experience in maritime operations.

[(c)(1) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman.

[(2) The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. The Secretary's designated representative shall act as the executive secretary of the Committee and shall perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App.).

[(d)(1) The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to Great Lakes pilotage.

[(2) The Secretary shall consider the information, advice, and recommendations of the Committee in formulating policy regarding matters affecting Great Lakes pilotage.

[(3) Any recommendations to the Secretary under subsection (a)(2) must have been approved by at least all but one of the members then serving on the committee.

[(e)(1) A member of the Committee, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive—

[(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-18 of the General Schedule under section 5332 of title 5 including travel time; and

[(B) travel or transportation expenses under section 5703 of title 5, United States Code.

[(2) A member of the Committee shall not be considered to be an officer or employee of the United States for any purpose based on their receipt of any payment under this subsection.

[(f)(1) The Federal Advisory Committee Act (5 U.S.C. App.) applies to the Committee, except that the Committee terminates on September 30, 2020.

[(2) 2 years before the termination date set forth in paragraph (1) of this subsection, the Committee shall submit to the Congress its recommendation regarding whether the Committee should be renewed and continued beyond the termination date.]

## TITLE 46. SHIPPING

### SUBTITLE II. VESSELS AND SEAMEN

#### PART G. MERCHANT SEAMEN PROTECTION AND RELIEF

##### CHAPTER 111. PROTECTION AND RELIEF

### § 11113. Treatment of abandoned seafarers

(a) ABANDONED SEAFARERS FUND.—

(1) ESTABLISHMENT.—There is established in the Treasury a separate account to be known as the Abandoned Seafarers Fund.

(2) AUTHORIZED USES.—Amounts in the Fund [may be appropriated to the Secretary] *shall be available to the Secretary without further appropriation, and shall remain available until expended, for use—*

(A) to pay necessary support of a seafarer—

(i) who—

(I) was paroled into the United States under section 212(d)(5) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(5)), or for whom the Secretary has requested parole under such section; and

(II) is involved in an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of law by the Coast Guard; or

(ii) who—

(I) is physically present in the United States;

(II) the Secretary determines was abandoned in the United States; and

(III) has not applied for asylum under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); and

(B) to reimburse a vessel owner or operator for the costs of necessary support of a seafarer who has been paroled into the United States to facilitate an investigation, reporting, documentation, or adjudication of any matter that is related to the administration or enforcement of law by the Coast Guard, if—

(i) the vessel owner or operator is not convicted of a criminal offense related to such matter; or

(ii) the Secretary determines that reimbursement is appropriate.

(3) CREDITING OF AMOUNTS TO FUND.—

(A) IN GENERAL.—Except as provided in subparagraph (B), there shall be credited to the Fund the following:

(i) Penalties deposited in the Fund under section 9 of the Act to Prevent Pollution from Ships (33 U.S.C. 1908).

(ii) Amounts reimbursed or recovered under subsection (c).

(B) LIMITATION.—Amounts may be credited to the Fund under subparagraph (A) only if the unobligated balance of the Fund is less than \$5,000,000.

(4) REPORT REQUIRED.—On the date on which the President submits each budget for a fiscal year pursuant to section 1105 of title 31, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that describes—

(A) the amounts credited to the Fund under paragraph (2) for the preceding fiscal year; and

(B) amounts in the Fund that were expended for the preceding fiscal year.

(b) LIMITATION.—Nothing in this section shall be construed—

(1) to create a private right of action or any other right, benefit, or entitlement to necessary support for any person; or

(2) to compel the Secretary to pay or reimburse the cost of necessary support.

(c) REIMBURSEMENT; RECOVERY.—

(1) IN GENERAL.—A vessel owner or operator shall reimburse the Fund an amount equal to the total amount paid from the

Fund for necessary support of a seafarer, *plus a surcharge of 25 percent of such total amount*, if—

(A) the vessel owner or operator—

(i) during the course of an investigation, reporting, documentation, or adjudication of any matter that the Coast Guard referred to a United States attorney or the Attorney General, fails to provide necessary support of a seafarer who was paroled into the United States to facilitate the investigation, reporting, documentation, or adjudication; and

(ii) subsequently is—

(I) convicted of a criminal offense related to such matter; or

(II) required to reimburse the Fund pursuant to a court order or negotiated settlement related to such matter; or

(B) the vessel owner or operator abandons a seafarer in the United States, as determined by the Secretary based on substantial evidence.

(2) ENFORCEMENT.—If a vessel owner or operator fails to reimburse the Fund under paragraph (1) within 60 days after receiving a written, itemized description of reimbursable expenses and a demand for payment, the Secretary may—

(A) proceed in rem against the vessel on which the seafarer served in the Federal district court for the district in which the vessel is found; and

(B) withhold or revoke the clearance required under section 60105 for the vessel and any other vessel operated by the same operator (as that term is defined in section 2(9)(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(9)(a)) as the vessel on which the seafarer served.

(3) OBTAINING CLEARANCE.—A vessel may obtain clearance from the Secretary after it is withheld or revoked under paragraph (2)(B) if the vessel owner or operator—

(A) reimburses the Fund the amount required under paragraph (1); or

(B) provides a bond, or other evidence of financial responsibility, sufficient to meet the amount required to be reimbursed under paragraph (1).

[(4) NOTIFICATION REQUIRED.—The Secretary shall notify the vessel at least 72 hours before taking any action under paragraph (2)(B).]

(d) DEFINITIONS.—In this section:

(1) ABANDONS; ABANDONED.—Each of the terms “abandons” and “abandoned” means—

(A) a vessel owner’s or operator’s unilateral severance of ties with a seafarer; or

(B) a vessel owner’s or operator’s failure to provide necessary support of a seafarer.

(2) FUND.—The term “Fund” means the Abandoned Seafarers Fund established under this section.

(3) NECESSARY SUPPORT.—The term “necessary support” means normal wages and expenses the Secretary considers reasonable for lodging, subsistence, clothing, medical care (includ-

ing hospitalization), repatriation, and any other support the Secretary considers to be appropriate.

(4) SEAFARER.—The term “seafarer” means an alien crew member who is employed or engaged in any capacity on board a vessel subject to the jurisdiction of the United States.

(5) VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The term “vessel subject to the jurisdiction of the United States” has the meaning given that term in section 70502(c), except that it does not include a vessel that is—

(A) owned, or operated under a bareboat charter, by the United States, a State or political subdivision thereof, or a foreign nation; and

(B) not engaged in commerce.

## TITLE 46. SHIPPING

### SUBTITLE II. VESSELS AND SEAMEN

#### PART G. MERCHANT SEAMEN PROTECTION AND RELIEF

##### CHAPTER 113. OFFICIAL LOGBOOKS

#### § 11304. Additional logbook and entry requirements

(a) A vessel of the United States that is subject to inspection under section 3301 of this title, except a vessel on a voyage from a port in the United States to a port in Canada *or a ferry, passenger vessel, or small passenger vessel (as those terms are defined in section 2101)*, shall have **an official logbook, which** *a logbook, which may be in any form, including electronic, and shall be kept available for review by the Secretary on request.*

(b) The **log book** *logbook* required by subsection (a) shall include the following entries:

(1) The time when each seaman and each officer assumed or relieved the watch.

(2) The number of hours in service to the vessels of each seaman and each officer.

**[(3) An account of each accident, illness, and injury that occurs during each watch.]**

*(3) Each illness or injury, the nature of the illness or injury, and any medical treatment administered.*

## TITLE 46. SHIPPING

### SUBTITLE II. VESSELS AND SEAMEN

#### PART H. IDENTIFICATION OF VESSELS

##### CHAPTER 121. DOCUMENTATION OF VESSELS

##### SUBCHAPTER I. GENERAL

#### § 12102. Vessels requiring documentation

(a) IN GENERAL.—Except as otherwise provided, a vessel may engage in a trade only if the vessel has been issued a certificate of documentation with an endorsement for that trade under this chapter.

(b) VESSELS LESS THAN 5 NET TONS.—A vessel of less than 5 net tons may engage in a trade without being documented if the vessel

otherwise satisfies the requirements to engage in the particular trade.

(c) BARGES.—A barge qualified to engage in the coastwise trade may engage in the coastwise trade, without being documented, on rivers, harbors, lakes (except the Great Lakes), canals, and inland waters. *The Secretary may require such an undocumented barge more than 100 gross tons operating on the navigable waters of the United States to be numbered under chapter 123 of this title.*

(d) AQUACULTURE WAIVER.—

(1) PERMITTING OF NONQUALIFIED VESSELS TO PERFORM CERTAIN AQUACULTURE SUPPORT OPERATIONS.—Notwithstanding section 12113 and any other law, the [Secretary of Transportation] *Secretary of the department in which the Coast Guard is operating* may issue a waiver allowing a documented vessel with a registry endorsement or a foreign flag vessel to be used in operations that treat aquaculture fish for or protect aquaculture fish from disease, parasitic infestation, or other threats to their health if the Secretary finds, after publishing a notice in the Federal Register, that a suitable vessel of the United States is not available that could perform those services.

(2) PROHIBITION.—Vessels operating under a waiver issued under this subsection may not engage in any coastwise transportation.

## TITLE 46. SHIPPING

### SUBTITLE II. VESSELS AND SEAMEN

#### PART H. IDENTIFICATION OF VESSELS

##### CHAPTER 121. DOCUMENTATION OF VESSELS

###### SUBCHAPTER II. ENDORSEMENTS AND SPECIAL DOCUMENTATION

#### § 12114. Recreational endorsement

(a) REQUIREMENTS.—A recreational endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

(b) AUTHORIZED ACTIVITY.—A vessel operating under a recreational endorsement may be operated only for pleasure.

(c) APPLICATION OF CUSTOMS LAWS.—A vessel for which a recreational endorsement is issued may proceed between a port of the United States and a port of a foreign country without entering or clearing with the Secretary of Homeland Security. However, a recreational vessel is subject to the requirements for reporting arrivals under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433), and individuals on the vessel are subject to applicable customs regulations.

(d) ISSUANCE OF CERTIFICATE OF DOCUMENTATION.—*The Secretary of the department in which the Coast Guard is operating is authorized to issue certificates of documentation with effective periods of 1 year, 2 years, 3 years, 4 years, or 5 years.*

(1) PHASED IN ISSUANCE OF CERTIFICATES.—

(A) *In fiscal year 2019, vessel owners or operators with vessel documentation numbers ending in 0, 1, 2, 3 shall be qualified to apply for a renewal certificate of documentation with an effective period of 5 years. Alternatively, vessel*

owners or operators with vessel documentation numbers ending in 0, 1, 2, 3 may elect to apply for a renewal certificate of documentation with an effective period of 1 year, 2 years, 3 years, or 4 years. All other vessel owners and operators shall be qualified to apply for an initial or renewal certificate with an effective period of 1 year.

(B) In fiscal year 2020, vessel owners or operators with vessel documentation numbers ending in 4, 5, or 6 shall be qualified to apply for a renewal certificate of documentation with an effective period of 5 years. Alternatively, vessel owners or operators with vessel documentation numbers ending in 4, 5, or 6 may elect to apply for a renewal certificate of documentation with an effective period of 1 year, 2 years, 3 years, or 4 years. All other vessel owners and operators shall be qualified to apply for an initial or renewal certificate with an effective period of 1 year.

(C) In fiscal year 2021, vessel owners or operators with vessel documentation numbers ending in 7, 8, or 9 shall be qualified to apply for an initial or renewal certificate of documentation with an effective period of 5 years. Alternatively, vessel owners or operators with vessel documentation numbers ending in 7, 8, or 9 may elect to apply for an initial or renewal certificate of documentation with an effective period of 1 year, 2 years, 3 years, or 4 years. All other vessel owners and operators shall be qualified to apply for an initial or renewal certificate with an effective period of 1 year.

(D) Starting in fiscal year 2022 all vessel owners and operators shall be qualified to apply for a renewal certificate of documentation with effective periods of 1 year, 2 years, 3 years, 4 years, or 5 years.

(E) Starting in fiscal year 2019 vessel owners and operators applying for an initial certificate of documentation may apply for such documentation with an effective period of 1 year, 2 years, 3 years, 4 years, or 5 years.

(2) **APPLICATION FOR RENEWAL.**—Applications for renewal may be submitted no earlier than 90 days prior to the expiration date of a certificate of documentation.

(3) **FEES.**—

(A) For fiscal years 2019 through 2021, the Secretary shall collect the following fees from vessel owners or operators:

(i) For a certificate of documentation with an effective period of 5 years the fee collected from the vessel owner or operator shall be \$130.

(ii) For a certificate of documentation with an effective period of 4 years the fee collected from the vessel owner or operator shall be \$104.

(iii) For a certificate of documentation with an effective period of 3 years the fee collected from the vessel owner or operator shall be \$78.

(iv) For a certificate of documentation with an effective period of 2 years the fee collected from the vessel owner or operator shall be \$52.

(v) For a certificate of documentation with an effective period of 1 year the fee collected from the vessel owner or operator shall be \$26.

(B) For fiscal years 2022 and thereafter, such fees shall be published in the Federal Register as a direct final rule. Such rulemaking shall be exempt from the requirements of the Administrative Procedure Act (Public Law 79-404; 60 Stat 237).

(4) FUNDS AVAILABILITY.—Fees collected for the issuance of certificates of documentation by the Secretary of the department in which the Coast Guard is operating—

(A) shall be deposited into the account that bore the expense for issuance of such certificate of documentation, and  
(B) shall be available until expended.

## TITLE 46. SHIPPING

### SUBTITLE II. VESSELS AND SEAMEN

#### PART H. IDENTIFICATION OF VESSELS

##### CHAPTER 123. NUMBERING UNDOCUMENTED VESSELS

#### § 12301. Numbering vessels

[(a)] An undocumented vessel equipped with propulsion machinery of any kind shall have a number issued by the proper issuing authority in the State in which the vessel principally is operated.

[(b)] The Secretary shall require an undocumented barge more than 100 gross tons operating on the navigable waters of the United States to be numbered.]

## TITLE 46. SHIPPING SUBTITLE II. VESSELS AND SEAMEN PART I. STATE BOATING SAFETY PROGRAMS CHAPTER 131. RECREATIONAL BOATING SAFETY

#### 【§ 13110. National boating safety advisory council

[(a)] The Secretary shall establish a National Boating Safety Advisory Council. The Council shall consist of 21 members appointed by the Secretary, whom the Secretary considers to have a particular expertise, knowledge, and experience in recreational boating safety.

[(b)(1)] The membership of the Council shall consist of—

[(A)] 7 representatives of State officials responsible for State boating safety programs;

[(B)] 7 representatives of recreational vessel manufacturers and associated equipment manufacturers; and

[(C)] 7 representatives of national recreational boating organizations and from the general public, at least 5 of whom shall be representatives of national recreational boating organizations.

[(2)] Additional individuals from the sources referred to in paragraph (1) of this subsection may be appointed to panels of the Council to assist the Council in performing its duties.

[(3)] At least once a year, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on the Council.

[(c) In addition to the consultation required by section 4302 of this title, the Secretary shall consult with the Council on other major boating safety matters related to this chapter. The Council may make available to Congress information, advice, and recommendations that the Council is authorized to give to the Secretary.]

[(d) When serving away from home or regular place of business, the member may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703 of title 5 for individuals employed intermittently in the Government service. A payment under this section does not make a member of the Council an officer or employee of the United States Government for any purpose.]

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

## TITLE 46. SHIPPING

### SUBTITLE IV. REGULATION OF OCEAN SHIPPING

#### PART A. OCEAN SHIPPING

##### CHAPTER 401. GENERAL

#### § 40104. Reports filed with the commission

[(a) IN GENERAL.—The Federal Maritime Commission may require a common carrier or an officer, receiver, trustee, lessee, agent, or employee of the carrier to file with the Commission a periodical or special report, an account, record, rate, or charge, or a memorandum of facts and transactions related to the business of the carrier. The report, account, record, rate, charge, or memorandum shall be made under oath if the Commission requires, and shall be filed in the form and within the time prescribed by the Commission.]

(a) *REPORTS.*—

(1) *IN GENERAL.*—*The Federal Maritime Commission may require a common carrier or marine terminal operator, or an officer, receiver, trustee, lessee, agent, or employee of the common carrier or marine terminal operator to file with the Commission a periodical or special report, an account, record, rate, or charge, or a memorandum of facts and transactions related to the business of the common carrier or marine terminal operator, as applicable.*

(2) *REQUIREMENTS.*—*The report, account, record, rate, charge, or memorandum shall—*

*(A) be made under oath if the Commission requires; and*

*(B) be filed in the form and within the time prescribed by the Commission.*

(b) *CONFERENCE MINUTES.*—*Conference minutes required to be filed with the Commission under this section may not be released to third parties or published by the Commission.*

## TITLE 46. SHIPPING

## SUBTITLE IV. REGULATION OF OCEAN SHIPPING

## PART A. OCEAN SHIPPING

## CHAPTER 403. AGREEMENTS

**§ 40304. Commission action**

[(a) NOTICE OF FILING.—Within 7 days after an agreement is filed, the Federal Maritime Commission shall transmit a notice of the filing to the Federal Register for publication.]

(a) *NOTICE OF FILING.*—*Not later than 7 days after the date an agreement is filed, the Federal Maritime Commission shall—*

(1) *transmit a notice of the filing to the Federal Register for publication; and*

(2) *request interested persons to submit relevant information and documents.*

(b) *PRELIMINARY REVIEW AND REJECTION.*—After preliminary review, the Commission shall reject an agreement that it finds does not meet the requirements of sections 40302 and 40303 of this title. The Commission shall notify in writing the person filing the agreement of the reason for rejection.

(c) *REVIEW AND EFFECTIVE DATE.*—Unless rejected under subsection (b), an agreement (other than an assessment agreement) is effective—

(1) on the 45th day after filing, or on the 30th day after notice of the filing is published in the Federal Register, whichever is later; or

(2) if additional information or documents are requested under subsection (d)—

(A) on the 45th day after the Commission receives all the additional information and documents; or

(B) if the request is not fully complied with, on the 45th day after the Commission receives the information and documents submitted and a statement of the reasons for noncompliance with the request.

(d) *REQUEST FOR ADDITIONAL INFORMATION.*—Before the expiration of the period specified in subsection (c)(1), the Commission may request from the person filing the agreement any additional information and documents the Commission considers necessary to make the determinations required by this [section] *part*.

(e) *MODIFICATION OF REVIEW PERIOD.*—

(1) *SHORTENING.*—On request of the party filing an agreement, the Commission may shorten a period specified in subsection (c), but not to a date that is less than 14 days after notice of the filing of the agreement is published in the Federal Register.

(2) *EXTENSION.*—The period specified in subsection (c)(2) may be extended only by the United States District Court for the District of Columbia in a civil action brought by the Commission under section 41307(c) of this title.

(f) *FIXED TERMS.*—The Commission may not limit the effectiveness of an agreement to a fixed term.

**§ 40307. Exemption from antitrust laws**

(a) \* \* \*

(b) EXCEPTIONS.—This part does not extend antitrust immunity to—

(1) an agreement with or among air carriers, rail carriers, motor carriers, *tug operators*, or common carriers by water not subject to this part relating to transportation within the United States;

(2) a discussion or agreement among common carriers subject to this part relating to the inland divisions (as opposed to the inland portions) of through rates within the United States;

(3) an agreement among common carriers subject to this part to establish, operate, or maintain a marine terminal in the United States; or

(4) a loyalty contract.

(c) RETROACTIVE EFFECT OF DETERMINATIONS.—A determination by an agency or court that results in the denial or removal of the immunity to the antitrust laws under subsection (a) does not remove or alter the antitrust immunity for the period before the determination.

(d) RELIEF UNDER CLAYTON ACT.—A person may not recover damages under section 4 of the Clayton Act (15 U.S.C. 15), or obtain injunctive relief under section 16 of that Act (15 U.S.C. 26), for conduct prohibited by this part.

TITLE 46. SHIPPING

SUBTITLE IV. REGULATION OF OCEAN SHIPPING

PART A. OCEAN SHIPPING

CHAPTER 409. OCEAN TRANSPORTATION INTERMEDIARIES

**§ 40901. License requirement**

(a) IN GENERAL.—A person in the United States may not [act] *act, including holding itself out by solicitation, advertisement, or otherwise*, as an ocean transportation intermediary unless the person holds an ocean transportation intermediary's license issued by the Federal Maritime Commission. The Commission shall issue a license to a person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.

(b) EXCEPTION.—A person whose primary business is the sale of merchandise may forward shipments of the merchandise for its own account without an ocean transportation intermediary's license.

**§ 40902. Financial responsibility**

(a) IN GENERAL.—A person may not [act] *act, including holding itself out by solicitation, advertisement, or otherwise*, as an ocean transportation intermediary unless the person furnishes a bond, proof of insurance, or other surety—

(1) in a form and amount determined by the Federal Maritime Commission to insure financial responsibility; and

(2) issued by a surety company found acceptable by the Secretary of the Treasury.

(b) SCOPE OF FINANCIAL RESPONSIBILITY.—A bond, insurance, or other surety obtained under this section—

(1) shall be available to pay any penalty assessed under section 41109 of this title or any order for reparation issued under section 41305 of this title;

(2) may be available to pay any claim against an ocean transportation intermediary arising from its transportation-related activities—

(A) with the consent of the insured ocean transportation intermediary and subject to review by the surety company; or

(B) when the claim is deemed valid by the surety company after the ocean transportation intermediary has failed to respond to adequate notice to address the validity of the claim; and

(3) shall be available to pay any judgment for damages against an ocean transportation intermediary arising from its transportation-related activities, if the claimant has first attempted to resolve the claim under paragraph (2) and the claim has not been resolved within a reasonable period of time.

(c) REGULATIONS ON COURT JUDGMENTS.—The Commission shall prescribe regulations for the purpose of protecting the interests of claimants, ocean transportation intermediaries, and surety companies with respect to the process of pursuing claims against ocean transportation intermediary bonds, insurance, or sureties through court judgments. The regulations shall provide that a judgment for monetary damages may not be enforced except to the extent that the damages claimed arise from the transportation-related activities of the insured ocean transportation intermediary, as defined by the Commission.

(d) RESIDENT AGENT.—An ocean transportation intermediary not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.

## TITLE 46. SHIPPING

### SUBTITLE IV. REGULATION OF OCEAN SHIPPING

#### PART A. OCEAN SHIPPING

##### CHAPTER 411. PROHIBITIONS AND PENALTIES

#### § 41104. Common carriers

A common carrier, either alone or in conjunction with any other person, directly or indirectly, may not—

(1) allow a person to obtain transportation for property at less than the rates or charges established by the carrier in its tariff or service contract by means of false billing, false classification, false weighing, false measurement, or any other unjust or unfair device or means;

(2) provide service in the liner trade that is—

(A) not in accordance with the rates, charges, classifications, rules, and practices contained in a tariff published or a service contract entered into under chapter 405 of this

- title, unless excepted or exempted under section 40103 or 40501(a)(2) of this title; or
- (B) under a tariff or service contract that has been suspended or prohibited by the Federal Maritime Commission under chapter 407 or 423 of this title;
- (3) retaliate against a shipper by refusing, or threatening to refuse, cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier, or has filed a complaint, or for any other reason;
- (4) for service pursuant to a tariff, engage in any unfair or unjustly discriminatory practice in the matter of—
- (A) rates or charges;
  - (B) cargo classifications;
  - (C) cargo space accommodations or other facilities, with due regard being given to the proper loading of the vessel and the available tonnage;
  - (D) loading and landing of freight; or
  - (E) adjustment and settlement of claims;
- (5) for service pursuant to a service contract, engage in any unfair or unjustly discriminatory practice in the matter of rates or charges with respect to any port;
- (6) use a vessel in a particular trade for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade;
- (7) offer or pay any deferred rebates;
- (8) for service pursuant to a tariff, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage;
- (9) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any port;
- (10) unreasonably refuse to deal or negotiate;
- (11) knowingly and willfully accept cargo from or transport cargo for the account of an ocean transportation intermediary that does not have [a tariff as required by section 40501 of this title and] a bond, insurance, or other surety as required by section 40902 of this title; or
- (12) knowingly and willfully enter into a service contract with an ocean transportation intermediary that does not have a tariff as required by section 40501 of this title and a bond, insurance, or other surety as required by section 40902 of this title, or with an affiliate of such an ocean transportation intermediary.

#### **§ 41105. Concerted action**

A conference or group of two or more common carriers may not—

- (1) boycott or take any other concerted action resulting in an unreasonable refusal to deal;
- (2) engage in conduct that unreasonably restricts the use of intermodal services or technological innovations;
- (3) engage in any predatory practice designed to eliminate the participation, or deny the entry, in a particular trade of a

common carrier not a member of the conference, a group of common carriers, an ocean tramp, or a bulk carrier;

(4) negotiate with a **[non-ocean carrier]** *tug operator, non-ocean carrier*, or group of non-ocean carriers (such as truck, rail, or air operators) on any matter relating to rates or services provided to ocean common carriers within the United States by those *tug operators* or non-ocean carriers, unless the negotiations and any resulting agreements are not in violation of the antitrust laws and are consistent with the purposes of this part, except that this paragraph does not prohibit the setting and publishing of a joint through rate by a conference, joint venture, or association of ocean common carriers;

(5) deny in the export foreign commerce of the United States compensation to an ocean freight forwarder or limit that compensation to less than a reasonable amount;

(6) allocate shippers among specific carriers that are parties to the agreement or prohibit a carrier that is a party to the agreement from soliciting cargo from a particular shipper, except as—

(A) authorized by section 40303(d) of this title;

(B) required by the law of the United States or the importing or exporting country; or

(C) agreed to by a shipper in a service contract;

(7) for service pursuant to a service contract, engage in any unjustly discriminatory practice in the matter of rates or charges with respect to any locality, port, or person due to the person's status as a shippers' association or ocean transportation intermediary; or

(8) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any locality, port, or person due to the person's status as a shippers' association or ocean transportation intermediary.

## TITLE 46. SHIPPING

### SUBTITLE VII. SECURITY AND DRUG ENFORCEMENT

#### CHAPTER 701. PORT SECURITY

##### SUBCHAPTER I. GENERAL

#### **§ 70112. **[Maritime Security Advisory Committees]** *Area Maritime Security Advisory Committees***

**[(a) ESTABLISHMENT OF COMMITTEES.—**

**[(1) The Secretary shall establish a National Maritime Security Advisory Committee. The Committee—**

**[(A) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to national maritime security matters;**

**[(B) may make available to the Congress recommendations that the Committee makes to the Secretary; and**

**[(C) shall meet at the call of—**

**[(i) the Secretary, who shall call such a meeting at least once during each calendar year; or**

**[(ii) a majority of the Committee.**

[(2)(A) The Secretary may—

[(i) establish an Area Maritime Security Advisory Committee for any port area of the United States; and

[(ii) request such a committee to review the proposed Area Maritime Transportation Security Plan developed under section 70103(b) and make recommendations to the Secretary that the Committee considers appropriate.

[(B) A committee established under this paragraph for an area—

[(i) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to maritime security in that area;

[(ii) may make available to the Congress recommendations that the committee makes to the Secretary; and

[(iii) shall meet at the call of—

[(I) the Secretary, who shall call such a meeting at least once during each calendar year; or

[(II) a majority of the committee.]

(a) *ESTABLISHMENT OF COMMITTEES.*—

(1) *The Secretary may—*

(A) *establish an Area Maritime Security Advisory Committee for any port area of the United States; and*

(B) *request an Area Maritime Security Committee to review the proposed Area Maritime Transportation Security Plan developed under section 70103(b) and make recommendations to the Secretary that the Committee considers appropriate.*

(2) *Each Area Maritime Security Advisory Committee—*

(A) *may advise, consult with, report to, and make recommendations to the Secretary on matters relating to maritime security in that area;*

(B) *may make available to the Congress recommendations that the Committee makes to the Secretary; and*

(C) *shall meet at the call of—*

(i) *the Secretary, who shall call such a meeting at least once during each calendar year; or*

(ii) *a majority of the Committee.*

(b) *MEMBERSHIP.*—

(1) Each [of the committees] *Area Maritime Security Advisory Committee* established under subsection (a) shall consist of not less than 7 members appointed by the Secretary, each of whom has at least 5 years practical experience in maritime security operations.

(2) The term of each member shall be for a period of not more than 5 years, specified by the Secretary.

(3) Before appointing an individual to a position on [such a committee] *an Area Security Advisory Committee*, the Secretary shall publish a notice in the Federal Register soliciting nominations for membership on [the committee] *an Area Maritime Security Advisory Committee*.

(4) The Secretary may require an individual to have passed an appropriate security background examination before ap-

pointment to **the Committee** *an Area Maritime Security Advisory Committee*.

(5)**(A)** The National Maritime Security Advisory Committee shall be composed of—

**(i)** at least 1 individual who represents the interests of the port authorities;

**(ii)** at least 1 individual who represents the interests of the facilities owners or operators;

**(iii)** at least 1 individual who represents the interests of the terminal owners or operators;

**(iv)** at least 1 individual who represents the interests of the vessel owners or operators;

**(v)** at least 1 individual who represents the interests of the maritime labor organizations;

**(vi)** at least 1 individual who represents the interests of the academic community;

**(vii)** at least 1 individual who represents the interests of State or local governments; and

**(viii)** at least 1 individual who represents the interests of the maritime industry.]

**(B)** Each Area Maritime Security Advisory Committee shall be composed of individuals who represents the interests of the port industry, terminal operators, port labor organizations, and other users of the port areas.

(c) **CHAIRPERSON AND VICE CHAIRPERSON.**—

(1) Each **committee** *Area Maritime Security Advisory Committee* established under subsection (a) shall elect 1 of its members as the Chairman and 1 of its members as the Vice Chairperson.

(2) The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman, or in the event of a vacancy in the office of the Chairman.

**(d) OBSERVERS.**—

**(1)** The Secretary shall, and the head of any other interested Federal agency may, designate a representative to participate as an observer with the Committee.

**(2)** The Secretary's designated representative shall act as the executive secretary of the Committee and shall perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 U.S.C. App.).]

**(e)(d) CONSIDERATION OF VIEWS.**—The Secretary shall consider the information, advice, and recommendations of **the Committee** *an Area Maritime Security Advisory Committee* in formulating policy regarding matters affecting maritime security[.] *for an area*.

**(f)(e) COMPENSATION AND EXPENSES.**—

(1) A member of **a committee** *an Area Maritime Security Advisory Committee* established under this section, when attending meetings of the committee or when otherwise engaged in the business of the committee, is entitled to receive—

(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-15 of the General Schedule under section 5332 of title 5 including travel time; and

(B) travel or transportation expenses under section 5703 of title 5.

(2) A member of [such a committee] *an Area Maritime Security Advisory Committee* shall not be considered to be an officer or employee of the United States for any purpose based on their receipt of any payment under this subsection.

[(f) FACA; TERMINATION.—

[(1) The Federal Advisory Committee Act (5 U.S.C. App.)—

[(A) applies to the National Maritime Security Advisory Committee established under this section, except that such committee terminates on September 30, 2020; and

[(B) does not apply to Area Maritime Security Advisory Committees established under this section.

[(2) Not later than September 30, 2018, each committee established under this section shall submit to the Congress its recommendation regarding whether the committee should be renewed and continued beyond the termination date.]

(f) *FEDERAL ADVISORY COMMITTEE ACT; TERMINATION DATE.—*

(1) *FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) does not apply to Area Maritime Security Advisory Committees established under this section.*

(2) *TERMINATION.—The Area Maritime Security Advisory Committees shall terminate on September 30, 2027.*

**ACT MAKING APPROPRIATIONS FOR THE CONSTRUCTION, REPAIR, AND PRESERVATION OF CERTAIN PUBLIC WORKS ON RIVERS AND HARBORS, AND FOR OTHER PURPOSES**

[33 U.S.C. 499]

**SEC. 5. REGULATIONS FOR DRAWBRIDGES.**

(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 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 wilfully 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 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 pursuance of this section shall, to the extent practical and feasible, provide for regularly scheduled openings of drawbridges during seasons of the year, and during times of the day, when scheduled openings would help reduce motor vehicle traffic delays and congestion on roads and highways linked by drawbridges.

(b) 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 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 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.

(d) TEMPORARY CHANGES TO DRAWBRIDGE OPERATING SCHEDULES.—Notwithstanding section 553 of title 5, United States Code, whenever a temporary change to the operating schedule of a drawbridge, lasting 180 days or less—

(1) is approved—

(A) the Secretary of the department in which the Coast Guard is operating shall—

(i) issue a deviation approval letter to the bridge owner; and

(ii) announce the temporary change in—

(I) the Local Notice to Mariners;

(II) broadcast notices to mariners through the Coast Guard radio station or Navy radio station, or both; or

(III) such other local media as the Secretary considers appropriate; and

(B) the bridge owner, except a railroad bridge owner, shall notify—

(i) the public by publishing notice of the temporary change in a newspaper of general circulation published in the place where the bridge is located;

(ii) the department, agency, or office of transportation with jurisdiction over the roadway that abuts the approaches to the bridge; and

(iii) the law enforcement organization with jurisdiction over the roadway that abuts the approaches to the bridge; or

(2) is denied, the Secretary of the department in which the Coast Guard is operating shall—

(A) not later than 10 days after the date of receipt of the request, provide the bridge owner in writing the reasons for the denial, including any supporting data and evidence used to make the determination; and

(B) provide the bridge owner a reasonable opportunity to address each reason for the denial and resubmit the request.

(e) *DRAWBRIDGE MOVEMENTS.*—The Secretary of the department in which the Coast Guard is operating—

(1) shall require a drawbridge operator to record each movement of the drawbridge in a log;

(2) may inspect the log to ensure drawbridge movement is in accordance with the posted operating schedule;

(3) shall review whether deviations from the posted operating schedule are impairing vehicular and pedestrian traffic; and

(4) may determine if the operating schedule should be adjusted for efficiency of maritime or vehicular and pedestrian traffic.

## ACT TO ESTABLISH A TOWING SAFETY ADVISORY COMMITTEE IN THE DEPARTMENT OF TRANSPORTATION

### TOWING SAFETY ADVISORY COMMITTEE.

[33 U.S.C. 1231a]

[(a) ESTABLISHMENT; MEMBERSHIP.—There is established a Towing Safety Advisory Committee (hereinafter referred to as the “Committee”). The Committee shall consist of eighteen members with particular expertise, knowledge, and experience regarding shallow-draft inland and coastal waterway navigation and towing safety as follows:

[(1) Seven members representing the barge and towing industry, reflecting a regional geographic balance.

[(2) One member representing the offshore mineral and oil supply vessel industry.

[(3) One member representing holders of active licensed Masters or Pilots of towing vessels with experience on the Western Rivers and the Gulf Intracoastal Waterway.

[(4) One member representing the holders of active licensed Masters of towing vessels in offshore service.

[(5) One member representing Masters who are active ship-docking or harbor towing vessel.

[(6) One member representing licensed or unlicensed towing vessel engineers with formal training and experience.

[(7) Two members representing each of the following groups:

[(A) Port districts, authorities, or terminal operators.

[(B) Shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge).

[(8) Two members representing the general public.

[(b) APPOINTMENTS; CHAIRMAN, VICE CHAIRMAN, AND OBSERVERS; PUBLICATION IN FEDERAL REGISTER.—The Secretary of the department in which the Coast Guard is operating (hereinafter referred to as the “Secretary”) shall appoint the members of the Committee. The Secretary shall designate one of the members of the Committee as the Chairman and one of the members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman. The Secretary may request the Secretary of the Army and the Secretary of Commerce to each designate a representative to participate as an observer on the Committee. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

[(c) FUNCTIONS; MEETINGS; PUBLIC PROCEEDINGS AND RECORDS; DISCLOSURES TO CONGRESS.—The Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to shallow-draft inland and coastal waterway navigation and towing safety. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned. The Secretary shall consult with the Committee before taking any significant action affecting shallow-draft inland and coastal waterway navigation and towing safety. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All proceedings of the Committee shall be open to the public, and a record of the proceedings shall be made available for public inspection. The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.

[(d) COMPENSATION AND TRAVEL EXPENSES; ADMINISTRATIVE SERVICES; PERSONNEL; AUTHORIZATION OF APPROPRIATIONS.—Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are considered necessary for the conduct of its business. There are authorized to be appropriated such sums as may be necessary to implement the provisions of this subsection.

[(e) TERMINATION.—Unless extended by subsequent Act of Congress, the Committee shall terminate on September 30, 2020.]

## INLAND NAVIGATIONAL RULES ACT OF 1980

[Public Law 96-591; 94 Stat. 3434]

**[SEC. 5. NAVIGATION SAFETY ADVISORY COUNCIL.**

[33 U.S.C. 2073]

**[(a) ESTABLISHMENT OF COUNCIL.—**

**[(1) IN GENERAL.—**The Secretary of the department in which the Coast Guard is operating shall establish a Navigation Safety Advisory Council (hereinafter referred to as the “Council”), consisting of not more than 21 members. All members shall have expertise in Inland and International vessel navigation Rules of the Road, aids to maritime navigation, maritime law, vessel safety, port safety, or commercial diving safety. Upon appointment, all non-Federal members shall be designated as representative members to represent the viewpoints and interests of one of the following groups or organizations:

**[(A) Commercial vessel owners or operators.**

**[(B) Professional mariners.**

**[(C) Recreational boaters.**

**[(D) The recreational boating industry.**

**[(E) State agencies responsible for vessel or port safety.**

**[(F) The Maritime Law Association.**

**[(2) PANELS.—**Additional persons may be appointed to panels of the Council to assist the Council in performance of its functions.

**[(3) NOMINATIONS.—**The Secretary, through the Coast Guard Commandant, shall not less often than once a year publish a notice in the Federal Register soliciting nominations for membership on the Council.

**[(b) FUNCTIONS.—**The Council shall advise, consult with, and make recommendations to the Secretary, through the Coast Guard Commandant, on matters relating to maritime collisions, rammings, groundings, Inland Rules of the Road, International Rules of the Road, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems. Any advice and recommendations made by the Council to the Secretary shall reflect the independent judgment of the Council on the matter concerned. The Council shall meet at the call of the Coast Guard Commandant, but in any event not less than twice during each calendar year. All proceedings of the Council shall be public, and a record of the proceedings shall be made available for public inspection.

**[(c) EXECUTIVE SECRETARY; STAFF; TRAVEL EXPENSES AND STATUS OF MEMBERS.—**The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary for the conduct of its business. Members of the Council, while away from their home or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. Payments under this section shall not render members of the Council officers or employees of the United States for any purpose.

**[(d) TERMINATION OF COUNCIL.—**Unless extended by subsequent Act of Congress, the Council shall terminate on September 30, 2020.]

## COAST GUARD AUTHORIZATION ACT OF 1991

[Public Law 102-241; 105 Stat. 2213]

**[SEC. 18. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.**

[(a)(1) There is established a Houston-Galveston Navigation Safety Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the "Secretary") on matters relating to the transit of vessels and products to and from the Ports of Galveston, Houston, Texas City, and Galveston Bay. The Secretary shall, whenever practicable, consult with the Committee before taking any significant action related to navigation safety at these port facilities. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

[(2) The Committee is authorized to make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

[(b) The Committee shall consist of eighteen members, who have particular expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels in the inshore and the offshore waters of the Gulf of Mexico:

[(1) Two members who are employed by the Port of Houston Authority or have been selected by that entity to represent them.

[(2) Two members who are employed by the Port of Galveston or the Texas City Port Complex or have been selected by those entities to represent them.

[(3) Two members from organizations that represent ship-owners, stevedores, shipyards, or shipping organizations domiciled in the State of Texas.

[(4) Two members representing organizations that operate tugs or barges that utilize the port facilities at Galveston, Houston, and Texas City Port Complex.

[(5) Two members representing shipping companies that transport cargo from the Ports of Galveston and Houston on liners, break bulk, or tramp steamer vessels.

[(6) Two members representing those who pilot or command vessels that utilize the Ports of Galveston and Houston.

[(7) Two at-large members who may represent a particular interest group but who utilize the port facilities at Galveston, Houston, and Texas City.

[(8) One member representing labor organizations which load and unload cargo at the Ports of Galveston and Houston.

[(9) One member representing licensed merchant mariners, other than pilots, who perform shipboard duties on vessels which utilize the port facilities of Galveston and Houston.

[(10) One member representing environmental interests.

[(11) One member representing the general public.

[(c) The Secretary shall appoint the members of the Committee after first soliciting nominations by notice published in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department.

[(d) The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the chairman and one of the members as the vice chairman. The vice chairman shall act as chairman in the absence or incapacity of, or in the event of a vacancy in the Office of the Chairman.

[(e) Terms of members appointed to the Committee shall be for two years. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

[(f) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

[(g) The term of members of the Committee shall begin on October 1, 1992.]

**[SEC. 19. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.]**

[(a)(1) There is established a Lower Mississippi River Waterway Advisory Committee (hereinafter referred to as the "Committee"). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the "Secretary") on a wide range of matters regarding all facets of navigational safety related to the Lower Mississippi River. The Secretary shall, whenever practicable, consult with the Committee before taking any significant action related to navigation safety in the Lower Mississippi River. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

[(2) The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give the Secretary. The Committee shall meet at the call of the Chairman, or upon request of the majority of Committee members, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

[(b) The Committee shall consist of twenty-four members who have expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels on the Lower Mississippi River and its connecting navigable waterways including the Gulf of Mexico:

【(1) Five members representing River Port Authorities between Baton Rouge, Louisiana, and the head of passes of the Lower Mississippi River, of which one member shall be from the Port of St. Bernard and one member from the Port of Plaquemines.

【(2) Two members representing vessel owners or ship owners domiciled in the State of Louisiana.

【(3) Two members representing organizations which operate harbor tugs or barge fleets in the geographical area covered by the Committee.

【(4) Two members representing companies which transport cargo or passengers on the navigable waterways in the geographical area covered by the Committee.

【(5) Three members representing State Commissioned Pilot organizations, with one member each representing the New Orleans/Baton Rouge Steamship Pilots Association, the Crescent River Port Pilots Association, and the Associated Branch Pilots Association.

【(6) Two at-large members who utilize water transportation facilities located in the geographical area covered by the Committee.

【(7) Three members representing consumers, shippers, or importers/exporters that utilize vessels which utilize the navigable waterways covered by the Committee.

【(8) Two members representing those licensed merchant mariners, other than pilots, who perform shipboard duties on those vessels which utilize navigable waterways covered by the Committee.

【(9) One member representing an organization that serves in a consulting or advisory capacity to the maritime industry.

【(10) One member representing an environmental organization.

【(11) One member representing the general public.

【(c) The Secretary shall appoint the members of the Committee upon recommendation after first soliciting nominations by notice in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department, who shall not be a voting member of the Committee.

【(d) The Committee shall annually elect, by majority vote at its first meeting, a chairman and vice chairman from its membership. The vice chairman shall act as chairman in the absence or incapacity of, or in the event of a vacancy in, the Office of the Chairman.

【(e) Terms of members appointed to the Committee shall be two years. The Secretary shall, not less than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

【(f) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular place of business, members of the Committee may be allowed travel expenses, includ-

ing per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.】

**【SEC. 27. SHIP SHOAL LIGHTHOUSE TRANSFER.**

【Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the city of Berwick, Louisiana, all rights, title, and interest of the United States in the aid to navigation structure known as the Ship Shoal Lighthouse, Louisiana.】

MARITIME TRANSPORTATION SECURITY ACT OF 2002

[Public Law 107-295]

**SEC. 109. MARITIME SECURITY PROFESSIONAL TRAINING.**

[46 U.S.C. 70101 note]

(a) IN GENERAL.—

(1) DEVELOPMENT OF STANDARDS.—Not later than 6 months after the date of enactment of this Act, the Secretary of Transportation shall develop standards and curriculum to allow for the training and certification of maritime security professionals. In developing these standards and curriculum, the Secretary shall consult with the National Maritime Security Advisory Committee established under [section 70112 of title 46, United States Code, as amended by this Act] *section 709 of title 46, United States Code.*

(2) SECRETARY TO CONSULT ON STANDARDS.—In developing standards under this section, the Secretary may, without regard to the Federal Advisory Committee Act (5 U.S.C. App.), consult with the Federal Law Enforcement Training Center, the United States Merchant Marine Academy’s Global Maritime and Transportation School, the Maritime Security Council, the International Association of Airport and Port Police, the National Cargo Security Council, and any other Federal, State, or local government or law enforcement agency or private organization or individual determined by the Secretary to have pertinent expertise.

(b) MINIMUM STANDARDS.—The standards established by the Secretary under subsection (a) shall include the following elements:

(1) The training and certification of maritime security professionals in accordance with accepted law enforcement and security guidelines, policies, and procedures, including, as appropriate, recommendations for incorporating a background check process for personnel trained and certified in foreign ports.

(2) The training of students and instructors in all aspects of prevention, detection, investigation, and reporting of criminal activities in the international maritime environment.

(3) The provision of off-site training and certification courses and certified personnel at United States and foreign ports used by United States-flagged vessels, or by foreign-flagged vessels with United States citizens as passengers or crewmembers, to develop and enhance security awareness and practices.

(c) TRAINING PROVIDED TO LAW ENFORCEMENT AND SECURITY PERSONNEL.—

(1) IN GENERAL.—The Secretary is authorized to make the training opportunities provided under this section available to any Federal, State, local, and private law enforcement or mari-

time security personnel in the United States or to personnel employed in foreign ports used by vessels with United States citizens as passengers or crewmembers.

(2) **ACADEMIES AND SCHOOLS.**—The Secretary may provide training under this section at—

- (A) each of the 6 State maritime academies;
- (B) the United States Merchant Marine Academy;
- (C) the Appalachian Transportation Institute; and
- (D) other security training schools in the United States.

(d) **USE OF CONTRACT RESOURCES.**—The Secretary may employ Federal and contract resources to train and certify maritime security professionals in accordance with the standards and curriculum developed under this Act.

(e) **ANNUAL REPORT.**—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the expenditure of appropriated funds and the training under this section.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary to carry out this section \$5,500,000 for each of fiscal years 2003 through 2008.

#### COAST GUARD AUTHORIZATION ACT OF 2010

[Public Law 111–281; 124 Stat. 2950]

##### **[(SEC. 404. ACQUISITION WORKFORCE EXPEDITED HIRING AUTHORITY.]**

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

**[(1) designate any category of acquisition positions within the Coast Guard as shortage category positions; and**

**[(2) use the authorities in such sections to recruit and appoint highly qualified persons directly to positions so designated.]**

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

**[(c) REPORTS.**—The Commandant shall include in reports under section 562(d) of title 14, United States Code, as added by this title, information described in that section regarding positions designated under this section.]

#### HOWARD COBLE COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2014

[Public Law 113–281; 128 Stat. 3062]

##### **SEC. 604. WAIVERS.**

(a) **“JOHN CRAIG”.**—

(1) **IN GENERAL.**—Section 8902 of title 46, United States Code, shall not apply to the vessel John Craig (United States official number D1110613) when such vessel is operating on the portion of the Kentucky River, Kentucky, located at approximately mile point 158, in Pool Number 9, between Lock and Dam Number 9 and Lock and Dam Number 10.

(2) APPLICATION.—Paragraph (1) shall apply on and after the date on which the Secretary of the department in which the Coast Guard is operating determines that a licensing requirement has been established under Kentucky State law that applies to an operator of the vessel John Craig.

(b) “F/V WESTERN CHALLENGER”.—Notwithstanding section 12132 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with a coastwise endorsement *and a fisheries endorsement* for the F/V Western Challenger (IMO number 5388108).

### NONINDIGENOUS AQUATIC NUISANCE PREVENTION AND CONTROL ACT OF 1990

[Public Law 101–646; 104 Stat. 4761]

#### SEC. 1101. AQUATIC NUISANCE SPECIES IN WATERS OF THE UNITED STATES.

[16 U.S.C. 4711]

(a) \* \* \*

(c) VOLUNTARY NATIONAL GUIDELINES.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the National Invasive Species Act of 1996, and after providing notice and an opportunity for public comment, the Secretary shall issue voluntary guidelines to prevent the introduction and spread of nonindigenous species in waters of the United States by ballast water operations and other operations of vessels equipped with ballast water tanks.

(2) CONTENT OF GUIDELINES.—The voluntary guidelines issued under this subsection shall—

(A) ensure to the maximum extent practicable that aquatic nuisance species are not discharged into waters of the United States from vessels;

(B) apply to all vessels equipped with ballast water tanks that operate in waters of the United States;

(C) protect the safety of—

(i) each vessel; and

(ii) the crew and passengers of each vessel;

(D) direct a vessel that is carrying ballast water into waters of the United States after operating beyond the exclusive economic zone to—

(i) carry out the exchange of ballast water of the vessel in waters beyond the exclusive economic zone;

(ii) exchange the ballast water of the vessel in other waters where the exchange does not pose a threat of infestation or spread of nonindigenous species in waters of the United States, as recommended by the Task Force under section 1102(a)(1); or

(iii) use environmentally sound alternative ballast water management methods, including modification of the vessel ballast water tanks and intake systems, if the Secretary determines that such alternative methods are at least as effective as ballast water exchange in preventing and controlling infestations of aquatic nuisance species;

(E) direct vessels to carry out management practices that the Secretary determines to be necessary to reduce the probability of unintentional nonindigenous species transfer resulting from—

(i) ship operations other than ballast water discharge; and

(ii) ballasting practices of vessels that enter waters of the United States with no ballast water on board;

(F) provide for the keeping of records that shall be submitted to the Secretary, as prescribed by the guidelines, and that shall be maintained on board each vessel and made available for inspection, upon request of the Secretary and in a manner consistent with subsection (i), in order to enable the Secretary to determine compliance with the guidelines, including—

(i) with respect to each ballast water exchange referred to in clause (ii), reporting on the precise location and thoroughness of the exchange; and

(ii) any other information that the Secretary considers necessary to assess the rate of effective compliance with the guidelines;

(G) provide for sampling procedures to monitor compliance with the guidelines;

(H) take into consideration—

(i) vessel types;

(ii) variations in the characteristics of point of origin and receiving water bodies;

(iii) variations in the ecological conditions of waters and coastal areas of the United States; and

(iv) different operating conditions;

(I) be based on the best scientific information available;

(J) not affect or supersede any requirements or prohibitions pertaining to the discharge of ballast water into waters of the United States under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.); and

(K) provide an exemption from ballast water exchange requirements to passenger vessels with operating ballast water systems that are equipped with treatment systems designed to kill aquatic organisms in ballast water, unless the Secretary determines that such treatment systems are less effective than ballast water exchange at reducing the risk of transfers of invasive species in the ballast water of passenger vessels; and

[(L) not apply to crude oil tankers engaged in the coastwise trade.]

(3) Education and technical assistance programs. Not later than 1 year after the date of enactment of the National Invasive Species Act of 1996, the Secretary shall carry out education and technical assistance programs and other measures to encourage compliance with the guidelines issued under this subsection.

(d) \* \* \*

**SEC. 1205. RELATIONSHIP TO OTHER LAWS.**

[16 U.S.C. 4725]

All actions taken by Federal agencies in implementing the provisions of section 1202 shall be consistent with all applicable Federal, State, and local environmental laws. Nothing in this title shall affect the authority of any State or political subdivision thereof to adopt or enforce control measures for aquatic nuisance species, or diminish or affect the jurisdiction of any State over species of fish and wildlife. Compliance with the control and eradication measures of any State or political subdivision thereof regarding aquatic nuisance species shall not relieve any person of the obligation to comply with the provisions of this subtitle. *Ballast water and discharges incidental to the normal operation of a commercial vessel (as such terms are defined in the Commercial Vessel Incidental Discharge Act), shall be regulated pursuant to such Act.*

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION  
COMMISSIONED OFFICER CORPS

[33 U.S.C. 3001 et seq.]

**SEC. 212. DEFINITIONS.**

[33 U.S.C. 3002]

(a) **APPLICABILITY OF DEFINITIONS IN TITLE 10, UNITED STATES CODE.**—Except as provided in subsection (b), the definitions provided in section 101 of title 10, United States Code, apply to the provisions of this title.

(b) **ADDITIONAL DEFINITIONS.**—In this title:

(1) **ACTIVE DUTY.**—The term “active duty” means full-time duty in the active service of a uniformed service.

(2) **GRADE.**—The term “grade” means a step or degree, in a graduated scale of office or rank, that is established and designated as a grade by law or regulation.

(3) **OFFICER.**—The term “officer” means an officer of the commissioned corps.

(4) **OFFICER CANDIDATE.**—*The term “officer candidate” means an individual who is enrolled in the basic officer training program of the Administration and is under consideration for appointment as an officer under section 221(a)(2)(A).*

[(4)](5) **FLAG OFFICER.**—The term “flag officer” means an officer serving in, or having the grade of, vice admiral, rear admiral, or rear admiral (lower half).

[(5)](6) **SECRETARY.**—The term “Secretary” means the Secretary of Commerce.

[(6)](7) **ADMINISTRATION.**—The term “Administration” means the National Oceanic and Atmospheric Administration.

**[SEC. 214. STRENGTH AND DISTRIBUTION IN GRADE.**

[33 U.S.C. 3004]

[(a)] **RELATIVE RANK; PROPORTION.**—Of the total authorized number of officers on the lineal list of the commissioned corps, there are authorized numbers in permanent grade, in relative rank with officers of the Navy, in proportions as follows:

[(1)] 8 in the grade of captain.

[(2)] 14 in the grade of commander.

[(3)] 19 in the grade of lieutenant commander.

[(4)] 23 in the grade of lieutenant.

[(5) 18 in the grade of lieutenant (junior grade).

[(6) 18 in the grade of ensign.

[(b) COMPUTATION OF NUMBER IN GRADE.—

[(1) IN GENERAL.—Subject to paragraph (2), whenever a final fraction occurs in computing the authorized number of officers in a grade, the nearest whole number shall be taken, and if the fraction is one-half the next higher whole number shall be taken.

[(2) LIMITATION ON INCREASE IN TOTAL NUMBER.—The total number of officers on the lineal list authorized by law may not be increased as the result of the computations prescribed in this section, and if necessary the number of officers in the lowest grade shall be reduced accordingly.

[(c) PRESERVATION OF GRADE AND PAY, ETC.—No officer may be reduced in grade or pay or separated from the commissioned corps as the result of a computation made to determine the authorized number of officers in the various grades.

[(d) FILLING OF VACANCIES; ADDITIONAL NUMBERS.—Nothing in this section may be construed as requiring the filling of any vacancy or as prohibiting additional numbers in any grade to compensate for vacancies existing in higher grades.

[(e) TEMPORARY INCREASE IN NUMBERS.—The total number of officers authorized by law to be on the lineal list during a fiscal year may be temporarily exceeded so long as the average number on that list during that fiscal year does not exceed the authorized number.]

**SEC. 214. STRENGTH AND DISTRIBUTION IN GRADE.**

(a) *GRADES.*—The commissioned grades in the commissioned officer corps of the Administration are the following, in relative rank with officers of the Navy:

- (1) Vice admiral.
- (2) Rear admiral.
- (3) Rear admiral (lower half).
- (4) Captain.
- (5) Commander.
- (6) Lieutenant commander.
- (7) Lieutenant.
- (8) Lieutenant (junior grade).
- (9) Ensign.

(b) *GRADE DISTRIBUTION.*—The Secretary shall prescribe, with respect to the distribution on the lineal list in grade, the percentages applicable to the grades set forth in subsection (a).

(c) *ANNUAL COMPUTATION OF NUMBER IN GRADE.*—

(1) *IN GENERAL.*—Not less frequently than once each year, the Secretary shall make a computation to determine the number of officers on the lineal list authorized to be serving in each grade.

(2) *METHOD OF COMPUTATION.*—The number in each grade shall be computed by applying the applicable percentage to the total number of such officers serving on active duty on the date the computation is made.

(3) *FRACTIONS.*—If a final fraction occurs in computing the authorized number of officers in a grade, the nearest whole number shall be taken. If the fraction is  $\frac{1}{2}$ , the next higher whole number shall be taken.

(d) *TEMPORARY INCREASE IN NUMBERS.*—The total number of officers authorized by law to be on the lineal list during a fiscal year may be temporarily exceeded if the average number on that list during that fiscal year does not exceed the authorized number.

(e) *POSITIONS OF IMPORTANCE AND RESPONSIBILITY.*—Officers serving in positions designated under section 228(a) and officers recalled from retired status shall not be counted when computing authorized strengths under subsection (c) and shall not count against those strengths.

(f) *PRESERVATION OF GRADE AND PAY.*—No officer may be reduced in grade or pay or separated from the commissioned officer corps of the Administration as the result of a computation made to determine the authorized number of officers in the various grades.

**SEC. 215. NUMBER OF AUTHORIZED COMMISSIONED OFFICERS.**

[33 U.S.C. 3005]

**[Effective]**

(a) *IN GENERAL.*—Effective October 1, 2009, the total number of authorized commissioned officers on the lineal list of the commissioned corps of the National Oceanic and Atmospheric Administration shall be increased from 321 to 379 if—

(1) the Secretary has submitted to the Congress—

(A) the Administration’s ship recapitalization plan for fiscal years 2010 through 2024;

(B) the Administration’s aircraft modernization plan; and

(C) supporting workforce management plans;

(2) appropriated funding is available; and

(3) the Secretary has justified organizational needs for the commissioned corps for each such fiscal year.

(b) *POSITIONS OF IMPORTANCE AND RESPONSIBILITY.*—Officers serving in positions designated under section 228 and officers recalled from retired status or detailed to an agency other than the Administration—

(1) may not be counted in determining the total number of authorized officers on the lineal list under this section; and

(2) may not count against such number.

**SEC. 216. OBLIGATED SERVICE REQUIREMENT.**

(a) *IN GENERAL.*—

(1) *RULEMAKING.*—The Secretary shall prescribe the obligated service requirements for appointments, training, promotions, separations, continuations, and retirement of officers not otherwise covered by law.

(2) *WRITTEN AGREEMENTS.*—The Secretary and officers shall enter into written agreements that describe the officers’ obligated service requirements prescribed under paragraph (1) in return for such appointments, training, promotions, separations, and retirements as the Secretary considers appropriate.

(b) *REPAYMENT FOR FAILURE TO SATISFY REQUIREMENTS.*—

(1) *IN GENERAL.*—The Secretary may require an officer who fails to meet the service requirements prescribed under subsection (a)(1) to reimburse the Secretary in an amount that bears the same ratio to the total costs of the training provided to that officer by the Secretary as the unserved portion of active

*duty bears to the total period of active duty the officer agreed to serve.*

(2) *OBLIGATION AS DEBT TO UNITED STATES.—An obligation to reimburse the Secretary under paragraph (1) shall be considered for all purposes as a debt owed to the United States.*

(3) *DISCHARGE IN BANKRUPTCY.—A discharge in bankruptcy under title 11 that is entered less than 5 years after the termination of a written agreement entered into under subsection (a)(2) does not discharge the individual signing the agreement from a debt arising under such agreement.*

(c) *WAIVER OR SUSPENSION OF COMPLIANCE.—The Secretary may waive the service obligation of an officer who—*

(1) *becomes unqualified to serve on active duty in the commissioned officer corps of the Administration because of a circumstance not within the control of that officer; or*

(2) *is—*

(A) *not physically qualified for appointment; and*

(B) *determined to be unqualified for service in the commissioned officer corps of the Administration because of a physical or medical condition that was not the result of the officer's own misconduct or grossly negligent conduct.*

**SEC. 217. TRAINING AND PHYSICAL FITNESS.**

(a) *TRAINING.—The Secretary may take such measures as may be necessary to ensure that officers are prepared to carry out their duties in the commissioned officer corps of the Administration and proficient in the skills necessary to carry out such duties. Such measures may include the following:*

(1) *Carrying out training programs and correspondence courses, including establishing and operating a basic officer training program to provide initial indoctrination and maritime vocational training for officer candidates as well as refresher training, mid-career training, aviation training, and such other training as the Secretary considers necessary for officer development and proficiency.*

(2) *Providing officers and officer candidates with books and school supplies.*

(3) *Acquiring such equipment as may be necessary for training and instructional purposes.*

(b) *PHYSICAL FITNESS.—The Secretary shall ensure that officers maintain a high physical state of readiness by establishing standards of physical fitness for officers that are substantially equivalent to those prescribed for officers in the Coast Guard.*

**SEC. 218. USE OF RECRUITING MATERIALS FOR PUBLIC RELATIONS.**

*The Secretary may use for public relations purposes of the Department of Commerce any advertising materials developed for use for recruitment and retention of personnel for the commissioned officer corps of the Administration. Any such use shall be under such conditions and subject to such restrictions as the Secretary shall prescribe.*

**SEC. 221. ORIGINAL APPOINTMENTS.**

[33 U.S.C. 3021]

[(a) IN GENERAL.—

[(1) GRADES.—Original appointments may be made in the grades of ensign, lieutenant (junior grade), and lieutenant.

[(2) QUALIFICATIONS.—Under regulations prescribed by the Secretary, such an appointment may be given only to a person who—

[(A) meets the qualification requirements specified in paragraphs (1) through (4) of section 532(a) of title 10, United States Code; and

[(B) has such other special qualifications as the Secretary may prescribe by regulation.

[(3) EXAMINATION.—A person may be given such an appointment only after passage of a mental and physical examination given in accordance with regulations prescribed by the Secretary.

[(4) REVOCATION OF COMMISSION OF OFFICERS FOUND NOT QUALIFIED.—The President may revoke the commission of any officer appointed under this section during the officer's first three years of service if the officer is found not qualified for the service. Any such revocation shall be made under regulations prescribed by the President.

[(b) LINEAL LIST.—Each person appointed under this section shall be placed on the lineal list in a position commensurate with that person's age, education, and experience, in accordance with regulations prescribed by the Secretary.

[(c) SERVICE CREDIT UPON ORIGINAL APPOINTMENT IN GRADE ABOVE ENSIGN.—

[(1) IN GENERAL.—For the purposes of basic pay, a person appointed under this section in the grade of lieutenant shall be credited as having, on the date of that appointment, three years of service, and a person appointed under this section in the grade of lieutenant (junior grade) shall be credited as having, as of the date of that appointment, 1 1/2 years of service.

[(2) HIGHER CREDIT UNDER OTHER LAW.—If a person appointed under this section is entitled to credit for the purpose of basic pay under any other provision of law that would exceed the amount of credit authorized by paragraph (1), that person shall be credited with that amount of service in lieu of the credit authorized by paragraph (1).]

**SEC. 221. ORIGINAL APPOINTMENTS AND REAPPOINTMENTS.**

(a) ORIGINAL APPOINTMENTS.—

(1) GRADES.—

(A) IN GENERAL.—*Except as provided in subparagraph (B), an original appointment of an officer may be made in such grades as may be appropriate for—*

*(i) the qualification, experience, and length of service of the appointee; and*

*(ii) the commissioned officer corps of the Administration.*

(B) APPOINTMENT OF OFFICER CANDIDATES.—

*(i) LIMITATION ON GRADE.—An original appointment of an officer candidate, upon graduation from the basic officer training program of the commissioned officer corps of the Administration, may not be made in any other grade than ensign.*

*(ii) RANK.—Officer candidates receiving appointments as ensigns upon graduation from basic officer training program shall take rank according to their*

proficiency as shown by the order of their merit at date of graduation.

(2) *SOURCE OF APPOINTMENTS.*—An original appointment may be made from among the following:

(A) *Graduates of the basic officer training program of the commissioned officer corps of the Administration.*

(B) *Graduates of the military service academies of the United States who otherwise meet the academic standards for enrollment in the training program described in subparagraph (A).*

(C) *Graduates of the maritime academies of the States who—*

(i) *otherwise meet the academic standards for enrollment in the training program described in subparagraph (A);*

(ii) *completed at least 3 years of regimented training while at a maritime academy of a State; and*

(iii) *obtained an unlimited tonnage or unlimited horsepower Merchant Mariner Credential from the United States Coast Guard.*

(D) *Licensed officers of the United States merchant marine who have served 2 or more years aboard a vessel of the United States in the capacity of a licensed officer, who otherwise meet the academic standards for enrollment in the training program described in subparagraph (A).*

(3) *DEFINITIONS.*—In this subsection:

(A) *MARITIME ACADEMIES OF THE STATES.*—The term “maritime academies of the States” means the following:

(i) *California Maritime Academy, Vallejo, California.*

(ii) *Great Lakes Maritime Academy, Traverse City, Michigan.*

(iii) *Maine Maritime Academy, Castine, Maine.*

(iv) *Massachusetts Maritime Academy, Buzzards Bay, Massachusetts.*

(v) *State University of New York Maritime College, Fort Schuyler, New York.*

(vi) *Texas A&M Maritime Academy, Galveston, Texas.*

(B) *MILITARY SERVICE ACADEMIES OF THE UNITED STATES.*—The term “military service academies of the United States” means the following:

(i) *The United States Military Academy, West Point, New York.*

(ii) *The United States Naval Academy, Annapolis, Maryland.*

(iii) *The United States Air Force Academy, Colorado Springs, Colorado.*

(iv) *The United States Coast Guard Academy, New London, Connecticut.*

(v) *The United States Merchant Marine Academy, Kings Point, New York.*

(b) *REAPPOINTMENT.*—

(1) *IN GENERAL.*—Except as provided in paragraph (2), an individual who previously served in the commissioned officer

*corps of the Administration may be appointed by the Secretary to the grade the individual held prior to separation.*

(2) *REAPPOINTMENTS TO HIGHER GRADES.—An appointment under paragraph (1) to a position of importance and responsibility designated under section 228 may only be made by the President.*

(c) *QUALIFICATIONS.—An appointment under subsection (a) or (b) may not be given to an individual until the individual's mental, moral, physical, and professional fitness to perform the duties of an officer has been established under such regulations as the Secretary shall prescribe.*

(d) *PRECEDENCE OF APPOINTEES.—Appointees under this section shall take precedence in the grade to which appointed in accordance with the dates of their commissions as commissioned officers in such grade. Appointees whose dates of commission are the same shall take precedence with each other as the Secretary shall determine.*

(e) *INTER-SERVICE TRANSFERS.—For inter-service transfers (as described in the Department of Defense Directive 1300.4 (dated December 27, 2006)) the Secretary shall—*

(1) *coordinate with the Secretary of Defense and the Secretary of the Department in which the Coast Guard is operating to promote and streamline inter-service transfers;*

(2) *give preference to such inter-service transfers for recruitment purposes as determined appropriate by the Secretary; and*

(3) *reappoint such inter-service transfers to the equivalent grade in the commissioned officer corps.*

**[SEC. 222. PERSONNEL BOARDS.**

[33 U.S.C. 3022]

[(a) **CONVENING.**—At least once a year and at such other times as the Secretary determines necessary, the Secretary shall convene a personnel board. A personnel board shall consist of not less than five officers on the lineal list in the permanent grade of commander or above.

[(b) **DUTIES.**—Each personnel board shall—

[(1) recommend to the Secretary such changes in the lineal list as the board may determine; and

[(2) make selections and recommendations to the Secretary and President for the appointment, promotion, separation, continuation, and retirement of officers as prescribed in this subtitle and subtitle C.

[(c) **ACTION ON RECOMMENDATIONS NOT ACCEPTABLE.**—In a case in which any recommendation by a board convened under subsection (a) is not accepted by the Secretary or the President, the board shall make such further recommendations as are acceptable.]

**SEC. 222. PERSONNEL BOARDS.**

(a) *CONVENING.—Not less frequently than once each year and at such other times as the Secretary determines necessary, the Secretary shall convene a personnel board.*

(b) *MEMBERSHIP.—*

(1) *IN GENERAL.—A board convened under subsection (a) shall consist of 5 or more officers who are serving in or above*

*the permanent grade of the officers under consideration by the board.*

(2) *RETIRED OFFICERS.*—Officers on the retired list may be recalled to serve on such personnel boards as the Secretary considers necessary.

(3) *NO MEMBERSHIP ON 2 SUCCESSIVE BOARDS.*—No officer may be a member of 2 successive personnel boards convened to consider officers of the same grade for promotion or separation.

(c) *DUTIES.*—Each personnel board shall—

(1) *recommend to the Secretary such changes as may be necessary to correct any erroneous position on the lineal list that was caused by administrative error; and*

(2) *make selections and recommendations to the Secretary and the President for the appointment, promotion, involuntary separation, continuation, and involuntary retirement of officers in the commissioned officer corps of the Administration as prescribed in this title.*

(d) *ACTION ON RECOMMENDATIONS NOT ACCEPTABLE.*—If any recommendation by a board convened under subsection (a) is not accepted by the Secretary or the President, the board shall make such further recommendations as the Secretary or the President considers appropriate.

**SEC. 226. APPOINTMENTS AND PROMOTIONS TO PERMANENT GRADES.**

[33 U.S.C. 3026]

**[Appointments]**

(a) *IN GENERAL.*—Appointments in and promotions to all permanent grades shall be made by the President.

(b) *DELEGATION OF APPOINTMENT AUTHORITY.*—If the President delegates authority to the Secretary to make appointments under this section, the President shall, during a period in which the position of the Secretary is vacant, delegate such authority to the Deputy Secretary of Commerce or the Under Secretary for Oceans and Atmosphere during such period.

**SEC. 228. POSITIONS OF IMPORTANCE AND RESPONSIBILITY.**

[33 U.S.C. 3028]

\* \* \* \* \*

(c) *DIRECTOR OF NOAA CORPS AND ASSISTANT ADMINISTRATOR OF THE OFFICE OF MARINE AND AVIATION OPERATIONS.*—The Secretary shall designate one position under this section as responsible for oversight of the vessel and aircraft fleets and for the administration of the commissioned officer corps. That position shall be filled by an officer on the lineal list serving in or above the grade of rear admiral (lower half). For the specific purpose of administering the commissioned officer corps, that position shall carry the title of Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps. For the specific purpose of administering the vessel and aircraft fleets, that position shall carry the title of **[Director]** Assistant Administrator of the Office of Marine and Aviation Operations.

\* \* \* \* \*

**[SEC. 229. TEMPORARY APPOINTMENTS AND PROMOTIONS GENERALLY.**

[33 U.S.C. 3029]

[(a) ENSIGN.—Temporary appointments in the grade of ensign may be made by the President. Each such temporary appointment terminates at the close of the next regular session of the Congress.

[(b) LIEUTENANT (JUNIOR GRADE).—Officers in the permanent grade of ensign may be temporarily promoted to and appointed in the grade of lieutenant (junior grade) by the President whenever vacancies exist in higher grades.

[(c) ANY ONE GRADE.—When determined by the Secretary to be in the best interest of the service, officers in any permanent grade may be temporarily promoted one grade by the President. Any such temporary promotion terminates upon the transfer of the officer to a new assignment.]

**SEC. 229. TEMPORARY APPOINTMENTS.**

(a) *APPOINTMENTS BY PRESIDENT.*—Temporary appointments in the grade of ensign, lieutenant junior grade, or lieutenant may be made by the President.

(b) *TERMINATION.*—A temporary appointment to a position under subsection (a) shall terminate upon approval of a permanent appointment for such position made by the President.

(c) *ORDER OF PRECEDENCE.*—Appointees under subsection (a) shall take precedence in the grade to which appointed in accordance with the dates of their appointments as officers in such grade. The order of precedence of appointees who are appointed on the same date shall be determined by the Secretary.

(d) *ANY ONE GRADE.*—When determined by the Secretary to be in the best interest of the commissioned officer corps, officers in any permanent grade may be temporarily promoted one grade by the President. Any such temporary promotion terminates upon the transfer of the officer to a new assignment.

(e) *DELEGATION OF APPOINTMENT AUTHORITY.*—If the President delegates authority to the Secretary to make appointments under this section, the President shall, during a period in which the position of the Secretary is vacant, delegate such authority to the Deputy Secretary of Commerce or the Under Secretary for Oceans and Atmosphere during such period.

**SEC. 234. OFFICER CANDIDATES.**

(a) *DETERMINATION OF NUMBER.*—The Secretary shall determine the number of appointments of officer candidates.

(b) *APPOINTMENT.*—Appointment of officer candidates shall be made under regulations which the Secretary shall prescribe, including regulations with respect to determining age limits, methods of selection of officer candidates, term of service as an officer candidate before graduation from the program, and all other matters affecting such appointment.

(c) *DISMISSAL.*—The Secretary may dismiss from the basic officer training program of the Administration any officer candidate who, during the officer candidate's term as an officer candidate, the Secretary considers unsatisfactory in either academics or conduct, or not adapted for a career in the commissioned officer corps of the Administration. Officer candidates shall be subject to rules governing

discipline prescribed by the Director of the National Oceanic and Atmospheric Administration Commissioned Officer Corps.

(d) **AGREEMENT.**—

(1) **IN GENERAL.**—Each officer candidate shall sign an agreement with the Secretary in accordance with section 216(a)(2) regarding the officer candidate's term of service in the commissioned officer corps of the Administration.

(2) **ELEMENTS.**—An agreement signed by an officer candidate under paragraph (1) shall provide that the officer candidate agrees to the following:

(A) That the officer candidate will complete the course of instruction at the basic officer training program of the Administration.

(B) That upon graduation from the such program, the officer candidate—

(i) will accept an appointment, if tendered, as an officer; and

(ii) will serve on active duty for at least 4 years immediately after such appointment.

(e) **REGULATIONS.**—The Secretary shall prescribe regulations to carry out this section. Such regulations shall include—

(1) standards for determining what constitutes a breach of an agreement signed under such subsection (d)(1); and

(2) procedures for determining whether such a breach has occurred.

(f) **REPAYMENT.**—An officer candidate or former officer candidate who does not fulfill the terms of the obligation to serve as specified under section (d) shall be subject to the repayment provisions of section 216(b).

**SEC. 235. PROCUREMENT OF PERSONNEL.**

The Secretary may make such expenditures as the Secretary considers necessary in order to obtain recruits for the commissioned officer corps of the Administration, including advertising.

**SEC. 241. INVOLUNTARY RETIREMENT OR SEPARATION.**

[33 U.S.C. 3041]

(a) **TRANSFER OF OFFICERS TO RETIRED LIST; SEPARATION FROM SERVICE.**—As recommended by a personnel board convened under section 222—

(1) an officer in the permanent grade of captain or commander may be transferred to the retired list; and

(2) an officer in the permanent grade of lieutenant commander, lieutenant, or lieutenant (junior grade) who is not qualified for retirement may be separated from the service.

(b) **COMPUTATIONS.**—In any fiscal year, the total number of officers selected for retirement or separation under subsection (a) plus the number of officers retired for age may not exceed the whole number nearest 4 percent of the total number of officers authorized to be on the active list, except as otherwise provided by law.

(c) **EFFECTIVE DATE OF RETIREMENTS AND SEPARATIONS.**—A retirement or separation under subsection (a) shall take effect on the first day of the sixth month beginning after the date on which the Secretary approves the retirement or separation, except that if the officer concerned requests an earlier retirement or separation date, the date shall be as determined by the Secretary.

(d) *DEFERMENT OF RETIREMENT OR SEPARATION FOR MEDICAL REASONS.*—

(1) *IN GENERAL.*—If the Secretary determines that the evaluation of the medical condition of an officer requires hospitalization or medical observation that cannot be completed with confidence in a manner consistent with the officer's well being before the date on which the officer would otherwise be required to retire or be separated under this section, the Secretary may defer the retirement or separation of the officer.

(2) *CONSENT REQUIRED.*—A deferment may only be made with the written consent of the officer involved. If the officer does not provide written consent to the deferment, the officer shall be retired or separated as scheduled.

(3) *LIMITATION.*—A deferral of retirement or separation under this subsection may not extend for more than 30 days after completion of the evaluation requiring hospitalization or medical observation.

**SEC. 242. SEPARATION PAY.**

[33 U.S.C. 3042]

(a) *AUTHORIZATION OF PAYMENT.*—An officer who is separated under section 241(a)(2) and who has completed more than three years of continuous active service immediately before that separation is entitled to separation pay computed under subsection (b) unless the Secretary determines that the conditions under which the officer is separated do not warrant payment of that pay.

(b) *AMOUNT OF SEPARATION PAY.*—

(1) *SIX OR MORE YEARS.*—In the case of an officer who has completed six or more years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is 10 percent of the product of—

(A) the years of active service creditable to the officer; and

(B) 12 times the monthly basic pay to which the officer was entitled at the time of separation.

(2) *THREE TO SIX YEARS.*—In the case of an officer who has completed three or more but fewer than six years of continuous active service immediately before that separation, the amount of separation pay to be paid to the officer under this section is one-half of the amount computed under paragraph (1).

(c) *OTHER CONDITIONS, REQUIREMENTS, AND ADMINISTRATIVE PROVISIONS.*—The provisions of subsections (f), (g), and (h) of section 1174 of title 10, United States Code, shall apply to separation pay under this section in the same manner as such provisions apply to separation pay under that section.

(d) *EXCEPTION.*—An officer discharged for twice failing selection for promotion to the next higher grade is not entitled to separation pay under this section if the officer—

(1) expresses a desire not to be selected for promotion; or

(2) requests removal from the list of selectees.

**SEC. 261. APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 10,  
UNITED STATES CODE.**

[33 U.S.C. 3071]

(a) PROVISIONS MADE APPLICABLE TO THE CORPS.—The rules of law that apply to the Armed Forces under the following provisions of title 10, United States Code, as those provisions are in effect from time to time, apply also to the commissioned officer corps of the Administration:

- (1) Chapter 40, relating to leave.
- (2) Section 533(b), relating to constructive service.
- (3) Section 716, relating to transfers between the armed forces and to and from National Oceanic and Atmospheric Administration.
- (4) *Section 771, relating to unauthorized wearing of uniforms.*
- (5) *Section 774, relating to wearing religious apparel while in uniform.*
- (6) *Section 982, relating to service on State and local juries.*
- (7) *Section 1031, relating to administration of oaths.*
- (8) *Section 1034, relating to protected communications and prohibition of retaliatory personnel actions.*
- [(4)] (9) Section 1035, relating to deposits of savings.
- [(5)] (10) Section 1036, relating to transportation and travel allowances for escorts for dependents of members.
- [(6)] (11) Section 1052, relating to reimbursement for adoption expenses.
- [(11)](12) *Section 1074n, relating to annual mental health assessments.*
- [(12)](13) *Section 1090a, relating to referrals for mental health evaluations.*
- [(13)](14) *Chapter 58, relating to the Benefits and Services for members being separated or recently separated.*
- [(7)](15) Section 1174a, relating to special separation benefits (except that benefits under subsection (b)(2)(B) of such section are subject to the availability of appropriations for such purpose and are provided at the discretion of the Secretary of Commerce).
- [(8)](16) Chapter 61, relating to retirement or separation for physical disability.
- [(9)](17) Chapter 69, relating to retired grade, except sections 1370, 1375, and 1376.
- [(10)](18) Chapter 71, relating to computation of retired pay.
- [(11)](19) Chapter 73, relating to annuities based on retired or retainer pay.
- [(12)](20) Subchapter II of chapter 75, relating to death benefits.
- (21) *Subchapter I of chapter 88, relating to Military Family Programs.*
- (22) *Section 2005, relating to advanced education assistance, active duty agreements, and reimbursement requirements.*
- [(13)](23) Section 2634, relating to transportation of motor vehicles for members on permanent change of station.
- [(14)](24) Sections 2731 and 2735, relating to property loss incident to service.
- [(15)](25) Section 2771, relating to final settlement of accounts of deceased members.

[(16)](26) Such other provisions of subtitle A of that title as may be adopted for applicability to the commissioned officer corps of the National Oceanic and Atmospheric Administration by any other provision of law.

(b) REFERENCES.—The authority vested by title 10, United States Code, in the “military departments”, “the Secretary concerned”, or “the Secretary of Defense” with respect to the provisions of law referred to in subsection (a) shall be exercised, with respect to the commissioned officer corps of the Administration, by the Secretary of Commerce or the Secretary’s designee. *For purposes of paragraph (8) of subsection (a), the term “Inspector General” in section 1034 of such title 10 shall mean the Inspector General of the Department of Commerce.*

(c) REGULATIONS REGARDING PROTECTED COMMUNICATIONS AND PROHIBITION OF RETALIATORY PERSONNEL ACTIONS.—*The Secretary may promulgate regulations to carry out the application of section 1034 of title 10, United States Code, to the commissioned officer corps of the Administration, including by promulgating such administrative procedures for investigation and appeal within the commissioned officer corps as the Secretary considers appropriate.*

**SEC. 261A. APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 37, UNITED STATES CODE.**

(a) PROVISIONS MADE APPLICABLE TO COMMISSIONED OFFICER CORPS.—*The provisions of law applicable to the Armed Forces under the following provisions of title 37, United States Code, shall apply to the commissioned officer corps of the Administration:*

(1) *Section 324, relating to accession bonuses for new officers in critical skills.*

(2) *Section 403(f)(3), relating to prescribing regulations defining the terms “field duty” and “sea duty”.*

(3) *Section 403(l), relating to temporary continuation of housing allowance for dependents of members dying on active duty.*

(4) *Section 488, relating to allowances for recruiting expenses.*

(5) *Section 495, relating to allowances for funeral honors duty.*

(b) REFERENCES.—*The authority vested by title 37, United States Code, in the “military departments”, “the Secretary concerned”, or “the Secretary of Defense” with respect to the provisions of law referred to in subsection (a) shall be exercised, with respect to the commissioned officer corps of the Administration, by the Secretary of Commerce or the Secretary’s designee.*

**SEC. 267. EDUCATION LOAN REPAYMENT PROGRAM.**

(a) AUTHORITY TO REPAY EDUCATION LOANS.—*For the purpose of maintaining adequate numbers of officers of the commissioned officer corps of the Administration on active duty who have skills required by the commissioned officer corps, the Secretary may repay, in the case of a person described in subsection (b), a loan that—*

(1) *was used by the person to finance education; and*

(2) *was obtained from a governmental entity, private financial institution, educational institution, or other authorized entity.*

(b) ELIGIBLE PERSONS.—*To be eligible to obtain a loan repayment under this section, a person must—*

(1) *satisfy 1 of the requirements specified in subsection (c);*

(2) be fully qualified for, or hold, an appointment as a commissioned officer in the commissioned officer corps of the Administration; and

(3) sign a written agreement to serve on active duty, or, if on active duty, to remain on active duty for a period in addition to any other incurred active duty obligation.

(c) **ACADEMIC AND PROFESSIONAL REQUIREMENTS.**—One of the following academic requirements must be satisfied for purposes of determining the eligibility of an individual for a loan repayment under this section:

(1) The person is fully qualified in a profession that the Secretary has determined to be necessary to meet identified skill shortages in the commissioned officer corps.

(2) The person is enrolled as a full-time student in the final year of a course of study at an accredited educational institution (as determined by the Secretary of Education) leading to a degree in a profession that will meet identified skill shortages in the commissioned officer corps.

(d) **LOAN REPAYMENTS.**—

(1) **IN GENERAL.**—Subject to the limits established under paragraph (2), a loan repayment under this section may consist of the payment of the principal, interest, and related expenses of a loan obtained by a person described in subsection (b).

(2) **LIMITATION ON AMOUNT.**—For each year of obligated service that a person agrees to serve in an agreement described in subsection (b)(3), the Secretary may pay not more than the amount specified in section 2173(e)(2) of title 10, United States Code.

(e) **ACTIVE DUTY SERVICE OBLIGATION.**—

(1) **IN GENERAL.**—A person entering into an agreement described in subsection (b)(3) incurs an active duty service obligation.

(2) **LENGTH OF OBLIGATION DETERMINED UNDER REGULATIONS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the length of the obligation under paragraph (1) shall be determined under regulations prescribed by the Secretary.

(B) **MINIMUM OBLIGATION.**—The regulations prescribed under subparagraph (A) may not provide for a period of obligation of less than 1 year for each maximum annual amount, or portion thereof, paid on behalf of the person for qualified loans.

(3) **PERSONS ON ACTIVE DUTY BEFORE ENTERING INTO AGREEMENT.**—The active duty service obligation of persons on active duty before entering into the agreement shall be served after the conclusion of any other obligation incurred under the agreement.

(f) **EFFECT OF FAILURE TO COMPLETE OBLIGATION.**—

(1) **ALTERNATIVE OBLIGATIONS.**—An officer who is relieved of the officer's active duty obligation under this section before the completion of that obligation may be given any alternative obligation, at the discretion of the Secretary.

(2) **REPAYMENT.**—An officer who does not complete the period of active duty specified in the agreement entered into under sub-

section (b)(3), or the alternative obligation imposed under paragraph (1), shall be subject to the repayment provisions under section 216.

(g) **RULEMAKING.**—The Secretary shall prescribe regulations to carry out this section, including—

- (1) standards for qualified loans and authorized payees; and
- (2) other terms and conditions for the making of loan repayments.

**SEC. 268. INTEREST PAYMENT PROGRAM.**

(a) **AUTHORITY.**—The Secretary may pay the interest and any special allowances that accrue on 1 or more student loans of an eligible officer, in accordance with this section.

(b) **ELIGIBLE OFFICERS.**—An officer is eligible for the benefit described in subsection (a) while the officer—

- (1) is serving on active duty;
- (2) has not completed more than 3 years of service on active duty;
- (3) is the debtor on 1 or more unpaid loans described in subsection (c); and
- (4) is not in default on any such loan.

(c) **STUDENT LOANS.**—The authority to make payments under subsection (a) may be exercised with respect to the following loans:

- (1) A loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.).
- (2) A loan made under part D of such title (20 U.S.C. 1087a et seq.).
- (3) A loan made under part E of such title (20 U.S.C. 1087aa et seq.).

(d) **MAXIMUM BENEFIT.**—Interest and any special allowance may be paid on behalf of an officer under this section for any of the 36 consecutive months during which the officer is eligible under subsection (b).

(e) **FUNDS FOR PAYMENTS.**—The Secretary may use amounts appropriated for the pay and allowances of personnel of the commissioned officer corps of the Administration for payments under this section.

(f) **COORDINATION WITH SECRETARY OF EDUCATION.**—

(1) **IN GENERAL.**—The Secretary shall consult with the Secretary of Education regarding the administration of this section.

(2) **TRANSFER OF FUNDS.**—The Secretary shall transfer to the Secretary of Education the funds necessary—

(A) to pay interest and special allowances on student loans under this section (in accordance with sections 428(o), 455(l), and 464(j) of the Higher Education Act of 1965 (20 U.S.C. 1078(o), 1087e(l), and 1087dd(j))); and

(B) to reimburse the Secretary of Education for any reasonable administrative costs incurred by the Secretary in coordinating the program under this section with the administration of the student loan programs under parts B, D, and E of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq., 1087a et seq., 1087aa et seq.).

(g) **SPECIAL ALLOWANCE DEFINED.**—In this section, the term “special allowance” means a special allowance that is payable under

section 438 of the Higher Education Act of 1965 (20 U.S.C. 1087-1).

**SEC. 269. STUDENT PRE-COMMISSIONING EDUCATION ASSISTANCE PROGRAM.**

(a) **AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE.**—For the purpose of maintaining adequate numbers of officers of the commissioned officer corps of the Administration on active duty, the Secretary may provide financial assistance to a person described in subsection (b) for expenses of the person while the person is pursuing on a full-time basis at an accredited educational institution (as determined by the Secretary of Education) a program of education approved by the Secretary that leads to—

(1) a baccalaureate degree in not more than 5 academic years;

or

(2) a postbaccalaureate degree.

(b) **ELIGIBLE PERSONS.**—

(1) **IN GENERAL.**—A person is eligible to obtain financial assistance under subsection (a) if the person—

(A) is enrolled on a full-time basis in a program of education referred to in subsection (a) at any educational institution described in such subsection;

(B) meets all of the requirements for acceptance into the commissioned officer corps of the Administration except for the completion of a baccalaureate degree; and

(C) enters into a written agreement with the Secretary described in paragraph (2).

(2) **AGREEMENT.**—A written agreement referred to in paragraph (1)(C) is an agreement between the person and the Secretary in which the person—

(A) agrees to accept an appointment as an officer, if tendered; and

(B) upon completion of the person's educational program, agrees to serve on active duty, immediately after appointment, for—

(i) up to 3 years if the person received less than 3 years of assistance; and

(ii) up to 5 years if the person received at least 3 years of assistance.

(c) **QUALIFYING EXPENSES.**—Expenses for which financial assistance may be provided under subsection (a) are the following:

(1) Tuition and fees charged by the educational institution involved.

(2) The cost of books.

(3) In the case of a program of education leading to a baccalaureate degree, laboratory expenses.

(4) Such other expenses as the Secretary considers appropriate.

(d) **LIMITATION ON AMOUNT.**—The Secretary shall prescribe the amount of financial assistance provided to a person under subsection (a), which may not exceed the amount specified in section 2173(e)(2) of title 10, United States Code, for each year of obligated service that a person agrees to serve in an agreement described in subsection (b)(2).

(e) *DURATION OF ASSISTANCE.*—Financial assistance may be provided to a person under subsection (a) for not more than 5 consecutive academic years.

(f) *SUBSISTENCE ALLOWANCE.*—

(1) *IN GENERAL.*—A person who receives financial assistance under subsection (a) shall be entitled to a monthly subsistence allowance at a rate prescribed under paragraph (2) for the duration of the period for which the person receives such financial assistance.

(2) *DETERMINATION OF AMOUNT.*—The Secretary shall prescribe monthly rates for subsistence allowance provided under paragraph (1), which shall be equal to the amount specified in section 2144(a) of title 10, United States Code.

(g) *INITIAL CLOTHING ALLOWANCE.*—

(1) *TRAINING.*—The Secretary may prescribe a sum which shall be credited to each person who receives financial assistance under subsection (a) to cover the cost of the person's initial clothing and equipment issue.

(2) *APPOINTMENT.*—Upon completion of the program of education for which a person receives financial assistance under subsection (a) and acceptance of appointment in the commissioned officer corps of the Administration, the person may be issued a subsequent clothing allowance equivalent to that normally provided to a newly appointed officer.

(h) *TERMINATION OF FINANCIAL ASSISTANCE.*—

(1) *IN GENERAL.*—The Secretary shall terminate the assistance provided to a person under this section if—

(A) the Secretary accepts a request by the person to be released from an agreement described in subsection (b)(2);

(B) the misconduct of the person results in a failure to complete the period of active duty required under the agreement; or

(C) the person fails to fulfill any term or condition of the agreement.

(2) *REIMBURSEMENT.*—The Secretary may require a person who receives assistance described in subsection (c), (f), or (g) under an agreement entered into under subsection (b)(1)(C) to reimburse the Secretary in an amount that bears the same ratio to the total costs of the assistance provided to that person as the unserved portion of active duty bears to the total period of active duty the officer agreed to serve under the agreement.

(3) *WAIVER.*—The Secretary may waive the service obligation of a person through an agreement entered into under subsection (b)(1)(C) if the person—

(A) becomes unqualified to serve on active duty in the commissioned officer corps of the Administration because of a circumstance not within the control of that person; or

(B) is—

(i) not physically qualified for appointment; and

(ii) determined to be unqualified for service in the commissioned officer corps of the Administration because of a physical or medical condition that was not the result of the person's own misconduct or grossly negligent conduct.

(4) *OBLIGATION AS DEBT TO UNITED STATES.*—An obligation to reimburse the Secretary imposed under paragraph (2) is, for all purposes, a debt owed to the United States.

(5) *DISCHARGE IN BANKRUPTCY.*—A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of a written agreement entered into under subsection (b)(1)(C) does not discharge the person signing the agreement from a debt arising under such agreement or under paragraph (2).

(i) *REGULATIONS.*—The Secretary may promulgate such regulations and orders as the Secretary considers appropriate to carry out this section.

**SEC. 269A. TREATMENT OF COMMISSION IN COMMISSIONED OFFICER CORPS AS EMPLOYMENT IN ADMINISTRATION FOR PURPOSES OF CERTAIN HIRING DECISIONS.**

(a) *IN GENERAL.*—In any case in which the Secretary accepts an application for a position of employment with the Administration and limits consideration of applications for such position to applications submitted by individuals serving in a career or career-conditional position in the competitive service within the Administration, the Secretary shall deem an officer who has served as an officer in the commissioned officer corps for at least 3 years to be serving in a career or career-conditional position in the competitive service within the Administration for purposes of such limitation.

(b) *CAREER APPOINTMENTS.*—If the Secretary selects an application submitted by an officer described in subsection (a) for a position described in such subsection, the Secretary shall give such officer a career or career-conditional appointment in the competitive service, as appropriate.

(c) *COMPETITIVE SERVICE DEFINED.*—In this section, the term “competitive service” has the meaning given the term in section 2102 of title 5, United States Code.

**HIGHER EDUCATION ACT OF 1965**

[20 U.S.C. 1001 et seq.]

**SEC. 428. FEDERAL PAYMENTS TO REDUCE STUDENT INTEREST COSTS.**

[20 U.S.C. 1078]

\* \* \* \* \*

(o) **[ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM] ARMED FORCES AND NOAA COMMISSIONED OFFICER CORPS STUDENT LOAN INTEREST PAYMENT PROGRAMS.**—

(1) *AUTHORITY.*—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, or section 268 of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 for the payment of interest and any special allowance on a loan to a member of the Armed Forces or an officer in the commissioned officer corps of the National Oceanic and Atmospheric Administration, respectively, that is made, insured, or guaranteed under this part, the Secretary shall pay the interest and special allowance on such loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest or any

special allowance on such a loan out of any funds other than funds that have been so transferred.

(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the lender shall grant the borrower forbearance in accordance with the guaranty agreement under subsection (c)(3)(A)(i)(IV).

(3) SPECIAL ALLOWANCE DEFINED.—For the purposes of this subsection, the term “special allowance”, means a special allowance that is payable with respect to a loan under section 438.

**SEC. 455. TERMS AND CONDITIONS OF LOANS.**

[20 U.S.C. 1087e]

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(1) **[ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM] ARMED FORCES AND NOAA COMMISSIONED OFFICER CORPS STUDENT LOAN INTEREST PAYMENT PROGRAMS.—**

(1) AUTHORITY.—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, or section 268 of the *National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002* for the payment of interest on a loan made under this part to a member of the *Armed Forces or an officer in the commissioned officer corps of the National Oceanic and Atmospheric Administration, respectively*, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the Secretary shall grant the borrower forbearance, in the form of a temporary cessation of all payments on the loan other than the payments of interest on the loan that are made under that paragraph.

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**SEC. 464. TERMS OF LOANS.**

[20 U.S.C. 1087dd]

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(j) **[ARMED FORCES STUDENT LOAN INTEREST PAYMENT PROGRAM] ARMED FORCES AND NOAA COMMISSIONED OFFICER CORPS STUDENT LOAN INTEREST PAYMENT PROGRAMS.—**

(1) AUTHORITY.—Using funds received by transfer to the Secretary under section 2174 of title 10, United States Code, or section 268 of the *National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002* for the payment of interest on a loan made under this part to a member of the *Armed Forces or an officer in the commissioned officer corps of the National Oceanic and Atmospheric Administration, respectively*, the Secretary shall pay the interest on the loan as due for a period not in excess of 36 consecutive months. The Secretary may not pay interest on such a loan out of any funds other than funds that have been so transferred.

(2) FORBEARANCE.—During the period in which the Secretary is making payments on a loan under paragraph (1), the institution of higher education shall grant the borrower forbearance in accordance with subsection (e)(1)(C).

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## HYDROGRAPHIC SERVICES IMPROVEMENT ACT OF 1998

[33 U.S.C. 892 et seq.]

### SEC. 306. AUTHORIZATION OF APPROPRIATIONS.

[33 U.S.C. 892d]

【There are】

(a) *IN GENERAL.*—*There are* authorized to be appropriated to the Administrator the following:

(1) To carry out nautical mapping and charting functions under sections 304 and 305, except for conducting hydrographic 【surveys—】

【(A) \$55,000,000 for fiscal year 2009;

【(B) \$56,000,000 for fiscal year 2010;

【(C) \$57,000,000 for fiscal year 2011; and】

【(D) \$58,000,000 for fiscal year 2012.】 *surveys, \$70,814,000 for each of fiscal years 2017 through 2021.*

(2) To contract for hydrographic surveys under section 304(b)(1), including the leasing or time chartering of 【vessels—】

【(A) \$32,130,000 for fiscal year 2009;

【(B) \$32,760,000 for fiscal year 2010;

【(C) \$33,390,000 for fiscal year 2011; and】

【(D) \$34,020,000 for fiscal year 2012.】 *vessels, \$25,000,000 for each of fiscal years 2017 through 2021.*

(3) To operate hydrographic survey vessels owned by the United States and operated by the 【Administration—】

【(A) \$25,900,000 for fiscal year 2009;

【(B) \$26,400,000 for fiscal year 2010;

【(C) \$26,900,000 for fiscal year 2011; and】

【(D) \$27,400,000 for fiscal year 2012.】 *Administration, \$29,932,000 for each of fiscal years 2017 through 2021.*

(4) To carry out geodetic functions under this 【title—】

【(A) \$32,640,000 for fiscal year 2009;

【(B) \$33,280,000 for fiscal year 2010;

【(C) \$33,920,000 for fiscal year 2011; and】

【(D) \$34,560,000 for fiscal year 2012.】 *title, \$26,800,000 for each of fiscal years 2017 through 2021.*

(5) To carry out tide and current measurement functions under this 【title—】

【(A) \$27,000,000 for fiscal year 2009;

【(B) \$27,500,000 for fiscal year 2010;

【(C) \$28,000,000 for fiscal year 2011; and】

【(D) \$28,500,000 for fiscal year 2012.】 *title, \$30,564,000 for each of fiscal years 2017 through 2021.*

(6) To acquire a replacement hydrographic survey vessel capable of staying at sea continuously for at least 30 days \$75,000,000.

(b) *ARCTIC PROGRAMS.*—*Of the amount authorized by this section for each fiscal year—*

- (1) \$10,000,000 is authorized for use—
- (A) to acquire hydrographic data;
  - (B) to provide hydrographic services;
  - (C) to conduct coastal change analyses necessary to ensure safe navigation;
  - (D) to improve the management of coastal change in the Arctic; and
  - (E) to reduce risks of harm to Alaska Native subsistence and coastal communities associated with increased international maritime traffic; and
- (2) \$2,000,000 is authorized for use to acquire hydrographic data and provide hydrographic services in the Arctic necessary to delineate the United States extended Continental Shelf.

(c) *LIMITATION ON ADMINISTRATIVE EXPENSES FOR SURVEYS.*—Of amounts authorized by this section for each fiscal year for contract hydrographic surveys, not more than 5 percent is authorized for administrative costs associated with contract management.

