

COAST GUARD AUTHORIZATION ACT OF 2023

JUNE 27, 2023.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. GRAVES of Missouri, from the Committee on Transportation and Infrastructure, submitted the following

R E P O R T

[To accompany H.R. 2741]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 2741) to authorize and amend authorities, programs, and statutes administered by the Coast Guard, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

CONTENTS

	Page
Purpose of Legislation .....	18
Background and Need for Legislation .....	18
Hearings .....	22
Legislative History and Consideration .....	22
Committee Votes .....	27
Committee Oversight Findings and Recommendations .....	30
New Budget Authority and Tax Expenditures .....	30
Congressional Budget Office Cost Estimate .....	30
Performance Goals and Objectives .....	34
Duplication of Federal Programs .....	35
Congressional Earmarks, Limited Tax Benefits, and Limited Tariff Benefits ...	35
Federal Mandates Statement .....	35
Preemption Clarification .....	35
Advisory Committee Statement .....	35
Applicability to Legislative Branch .....	35
Section-by-Section Analysis of The Legislation .....	36
Changes in Existing Law Made by the Bill, as Reported .....	41

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Coast Guard Authorization Act of 2023”.

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

- Sec. 1. Short title; table of contents.
- Sec. 2. Commandant defined.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

- Sec. 101. Authorization of appropriations.
- Sec. 102. Shoreside infrastructure and facilities and information technology.
- Sec. 103. Availability of amounts for acquisition of additional vessels and aircraft.
- Sec. 104. Authorization for certain programs and services.
- Sec. 105. Fishing vessel safety.
- Sec. 106. Authorized levels of military strength and training.

TITLE II—COAST GUARD

- Sec. 201. Prohibition on use of lead systems integrators.
- Sec. 202. Ports and waterways safety.
- Sec. 203. Minor construction increase.
- Sec. 204. Tsunami evacuation plans.
- Sec. 205. Study on Bering Strait vessel traffic projections and emergency response posture at the Port of Point Spencer, Alaska.
- Sec. 206. Service life extension programs.
- Sec. 207. Underwater inspections brief.
- Sec. 208. St. Lucie River railroad bridge.
- Sec. 209. Online incident reporting system.
- Sec. 210. Maritime Domain Awareness in Coast Guard Sector for Puerto Rico and Virgin Islands.
- Sec. 211. Public availability of information on monthly drug and migrant interdictions.
- Sec. 212. Report on establishment of an unmanned systems capabilities office.
- Sec. 213. Rulemaking regarding port access routes.
- Sec. 214. Great Lakes icebreaker.

TITLE III—MARITIME

Subtitle A—American Samoa Mariners Act of 2023

- Sec. 301. Merchant seamen licenses, certificates, and documents; manning of vessels.

Subtitle B—Vessel Operations

- Sec. 311. Definitions.
- Sec. 312. Notification.
- Sec. 313. Publication of fines and penalties.

Subtitle C—Merchant Mariner Credentialing

- Sec. 321. Revising merchant mariner deck training requirements.
- Sec. 322. Technical amendments.
- Sec. 323. Renewal of merchant mariner licenses and documents.

Subtitle D—Vessel Safety

- Sec. 331. Grossly negligent operations of a vessel.
- Sec. 332. Administrative procedure for security risks.
- Sec. 333. Requirements for DUKW amphibious passenger vessels.
- Sec. 334. Inspection and examination.

Subtitle E—Other Matters

- Sec. 341. Anchor handling activities.
- Sec. 342. Establishment of a national advisory committee on autonomous maritime systems.
- Sec. 343. Controlled substance onboard vessels.
- Sec. 344. Nonoperating individual.
- Sec. 345. Information on type approval certificates.
- Sec. 346. Manning and crewing requirements for certain vessels, vehicles, and structures.
- Sec. 347. Classification societies.

TITLE IV—OIL POLLUTION INCIDENT LIABILITY

- Sec. 401. Vessel response plans.
- Sec. 402. Use of marine casualty investigations.
- Sec. 403. Timing of review.

TITLE V—TECHNICAL, CONFORMING, AND CLARIFYING AMENDMENTS

- Sec. 501. Technical and conforming amendments.

**SEC. 2. COMMANDANT DEFINED.**

In this Act, the term “Commandant” means the Commandant of the Coast Guard.

## **TITLE I—AUTHORIZATION OF APPROPRIATIONS**

**SEC. 101. AUTHORIZATION OF APPROPRIATIONS.**

Section 4902 of title 14, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking “fiscal years 2022 and 2023” and inserting “fiscal years 2024 and 2025”;

(2) in paragraph (1)—

(A) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:

- “(i) \$10,750,000,000 for fiscal year 2024; and
- “(ii) \$11,287,500,000 for fiscal year 2025.”;
- (B) in subparagraph (B) by striking “\$23,456,000” and inserting “\$24,353,000”; and
- (C) in subparagraph (C) by striking “\$24,353,000” and inserting “\$25,570,000”;
- (3) in paragraph (2)—
  - (A) in subparagraph (A) by striking clauses (i) and (ii) and inserting the following:
    - “(i) \$3,477,600,000 for fiscal year 2024; and
    - “(ii) \$3,477,600,000 for fiscal year 2025.”; and
    - (B) in subparagraph (B) by striking clauses (i) and (ii) and inserting the following:
      - “(i) \$20,808,000 for fiscal year 2024; and
      - “(ii) \$20,808,000 for fiscal year 2025.”;
  - (4) in paragraph (3) by striking subparagraphs (A) and (B) and inserting the following:
    - “(A) \$14,681,084 for fiscal year 2024; and
    - “(B) \$15,415,000 for fiscal year 2025.”; and
  - (5) by striking paragraph (4) and inserting the following:
    - “(4) For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman’s Family Protection and Survivor Benefits Plans, payment for career status bonuses, payment of continuation pay under section 356 of title 37, concurrent receipts, combat-related special compensation, and payments for medical care of retired personnel and the dependents of such personnel under chapter 55 of title 10, \$1,147,244,000 for fiscal year 2024.”.

**SEC. 102. SHORESIDE INFRASTRUCTURE AND FACILITIES AND INFORMATION TECHNOLOGY.**

(a) **IN GENERAL.**—Of the amounts authorized to be appropriated under section 4902(2)(A) of title 14, United States Code—

- (1) for fiscal year 2024, \$36,300,000 is authorized to modernize the information technology systems of the Coast Guard; and
- (2) for each of fiscal years 2024 and 2025, \$400,000,000 is authorized to fund maintenance, construction, and repairs for Coast Guard shoreside infrastructure.

(b) **INFORMATION TECHNOLOGY SET-ASIDES.**—Of the amounts authorized under subsection (a)(1), \$11,000,000 is authorized to fund the acquisition, development, and implementation of a new credentialing system for the merchant mariner credentialing program.

(c) **SHORESIDE INFRASTRUCTURE.**—Of the amounts authorized to be appropriated under section 4902(2)(A) of title 14, United States Code—

- (1) for the purposes of improvements to facilities at the United States Coast Guard Training Center Cape May in Cape May, New Jersey—
  - (A) for fiscal year 2024—
    - (i) \$130,000,000 is authorized to fund the construction of a new indoor multipurpose recruit training facility; and
    - (ii) \$70,000,000 is authorized to fund Phase II of the barracks’ recapitalization; and
  - (B) for fiscal year 2025, \$70,000,000 is authorized to fund Phase III of the barracks’ recapitalization;
- (2) for each of fiscal years 2024 and 2025, \$30,000,000 is authorized to fund Phase I construction of a ship handling facility in the United States Coast Guard Yard in Baltimore, Maryland; and
- (3) for fiscal year 2024, \$130,000,000 is authorized to fund Phase I of waterfront improvements of Coast Guard Base Seattle, including environmental remediation consisting of dredging and structural improvements to piers and wharfs necessary to complete the expansion of Base Seattle to homeport 3 Polar Security Cutters in Seattle, Washington.

**SEC. 103. AVAILABILITY OF AMOUNTS FOR ACQUISITION OF ADDITIONAL VESSELS AND AIRCRAFT.**

Of the amounts authorized to be appropriated under section 4902(2)(A) of title 14, United States Code, for fiscal year 2024—

- (1) \$400,000,000 is authorized for the acquisition of 4 Fast Response Cutters;
- (2) \$125,000,000 is authorized for the acquisition or procurement of an available commercial icebreaker;
- (3) \$55,000,000 is authorized for the acquisition of a Great Lakes icebreaker at least as capable as Coast Guard Cutter Mackinaw (WLBB-30);

(4) \$20,000,000 is authorized to procure long lead time materials for a Great Lakes icebreaker at least as capable as Coast Guard Cutter Mackinaw (WLBB-30);

(5) \$30,500,000 is authorized for the program management, design, and acquisition of Pacific Northwest heavy weather boats that are at least as capable as the Coast Guard 52-foot motor surfboat;

(6) \$138,500,000 is authorized for the acquisition or procurement of 1 missionized HC-130J aircraft; and

(7) \$113,000,000 is authorized to outfit and assemble 4 MH-60T Jayhawk aircraft.

**SEC. 104. AUTHORIZATION FOR CERTAIN PROGRAMS AND SERVICES.**

Of the amounts authorized to be appropriated under section 4902(1)(A) of title 14, United States Code, for each of fiscal years 2024 and 2025—

(1) \$11,978,000 is authorized to fund additional recruiting personnel and offices for the Coast Guard Recruiting Command; and

(2) \$9,000,000 is authorized to enhance Coast Guard recruiting capabilities.

**SEC. 105. FISHING VESSEL SAFETY.**

Section 4502 of title 46, United States Code, is amended—

(1) in subsection (i) by striking paragraph (4) and inserting the following:

“(4) AUTHORIZATION OF APPROPRIATIONS.—Out of funds made available under section 4902(1)(A) of title 14, \$3,000,000 shall be available for each of fiscal years 2024 and 2025 for grants under this subsection.”; and

(2) in subsection (j) by striking paragraph (4) and inserting the following:

“(4) AUTHORIZATION OF APPROPRIATIONS.—Out of funds made available under section 4902(1)(A) of title 14, \$3,000,000 shall be available for each of fiscal years 2024 and 2025 for grants under this subsection.”.

**SEC. 106. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING.**

Section 4904 of title 14, United States Code, is amended—

(1) in subsection (a) by striking “fiscal years 2022 and 2023” and inserting “fiscal years 2024 and 2025”; and

(2) in subsection (b) by striking “fiscal years 2022 and 2023” and inserting “fiscal years 2024 and 2025”.

## TITLE II—COAST GUARD

**SEC. 201. PROHIBITION ON USE OF LEAD SYSTEMS INTEGRATORS.**

Section 1105 of title 14, United States Code, is amended by adding at the end the following:

“(c) DEFINITION.—In this section, the term ‘lead systems integrator’ has the meaning given such term in section 805(c) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109-163).”.

**SEC. 202. PORTS AND WATERWAYS SAFETY.**

(a) WATERFRONT SAFETY.—Section 70011(a) of title 46, United States Code, is amended—

(1) in paragraph (1) by inserting “, including damage or destruction resulting from cyber incidents, transnational organized crime, or foreign state threats” after “adjacent to such waters”; and

(2) in paragraph (2) by inserting “or harm resulting from cyber incidents, transnational organized crime, or foreign state threats” after “loss”.

(b) REGULATION OF ANCHORAGE AND MOVEMENT OF VESSELS DURING NATIONAL EMERGENCY.—Section 70051 of title 46, United States Code, is amended by inserting “or cyber incidents, or transnational organized crime, or foreign state threats,” after “threatened war, or invasion, or insurrection, or subversive activity,”.

(c) FACILITY VISIT BY STATE SPONSOR OF TERRORISM.—Section 70011(b) of title 46, United States Code, is amended—

(1) in paragraph (3) by striking “and” at the end;

(2) in paragraph (4) by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(5) prohibiting a representative of a government of a country that the Secretary of State has determined has repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) from visiting a facility for which a facility security plan is required under section 70103(c).”.

**SEC. 203. MINOR CONSTRUCTION INCREASE.**

Section 903(d)(1) of title 14, United States Code, is amended by striking “\$1,500,000” and inserting “\$2,000,000”.

**SEC. 204. TSUNAMI EVACUATION PLANS.****(a) TSUNAMI EVACUATION PLANS.—**

(1) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Commandant, in consultation with the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Federal Emergency Management Agency, shall establish location specific tsunami evacuation plans for each unit and sector of the Coast Guard that has facilities, personnel, or assets located within areas—

(A) designated by the Administrator of the National Oceanic and Atmospheric Administration as high risk or very high risk of a United States tsunami hazard; and

(B) that are located inside a tsunami inundation zone.

(2) **EVACUATION PLANS.**—In establishing the evacuation plans under paragraph (1), the Commandant shall ensure that such plans—

(A) are included in the emergency action plans for each unit or sector located inside of a tsunami inundation zone;

(B) designate an evacuation route to an assembly area located outside of a tsunami inundation zone;

(C) include a map or diagram of all tsunami inundation zone evacuation routes;

(D) include evacuation routes for all Coast Guard personnel and dependents of such personnel living in Coast Guard housing;

(E) are feasible for all servicemembers and dependents of such servicemembers present on Coast Guard property or living in Coast Guard provided housing;

(F) include procedures to begin evacuations once a major seismic event is detected;

(G) include evacuation plans for air and water assets that do not impinge on the safety of human life;

(H) are able to be completely executed within 15 minutes of detection of a seismic event or, if not possible within 15 minutes, within a reasonable timeframe;

(I) are able to be completely executed by servicemembers on foot from any location within the tsunami inundation zone;

(J) are exercised biennially by each unit and sector located in a tsunami inundation zone; and

(K) are evaluated by leadership at each unit and sector located in a tsunami inundation zone annually.

(3) **CONSULTATION.**—In establishing the evacuation plans under paragraph (1), the Commandant shall consult local governments.

**(b) REPORT.**—Not later than 2 years after the date of enactment of this Act, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, and provide a briefing to each such Committee on, a report on—

(1) the status of the implementation and feasibility of the plans established under subsection (a)(1);

(2) a risk evaluation and vulnerability assessment of the infrastructure and assets located within tsunami inundation zones;

(3) the need for vertical evacuation structures for units and sectors in which an evacuation of a tsunami inundation zone cannot be completed on foot within 15 minutes of the detection of a seismic event; and

(4) whether the plans established under subsection (a)(1) achieve the purpose to protect human life and ensure the ability for the Coast Guard to provide search and rescue operations following a tsunami event in the area.

**(c) DEFINITIONS.**—In this section:

(1) **SEISMIC EVENT.**—The term “seismic event” means an earthquake, volcanic eruption, submarine landslide, coastal rockfall, or other event with the magnitude to cause a tsunami.

(2) **TSUNAMI INUNDATION ZONE.**—The term “tsunami inundation zone” means an area of inland flooding modeled, predicted, or forecasted as a potential result of a tsunami or seismic event.

(3) **VERTICAL EVACUATION STRUCTURE.**—The term “vertical evacuation structure” means an elevated structure above the tsunami inundation zone designated as a place of refuge from flood waters.

**SEC. 205. STUDY ON BERING STRAIT VESSEL TRAFFIC PROJECTIONS AND EMERGENCY RESPONSE POSTURE AT THE PORT OF POINT SPENCER, ALASKA.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Commandant shall seek to enter into an agreement with the National Academies of Science, Engineering, and Medicine, under which the Marine Board of the Transportation Research Board (in this section referred to as the “Board”) shall conduct a study to—

(1) analyze commercial vessel traffic that transits through the Bering Strait and projections for the growth of such traffic during the 10-year period beginning after such date of enactment; and

(2) assess the adequacy of emergency response capabilities and infrastructure at the Port of Point Spencer, Alaska, to address navigation safety risks and geographic challenges necessary to conduct emergency maritime response operations in the Arctic environment.

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

(1) An analysis of the volume and types of domestic and international commercial vessel traffic through the Bering Strait and the projected growth of such traffic, including a summary of—

(A) the sizes, ages, and flag states of vessels; and

(B) the oil and product tankers that are—

(i) in transit to or from Russia or China; or

(ii) owned or operated by a Russian or Chinese entity.

(2) An assessment of the state and adequacy of vessel traffic services and oil spill and emergency response capabilities in the vicinity of the Bering Strait, including its approaches.

(3) A risk assessment of the projected growth in commercial vessel traffic in the Bering Strait and higher probability of increased frequency in the number of maritime accidents, including spill events, and the potential impacts to the Arctic maritime environment and Native Alaskan village communities in the vicinity of the Bering Strait.

(4) An evaluation of the ability of the Port of Point Spencer, Alaska to serve as a port of refuge and as a staging, logistics, and operations center to conduct and support maritime emergency and spill response activities.

(5) Recommendations for practical actions that can be taken by the Congress, Federal agencies, the State of Alaska, vessel carriers and operators, the marine salvage and emergency response industry, and other relevant stakeholders to mitigate risks, upgrade infrastructure, and improve the posture of the Port of Point Spencer, Alaska, to function as a strategic staging and logistics center for maritime emergency and spill response operations in the Bering Strait region.

(c) **CONSULTATION.**—In conducting the study required under subsection (a), the Board shall consult with—

(1) the Department of Transportation;

(2) the Corps of Engineers;

(3) the National Transportation Safety Board;

(4) relevant ministries of the government of Canada;

(5) the Port Coordination Council for the Port of Point Spencer; and

(6) non-government entities with relevant expertise in monitoring and characterizing vessel traffic in the Arctic.

(d) **REPORT.**—Not later than 1 year after initiating the study under subsection (a), the Board shall submit to the appropriate committees of Congress a report containing the findings and recommendations of the study.

(e) **DEFINITIONS.**—In this section:

(1) **APPROPRIATE COMMITTEES OF CONGRESS.**—The term “appropriate committees of Congress” means—

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

(B) Committee on Transportation and Infrastructure of the House of Representatives.

(2) **ARCTIC.**—The term “Arctic” has the meaning given such term in section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111).

(3) **PORT COORDINATION COUNCIL FOR THE PORT OF POINT SPENCER.**—The term “Port Coordination Council for the Port of Point Spencer” means the Council established under section 541 of the Coast Guard Authorization Act of 2015 (Public Law 114–120).

**SEC. 206. SERVICE LIFE EXTENSION PROGRAMS.**

(a) **IN GENERAL.**—Subchapter II of chapter 11 of title 14, United States Code, is amended by adding at the end the following:

**“§ 1138. Service life extension programs**

“(a) IN GENERAL.—Requirements for a Level 1 or Level 2 acquisition project or program under sections 1131 through 1134 shall not apply to an acquisition by the Coast Guard that is a service life extension program.

“(b) DEFINITION.—In this section, the term ‘service life extension program’ means a capital investment that is solely intended to extend the service life and address obsolescence of components or systems of a particular capability or asset.”

(b) CLERICAL AMENDMENT.—The analysis for chapter 11 of such title is amended by inserting after the item relating to section 1137 the following:

“1138. Service life extension programs.”

**SEC. 207. UNDERWATER INSPECTIONS BRIEF.**

Not later than 30 days after the date of enactment of this Act, the Commandant, or a designated individual, shall brief the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the underwater inspection in lieu of drydock program established under section 176.615 of title 46, Code of Federal Regulations (as in effect on the date of enactment of this Act).

**SEC. 208. ST. LUCIE RIVER RAILROAD BRIDGE.**

Regarding Docket Number USCG-2022-0222, before adopting a final rule, the Commandant of the Coast Guard shall conduct an independent boat traffic study at mile 7.4 of the St. Lucie River.

**SEC. 209. ONLINE INCIDENT REPORTING SYSTEM.**

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the National Response Center shall—

(1) develop an online capacity through a web-based application to receive a notification of an oil discharge or release of a hazardous substance; and

(2) allow any such notification to the National Response Center that is required under Federal law or regulation to be made online using the application.

(b) USE OF APPLICATION.—In carrying out subsection (a), the National Response Center may not require the notification of an oil discharge or release of a hazardous substance to be made using the application developed under such subsection.

**SEC. 210. MARITIME DOMAIN AWARENESS IN COAST GUARD SECTOR FOR PUERTO RICO AND VIRGIN ISLANDS.**

Not later than 180 days after the date of enactment of this Act, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing—

(1) an overview of the maritime domain awareness in the area of responsibility of the Coast Guard sector responsible for Puerto Rico and the United States Virgin Islands, including—

(A) the average volume of known maritime traffic that transited the area during fiscal years 2020 through 2023;

(B) current sensor platforms deployed by such sector to monitor illicit activity occurring at sea in such area;

(C) the number of illicit activity incidents at sea in such area that the sector responded to during fiscal years 2020 through 2023;

(D) an estimate of the volume of traffic engaged in illicit activity at sea in such area and the type and description of any vessels used to carry out illicit activities that such sector responded to during fiscal years 2020 through 2023; and

(E) the maritime domain awareness requirements to effectively meet the mission of such sector;

(2) a description of current actions taken by the Coast Guard to partner with Federal, regional, State, and local entities to meet the maritime domain awareness needs of such area;

(3) a description of any gaps in maritime domain awareness within the area of responsibility of such sector resulting from an inability to meet the enduring maritime domain awareness requirements of the sector or adequately respond to maritime disorder, including illicit drug and migrant activity;

(4) an identification of current technology and assets the Coast Guard has to mitigate the gaps identified in paragraph (3);

(5) an identification of capabilities needed to mitigate such gaps, including any capabilities the Coast Guard currently possesses that can be deployed to the sector;

(6) an identification of technology and assets the Coast Guard does not currently possess and are needed to acquire in order to address such gaps; and

(7) an identification of any financial obstacles that prevent the Coast Guard from deploying existing commercially available sensor technology to address such gaps.

**SEC. 211. PUBLIC AVAILABILITY OF INFORMATION ON MONTHLY DRUG AND MIGRANT INTERDICTIONS.**

(a) IN GENERAL.—Section 11269 of the Don Young Coast Guard Authorization Act of 2022 (Public Law 117–263) is—

- (1) transferred to appear at the end of subchapter II of chapter 5 of title 14, United States Code;
- (2) redesignated as section 529; and
- (3) amended—
  - (A) by striking the section enumerator and heading and inserting the following:

**“§ 529. Public availability of information on monthly drug and migrant interdictions”;**

- (B) by striking “Not later than” and inserting the following:
 

“(a) IN GENERAL.—Not later than”;

(C) by inserting “drug and” before “migrant interdictions”; and

(D) by adding at the end the following:
- “(b) CONTENTS.—In making information about interdictions publicly available under subsection (a), the Commandant shall include a description of the following:
  - “(1) The number of incidents in which drugs were interdicted, the amount and type of drugs interdicted, and the Coast Guard sectors and geographic areas of responsibility in which such incidents occurred.
  - “(2) The number of incidents in which migrants were interdicted, the number of migrants interdicted, and the Coast Guard sectors and geographic areas of responsibility in which such incidents occurred.”.

(b) CLERICAL AMENDMENTS.—

- (1) The analysis for chapter 5 of title 14, United States Code, is amended by inserting after the item relating to section 528 the following:

“529. Public availability of information on monthly drug and migrant interdictions.”.

- (2) The table of sections in section 11001(b) of the Don Young Coast Guard Authorization Act of 2022 (division K of Public Law 117–263) is amended by striking the item relating to section 11269.

**SEC. 212. REPORT ON ESTABLISHMENT OF AN UNMANNED SYSTEMS CAPABILITIES OFFICE.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that outlines a plan for establishing an unmanned systems capabilities office within the Coast Guard responsible for the acquisition and development of unmanned system and counter-unmanned system technologies and to expand the capabilities of the Coast Guard with respect to such technologies

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

- (1) A management strategy for the acquisition, development, and deployment of unmanned system and counter-unmanned system technologies.
- (2) A service-wide coordination strategy to synchronize and integrate efforts across the Coast Guard in order to—
  - (A) support the primary duties of the Coast Guard pursuant to section 102 of title 14, United States Code; and
  - (B) pursue expanded research, development, testing, and evaluation opportunities and funding to expand and accelerate identification and transition of unmanned system and counter-unmanned system technologies.
- (3) The identification of contracting and acquisition authorities needed to expedite the development and deployment of unmanned system and counter-unmanned system technologies.
- (4) A detailed list of commercially available unmanned system and counter-unmanned system technologies with capabilities determined to be useful for the Coast Guard.
- (5) A cross-agency collaboration plan to engage with the Department of Homeland Security, the Department of Defense, and other relevant agencies to identify common requirements and opportunities to partner in acquiring, contracting, and sustaining unmanned system and counter-unmanned system capabilities.

(6) Opportunities to obtain and share unmanned system data from government and commercial sources to improve maritime domain awareness.

(7) The development of a concept of operations for a data ecosystem that supports and integrates unmanned system and counter-unmanned system technologies with key enablers, including enterprise communications networks, data storage and management, artificial intelligence and machine learning tools, and information sharing and dissemination capabilities.

(c) DEFINITIONS.—In this section:

(1) COUNTER-UNMANNED SYSTEM.—The term “counter-unmanned system” means a system or device capable of lawfully and safely disabling, disrupting, or seizing control of an unmanned system, including a counter-UAS system (as defined in section 44801 of title 49, United States Code).

(2) UNMANNED SYSTEM.—The term “unmanned system” means an unmanned surface, undersea, or aircraft and associated elements (including communication links and the components that control the unmanned system) that are required for the operator to operate the system safely and efficiently, including an unmanned aircraft system (as defined in section 44801 of title 49, United States Code).

**SEC. 213. RULEMAKING REGARDING PORT ACCESS ROUTES.**

Not later than December 31, 2023, the Secretary of the department in which the Coast Guard is operating shall issue a final rule for the Atlantic Coast Port Route Access Study for which an Advanced Notice of Proposed Rulemaking title “Shipping Safety Fairways Along the Atlantic Coast” was issued on June 19, 2020.

**SEC. 214. GREAT LAKES ICEBREAKER.**

Not later than 30 days after the date of enactment of this Act, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a strategy detailing how the Coast Guard will complete design and construction of the Great Lakes icebreaker at least as capable as the Coast Guard Cutter Mackinaw (WLBB-30) in not more than 3 years after funding is provided for such icebreaker.

## TITLE III—MARITIME

### Subtitle A—American Samoa Mariners Act of 2023

**SEC. 301. MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS; MANNING OF VESSELS.**

(a) CITIZENSHIP OR NONCITIZEN NATIONALITY.—

(1) IN GENERAL.—Section 7102 of title 46, United States Code, is amended—

(A) in the section heading by inserting “**or noncitizen nationality**” after “**Citizenship**”; and

(B) by inserting “or noncitizen nationals (as such term is described in section 308 of the Immigration and Nationality Act (8 U.S.C. 1408)” after “citizens”.

(2) CLERICAL AMENDMENT.—The analysis for chapter 71 of title 46, United States Code, is amended by striking the item relating to section 7102 and inserting the following:

“7102. Citizenship or noncitizen nationality.”.

(b) CITIZENSHIP OR NONCITIZEN NATIONALITY NOTATION ON MERCHANT MARINERS’ DOCUMENTS.—

(1) IN GENERAL.—Section 7304 of title 46, United States Code, is amended—

(A) in the section heading by inserting “**or noncitizen nationality**” after “**Citizenship**”; and

(B) by inserting “or noncitizen national (as such term is described in section 308 of the Immigration and Nationality Act (8 U.S.C. 1408)” after “citizen”.

(2) CLERICAL AMENDMENT.—The analysis for chapter 73 of title 46, United States Code, is amended by striking the item relating to section 7304 and inserting the following:

“7304. Citizenship or nationalization notation on merchant mariners’ documents.”.

(c) CITIZENSHIP OR NONCITIZEN NATIONALITY.—

(1) IN GENERAL.—Section 8103 of title 46, United States Code, is amended—

(A) in the section heading by inserting “**or noncitizen nationality**” after “**Citizenship**”;

(B) in subsection (a) by inserting “or noncitizen national” after “citizen”;

(C) in subsection (b)—

(i) in paragraph (1)(A)(i) by inserting “or noncitizen national” after “citizen”;

(ii) in paragraph (3) by inserting “or noncitizen nationality” after “citizenship”; and

(iii) in paragraph (3)(C) by inserting “or noncitizen nationals” after “citizens”;

(D) in subsection (c) by inserting “or noncitizen nationals” after “citizens”;

(E) in subsection (d)—

(i) in paragraph (1) by inserting “or noncitizen nationals” after “citizens”; and

(ii) in paragraph (2) by inserting “or noncitizen national” after “citizen” each place it appears;

(F) in subsection (e) by inserting “or noncitizen national” after “citizen” each place it appears;

(G) in subsection (i)(1)(A) by inserting “or noncitizen national” after “citizen”;

(H) in subsection (k)(1)(A) by inserting “or noncitizen national” after “citizen”; and

(I) by adding at the end the following:

“(1) **NONCITIZEN NATIONAL DEFINED.**—In this section, the term ‘noncitizen national’ means an individual described in section 308 of the Immigration and Nationality Act (8 U.S.C. 1408).”.

(2) **CLERICAL AMENDMENT.**—The analysis for chapter 81 of title 46, United States Code, is amended by striking the item relating to section 8103 and inserting the following:

“8103. Citizenship or noncitizen nationality and Navy Reserve requirements.”.

(d) **COMMAND OF DOCUMENTED VESSELS.**—Section 12131(a) of title 46, United States Code, is amended by inserting “or noncitizen national (as such term is described in section 308 of the Immigration and Nationality Act (8 U.S.C. 1408))” after “citizen”.

(e) **INVALIDATION OF CERTIFICATES OF DOCUMENTATION.**—Section 12135(2) of title 46, United States Code, is amended by inserting “or noncitizen national (as such term is described in section 308 of the Immigration and Nationality Act (8 U.S.C. 1408))” after “citizen”.

## Subtitle B—Vessel Operations

### SEC. 311. DEFINITIONS.

In this subtitle:

(1) **OUTER CONTINENTAL SHELF.**—The term “outer Continental Shelf” has the meaning given such term in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

(2) **RULING LETTER.**—The term “ruling letter” means any ruling letter or headquarters ruling letter relating to the enforcement of chapters 121 and 551 of title 46, United States Code (commonly referred to as the “Jones Act”), issued by the Commissioner of U.S. Customs and Border Protection pursuant to sections 502(a) or 625 of the Tariff Act of 1930 (19 U.S.C. 1502(a) and 1625).

(3) **SECRETARY.**—The term “Secretary” means the Secretary of Homeland Security, acting through the Commissioner of U.S. Customs and Border Protection.

### SEC. 312. NOTIFICATION.

(a) **ADVANCE NOTIFICATION REQUIRED.**—Prior to engaging in any activity or operations on the outer Continental Shelf, the operator of a foreign vessel used in such activity or operations shall file with the Secretary a notification describing all activities and operations to be performed on the outer Continental Shelf and an identification of applicable ruling letters issued by the Secretary that have approved the use of a foreign vessel in a substantially similar activity or operation.

(b) **PUBLICATION OF NOTICES.**—

(1) **PUBLICATION.**—The Secretary shall publish a notification under subsection (a) in the Customs Bulletin and Decisions within 14 days of receipt of such notification.

(2) CONFIDENTIAL INFORMATION.—The Secretary shall redact any information exempt from disclosure under section 552 of title 5, United States Code, in a notification published under paragraph (1).

**SEC. 313. PUBLICATION OF FINES AND PENALTIES.**

(a) IN GENERAL.—Section 55102 of title 46, United States Code, is amended by adding at the end the following:

“(d) PUBLICATION OF PENALTY.—

“(1) IN GENERAL.—Not later than 14 days after the issuance of a pre-penalty notice or a penalty, including a settlement, under subsection (c), the Secretary of Homeland Security shall publish such pre-penalty notice or a notification of such penalty in the Customs Bulletin and Decisions to the party impacted by the penalty.

“(2) CONTENTS.—A pre-penalty notice or penalty notification published under paragraph (1) shall include—

“(A) the name and the International Maritime Organization identification number of the vessel that is the subject of the penalty;

“(B) the name of the owner of the vessel that is the subject of the penalty;

“(C) the amount of the fine or value of merchandise seized; and

“(D) a summary of the alleged misconduct and justification for imposing a penalty.”.

(b) RULEMAKING.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue such regulations as are necessary to implement the amendments made by subsection (a), including—

(1) regulations regarding the information to be contained in a penalty notification under section 55102(d) of title 46, United States Code (as amended by such subsection); and

(2) any changes to existing regulations relating to penalties issued by the Secretary.

## Subtitle C—Merchant Mariner Credentialing

**SEC. 321. REVISING MERCHANT MARINER DECK TRAINING REQUIREMENTS.**

(a) GENERAL DEFINITIONS.—Section 2101 of title 46, United States Code, is amended—

(1) by redesignating paragraphs (20) through (56) as paragraphs (21) through (57), respectively; and

(2) by inserting after paragraph (19) the following:

“(20) ‘merchant mariner credential’ means a merchant mariner license, certificate, or document that the Secretary is authorized to issue pursuant to this title.”.

(b) EXAMINATIONS.—Section 7116 of title 46, United States Code, is amended by striking subsection (c).

(c) MERCHANT MARINERS DOCUMENTS.—

(1) GENERAL REQUIREMENTS.—Section 7306 of title 46, United States Code, is amended to read as follows:

**“§ 7306. General requirements and classifications for members of deck departments**

“(a) IN GENERAL.—The Secretary may issue a merchant mariner credential, to members of the deck department in the following classes:

“(1) Able Seaman-Unlimited.

“(2) Able Seaman-Limited.

“(3) Able Seaman-Special.

“(4) Able Seaman-Offshore Supply Vessels.

“(5) Able Seaman-Sail.

“(6) Able Seaman-Fishing Industry.

“(7) Ordinary Seaman.

“(b) CLASSIFICATION OF CREDENTIALS.—The Secretary may classify the merchant mariner credential issued under subsection (a) based on—

“(1) the tonnage and means of propulsion of vessels;

“(2) the waters on which vessels are to be operated; or

“(3) other appropriate standards.

“(c) CONSIDERATIONS.—In issuing the credential under subsection (a), the Secretary may consider the following qualifications of the merchant mariner:

“(1) Age.

“(2) Character.

“(3) Habits of life.

“(4) Experience.

“(5) Professional qualifications demonstrated by satisfactory completion of applicable examinations or other educational requirements.

“(6) Physical condition, including sight and hearing.

“(7) Other requirements established by the Secretary, including career patterns and service appropriate to the particular service, industry, or job functions the individual is engaged.”.

(2) CLERICAL AMENDMENT.—The analysis for chapter 73 of title 46, United States Code, is amended by striking the item relating to section 7306 and inserting the following:

“7306. General requirements and classifications for members of deck departments.”.

(3) ABLE SEAMEN-UNLIMITED.—Section 7307 of title 46, United States Code, is amended by striking “3 years” and inserting “18 months”.

(4) ABLE SEAMEN-LIMITED.—Section 7308 of title 46, United States Code, is amended by striking “18 months” and inserting “12 months”.

(5) GENERAL REQUIREMENTS FOR MEMBERS OF ENGINE DEPARTMENTS.—Section 7313(b) of title 46, United States Code, is amended by striking “and coal passer”.

(6) TRAINING.—Section 7315 of title 46, United States Code, is amended—

(A) by amending subsection (a) to read as follows:

“(a) Graduation from a nautical school program approved by the Secretary may be substituted for the service requirements under sections 7307–7312 and 7314.”;

(B) in subsection (b)—

(i) by striking “one-third” and inserting “one-half”; and

(ii) by striking “7307–7311 of this title” and inserting “7307–7312 and 7314”; and

(C) by striking subsection (c).

(d) MERCHANT MARINER CREDENTIALS.—Section 7510 of title 46, United States Code, is amended by striking subsection (d).

(e) IMPLEMENTATION.—The Secretary of the department in which the Coast Guard is operating shall implement the amended requirements under subsections (c)(3), (c)(4), and (c)(6) of this section without regard to chapters 5 and 6 of title 5, United States Code, and Executive Orders 12866 and 13563 (5 U.S.C. 601 note).

#### SEC. 322. TECHNICAL AMENDMENTS.

(a) IN GENERAL.—The heading for part E of subtitle II of title 46, United States Code, is amended by striking “merchant seamen licenses, certificates, and documents” and inserting “merchant mariner credentials”.

(b) ABLE SEAFARERS—UNLIMITED.—

(1) IN GENERAL.—The section heading for section 7307 of title 46, United States Code, is amended by striking “seamen” and inserting “seafarers”.

(2) CLERICAL AMENDMENT.—The analysis for chapter 73 of title 46, United States Code, is further amended in the item relating to section 7307 by striking “seamen” and inserting “seafarers”.

(c) ABLE SEAMEN—LIMITED.—

(1) IN GENERAL.—The section heading for section 7308 of title 46, United States Code, is amended by striking “seamen” and inserting “seafarers”.

(2) CLERICAL AMENDMENT.—The analysis for chapter 73 of title 46, United States Code, is further amended in the item relating to section 7308 by striking “seamen” and inserting “seafarers”.

(d) ABLE SEAFARERS—SPECIAL.—

(1) IN GENERAL.—The section heading for section 7309 of title 46, United States Code, is amended by striking “seamen” and inserting “seafarers”.

(2) CLERICAL AMENDMENT.—The analysis for chapter 73 of title 46, United States Code, is further amended in the item relating to section 7309 by striking “seamen” and inserting “seafarers”.

(e) ABLE SEAFARERS—OFFSHORE SUPPLY VESSELS.—

(1) IN GENERAL.—The section heading for section 7310 of title 46, United States Code, is amended by striking “seamen” and inserting “seafarers”.

(2) CLERICAL AMENDMENT.—The analysis for chapter 73 of title 46, United States Code, is further amended in the item relating to section 7310 by striking “seamen” and inserting “seafarers”.

(f) ABLE SEAFARERS—SAIL.—

(1) IN GENERAL.—The section heading for section 7311 of title 46, United States Code, is amended by striking “seamen” and inserting “seafarers”.

(2) CLERICAL AMENDMENT.—The analysis for chapter 73 of title 46, United States Code, is further amended in the item relating to section 7311 by striking “seamen” and inserting “seafarers”.

(g) ABLE SEAMEN—FISHING INDUSTRY.—

- (1) IN GENERAL.—The section heading for section 7311a of title 46, United States Code, is amended by striking “**seamen**” and inserting “**seafarers**”.
- (2) CLERICAL AMENDMENT.—The analysis for chapter 73 of title 46, United States Code, is further amended in the item relating to section 7311a by striking “seamen” and inserting “seafarers”.
- (h) PARTS E AND F.—Parts E and F of subtitle II of title 46, United States Code, is amended—
- (1) by striking “seaman” and inserting “seafarer” each place it appears; and
  - (2) by striking “seamen” and inserting “seafarers” each place it appears.
- (i) CLERICAL AMENDMENTS.—The analysis for subtitle II of title 46, United States Code, is amended—
- (1) in the item relating to subtitle II by striking “**Seamen**” and inserting “**Seafarer**”; and
  - (2) in the item relating to part E by striking “merchant seamen licenses, certificates, and documents” and inserting “merchant mariner credentials”.

**SEC. 323. RENEWAL OF MERCHANT MARINER LICENSES AND DOCUMENTS.**

Section 7507 of title 46, United States Code, is amended by adding at the end the following:

“(d) RENEWAL.—With respect to any renewal of an active merchant mariner credential issued under this part that is not an extension under subsection (a) or (b), such credential shall begin the day after the expiration of the active credential of the credential holder.”.

## Subtitle D—Vessel Safety

**SEC. 331. GROSSLY NEGLIGENT OPERATIONS OF A VESSEL.**

Section 2302(b) of title 46, United States Code, is amended to read as follows:

“(b) GROSSLY NEGLIGENT OPERATION.—

“(1) MISDEMEANOR.—A person operating a vessel in a grossly negligent manner that endangers the life, limb, or property of a person commits a class A misdemeanor.

“(2) FELONY.—A person operating a vessel in a grossly negligent manner that results in serious bodily injury, as defined in section 1365(h)(3) of title 18—

“(A) commits a class E felony; and

“(B) may be assessed a civil penalty of not more than \$35,000.”.

**SEC. 332. ADMINISTRATIVE PROCEDURE FOR SECURITY RISKS.**

(a) SECURITY RISK.—Section 7702(d)(1) of title 46, United States Code, is amended—

(1) in subparagraph (B) by redesignating clauses (i) through (iv) as subclauses (I) through (IV), respectively (and by conforming the margins accordingly);

(2) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively (and by conforming the margins accordingly);

(3) by striking “an individual if—” and inserting the following: “an individual—

“(A) if—”; and

(4) in subparagraph (A)(ii)(IV), as so redesignated, by striking the period at the end and inserting “; or”; and

(5) by adding at the end the following:

“(B) if there is probable cause to believe that the individual has violated company policy and is a security risk that poses a threat to other individuals on the vessel.”.

(b) TECHNICAL AMENDMENT.—Section 2101(47)(B) of title 46, United States Code (as so redesignated), is amended by striking “; and” and inserting “; or”.

**SEC. 333. REQUIREMENTS FOR DUKW AMPHIBIOUS PASSENGER VESSELS.**

Section 11502 of the James H. Inhofe National Defense Authorization Act for Fiscal Year 2023 (Public Law 117–263) is amended—

(1) in the section header by striking “**DUKW AMPHIBIOUS PASSENGER VESSELS**” and inserting “**COMMERCIAL AMPHIBIOUS SMALL PASSENGER VESSELS**”;

(2) by striking “DUKW amphibious passenger vessel” each place it appears and inserting “commercial amphibious small passenger vessel”;

(3) by striking “DUKW amphibious passenger vessels” each place it appears and inserting “commercial amphibious small passenger vessels”;

(4) in subsection (h)—

(A) by striking “DEFINITIONS” and all that follows through “The term ‘appropriate congressional committees’” and inserting “APPROPRIATE CONGRES-

SIONAL COMMITTEES DEFINED.—In this section, the term ‘appropriate congressional committees’; and

(B) by striking paragraph (2); and  
(5) by adding at the end the following:

“(i) APPLICATION.—This section shall apply to amphibious vessels operating as a small passenger vessel in waters subject to the jurisdiction of the United States, as such term is defined in section 2.38 of title 33, Code of Federal Regulations (as in effect on the date of enactment of the Coast Guard Authorization Act of 2023).”.

**SEC. 334. INSPECTION AND EXAMINATION.**

Section 3714 of title 46, United States Code, is amended—

(1) in subsection (a)(1) by striking “The Secretary” and inserting “Except as provided in subsection (c), the Secretary”;

(2) by redesignating subsection (c) as subsection (d); and

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

“(c)(1) With respect to examinations of liquefied natural gas tank vessels and vessels that carry bulk liquefied gases as cargo, including examinations under section 153.808 and part 154 of title 46, Code of Federal Regulations (as in effect on the date of enactment of the Coast Guard Authorization Act of 2023), the Secretary may adopt a risk-based examination schedule to which such vessels are to be examined and the frequency with which such examinations occur.

“(2) The Secretary may not adopt a risk-based examination schedule under paragraph (1) until the Secretary has—

“(A) received and reviewed the National Academies study required under section 8254(b) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283);

“(B) conducted the assessment recommended in the Government Accountability Office report submitted under section 8254(a) of such Act;

“(C) concluded through such assessment that a risk-based examination schedule provides not less than the level of safety provided by the annual examinations required under subsection (a)(1); and

“(D) provided the results of such assessment to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.”.

## Subtitle E—Other Matters

**SEC. 341. ANCHOR HANDLING ACTIVITIES.**

Section 12111(d)(1) of title 46, United States Code, is amended—

(1) in subparagraph (A) by inserting “or other energy production or transmission facility, or vessel engaged in the launch, recovery, or support of commercial space transportation or space exploration activities” after “drilling unit”; and

(2) in subparagraph (B) by inserting “or other energy production or transmission facility, or vessel engaged in the launch, recovery, or support of commercial space transportation or space exploration activities” after “drilling unit”.

**SEC. 342. ESTABLISHMENT OF A NATIONAL ADVISORY COMMITTEE ON AUTONOMOUS MARITIME SYSTEMS.**

(a) IN GENERAL.—Chapter 151 of title 46, United States Code, is amended by adding at the end the following:

**“§ 15110. Establishment of a national advisory committee on autonomous maritime systems**

“(a) ESTABLISHMENT.—There is established a National Advisory Committee on Autonomous Maritime Systems (in this section referred to as the ‘Committee’).

“(b) FUNCTION.—The Committee shall advise the Secretary on matters relating to the regulation and use of Autonomous Systems within the territorial waters of the United States.

“(c) MEMBERSHIP.—

“(1) IN GENERAL.—The Committee shall consist of 8 members appointed by the Secretary in accordance with this section and section 15109.

“(2) EXPERTISE.—Each member of the Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Committee.

“(3) REPRESENTATION.—Each of the following groups shall be represented by at least 1 member on the Committee:

“(A) Marine safety or security entities.

“(B) Vessel design and construction entities.

“(C) Entities engaged in the production or research of unmanned vehicles, including drones, autonomous or semi-autonomous vehicles, or any other product or service integral to the provision, maintenance, or management of such products or services.

“(D) Port districts, authorities, or terminal operators.

“(E) Vessel operators.

“(F) National labor unions representing merchant mariners.

“(G) Maritime pilots.

“(H) Commercial space transportation operators.

“(I) Academic institutions.”.

(b) CLERICAL AMENDMENTS.—The analysis for chapter 151 of title 46, United States Code, is amended by adding at the end the following:

“15110. Establishment of a national advisory committee on autonomous maritime systems.”.

(c) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall establish the Committee under section 15110 of title 46, United States Code (as added by this section).

**SEC. 343. CONTROLLED SUBSTANCE ONBOARD VESSELS.**

Section 70503(a) of title 46, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking “While on board a covered vessel, an individual” and inserting “An individual”;

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

“(1) manufacture or distribute, possess with intent to manufacture or distribute, or place or cause to be placed with intent to manufacture or distribute a controlled substance on board a covered vessel;”;

(3) in paragraph (2) by inserting “aboard a covered vessel” after “Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a))”.

**SEC. 344. NONOPERATING INDIVIDUAL.**

Section 8313(b) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) is amended by striking “2025” and inserting “2027”.

**SEC. 345. INFORMATION ON TYPE APPROVAL CERTIFICATES.**

(a) IN GENERAL.—Title IX of the Frank LoBiondo Coast Guard Authorization Act of 2018 (Public Law 115–282) is amended by adding at the end the following:

**“SEC. 904. INFORMATION ON TYPE APPROVAL CERTIFICATES.**

“The Commandant of the Coast Guard shall, upon request by any State, the District of Columbia, or any territory of the United States, provide all data possessed by the Coast Guard pertaining to challenge water quality characteristics, challenge water biological organism concentrations, post-treatment water quality characteristics, and post-treatment biological organism concentrations data for a ballast water management system with a type approval certificate approved by the Coast Guard pursuant to subpart 162.060 of title 46, Code of Federal Regulations.”.

(b) CLERICAL AMENDMENT.—The table of contents for the Frank LoBiondo Coast Guard Authorization Act of 2018 (Public Law 115–282) is amended by inserting after the item relating to section 903 the following:

“Sec. 904. Information on type approval certificates.”.

**SEC. 346. MANNING AND CREWING REQUIREMENTS FOR CERTAIN VESSELS, VEHICLES, AND STRUCTURES.**

(a) AUTHORIZATION OF LIMITED EXEMPTIONS FROM MANNING AND CREW REQUIREMENT.—Chapter 81 of title 46, United States Code, is amended by adding at the end the following:

**“§ 8109. Exemptions from manning and crew requirements**

“(a) IN GENERAL.—The Secretary may provide an exemption described in subsection (b) to the owner or operator of a covered facility if each individual who is manning or crewing the covered facility is—

“(1) a citizen of the United States;

“(2) an alien lawfully admitted to the United States for permanent residence;

or

“(3) a citizen of the nation under the laws of which the vessel is documented.

“(b) REQUIREMENTS FOR ELIGIBILITY FOR EXEMPTION.—An exemption under this subsection is an exemption from the regulations established pursuant to section 302(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356(a)(3)).

“(c) LIMITATIONS.—An exemption under this section—

“(1) shall provide that the number of individuals manning or crewing the covered facility who are described in paragraphs (2) and (3) of subsection (a) may not exceed two and one-half times the number of individuals required to man or crew the covered facility under the laws of the nation under the laws of which the covered facility is documented; and

“(2) shall be effective for not more than 12 months, but may be renewed by application to and approval by the Secretary.

“(d) APPLICATION.—To be eligible for an exemption or a renewal of an exemption under this section, the owner or operator of a covered facility shall apply to the Secretary with an application that includes a sworn statement by the applicant of all information required for the issuance of the exemption.

“(e) REVOCATION.—

“(1) IN GENERAL.—The Secretary—

“(A) may revoke an exemption for a covered facility under this section if the Secretary determines that information provided in the application for the exemption was false or incomplete, or is no longer true or complete; and

“(B) shall immediately revoke such an exemption if the Secretary determines that the covered facility, in the effective period of the exemption, was manned or crewed in a manner not authorized by the exemption.

“(2) NOTICE REQUIRED.—The Secretary shall provide notice of a determination under subparagraph (A) or (B) of paragraph (1) to the owner or operator of the covered facility.

“(f) REVIEW OF COMPLIANCE.—The Secretary shall periodically, but not less than once annually, inspect each covered facility that operates under an exemption under this section to verify the owner or operator of the covered facility’s compliance with the exemption. During an inspection under this subsection, the Secretary shall require all crew members serving under the exemption to hold a valid transportation security card issued under section 70105.

“(g) PENALTY.—In addition to revocation under subsection (e), the Secretary may impose on the owner or operator of a covered facility a civil penalty of \$10,000 per day for each day the covered facility—

“(1) is manned or crewed in violation of an exemption under this subsection;

or

“(2) operated under an exemption under this subsection that the Secretary determines was not validly obtained.

“(h) NOTIFICATION OF SECRETARY OF STATE.—The Secretary shall notify the Secretary of State of each exemption issued under this section, including the effective period of the exemption.

“(i) DEFINITIONS.—In this section:

“(1) COVERED FACILITY.—The term ‘covered facility’ means any vessel, rig, platform, or other vehicle or structure, over 50 percent of which is owned by citizens of a foreign nation or with respect to which the citizens of a foreign nation have the right effectively to control, except to the extent and to the degree that the President determines that the government of such foreign nation or any of its political subdivisions has implemented, by statute, regulation, policy, or practice, a national manning requirement for equipment engaged in the exploring for, developing, or producing resources, including non-mineral energy resources in its offshore areas.

“(2) SECRETARY.—The term ‘Secretary’ means the Secretary of the department in which the Coast Guard is operating.”.

(b) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall submit to Congress a report containing information on each letter of nonapplicability of section 8109 of title 46, United States Code, with respect to a covered facility that was issued by the Secretary during the preceding year.

(2) CONTENTS.—The report under paragraph (1) shall include, for each covered facility—

(A) the name and International Maritime Organization number;

(B) the nation in which the covered facility is documented;

(C) the nationality of owner or owners; and

(D) for any covered facility that was previously issued a letter of nonapplicability in a prior year, any changes in the information described in subparagraphs (A) through (C).

(c) REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall promulgate regulations that specify the documentary and other requirements for the issuance of an exemption under the amendment made by this section.

(d) EXISTING EXEMPTIONS.—

(1) EFFECT OF AMENDMENTS; TERMINATION.—Each exemption under section 30(c)(2) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356(c)(2)) issued before the date of the enactment of this Act—

(A) shall not be affected by the amendments made by this section during the 120-day period beginning on the date of the enactment of this Act; and  
(B) shall not be effective after such period.

(2) NOTIFICATION OF HOLDERS.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall notify all persons that hold such an exemption that it will expire as provided in paragraph (1).

(e) CLERICAL AMENDMENT.—The analysis for chapter 81 of the title 46, United States Code, is amended by adding at the end the following:

“8109. Exemptions from manning and crew requirements.”.

**SEC. 347. CLASSIFICATION SOCIETIES.**

Section 3316(d) of title 46, United States Code, is amended—

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

“(i) the government of the foreign country in which the foreign society is headquartered—

“(I) delegates that authority to the American Bureau of Shipping; or

“(II) does not delegate that authority to any classification society; or”;

(2) by adding at the end the following:

“(5) CLARIFICATION ON AUTHORITY.—Nothing in this subsection authorizes the Secretary to make a delegation under paragraph (2) to a classification society from the People’s Republic of China.”.

## **TITLE IV—OIL POLLUTION INCIDENT LIABILITY**

**SEC. 401. VESSEL RESPONSE PLANS.**

Section 311(j)(6) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(6)) is amended to read as follows:

“(6) EQUIPMENT REQUIREMENTS, VERIFICATION, AND INSPECTION.—The President may require—

“(A) periodic inspection of containment booms, skimmers, vessels, and other major equipment used to remove discharges;

“(B) periodic inspection of vessels, salvage and marine firefighting equipment, and other major equipment used to respond to vessel casualties and prevent discharges;

“(C) periodic verification of capabilities to appropriately, and in a timely manner, respond to a worst case discharge, or a substantial threat of a discharge, including—

“(i) drills, with or without prior notice;

“(ii) review of contracts and relevant third-party agreements;

“(iii) testing of equipment;

“(iv) review of training; and

“(v) other evaluations of response capabilities, as determined appropriate by the President; and

“(D) vessels operating on navigable waters and carrying oil or a hazardous substance in bulk as cargo, and nontank vessels carrying oil of any kind as fuel for main propulsion, to carry appropriate removal equipment that employs the best technology economically feasible and that is compatible with the safe operation of the vessel.”.

**SEC. 402. USE OF MARINE CASUALTY INVESTIGATIONS.**

Section 6308 of title 46, United States Code, is amended—

(1) in subsection (a) by striking “initiated” and inserting “conducted”; and

(2) by adding at the end the following:

“(e) For purposes of this section, an administrative proceeding conducted by the United States includes proceedings under section 7701 and claims adjudicated under section 1013 of the Oil Pollution Act of 1990 (33 U.S.C. 2713).”.

**SEC. 403. TIMING OF REVIEW.**

Section 1017 of the Oil Pollution Act of 1990 (33 U.S.C. 2717) is amended by adding at the end the following:

“(g) TIMING OF REVIEW.—Before the date of completion of a removal action, no person may bring an action under this Act, section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), or chapter 7 of title 5, United States Code, chal-

lenging any decision relating to such removal action that is made by an on-scene coordinator appointed under the National Contingency Plan.”.

## **TITLE V—TECHNICAL, CONFORMING, AND CLARIFYING AMENDMENTS**

### **SEC. 501. TECHNICAL AND CONFORMING AMENDMENTS.**

(a) **PROHIBITION ON ENTRY AND OPERATION.**—Section 70022(b)(1) of title 46, United States Code, is amended by striking “Federal Register” and inserting “the Federal Register”.

(b) **PORT, HARBOR, AND COASTAL FACILITY SECURITY.**—Section 70116(b) of title 46, United States Code, is amended—

(1) in paragraph (1) by striking “terrorism cyber” and inserting “terrorism, cyber”; and

(2) in paragraph (2) by inserting a comma after “acts of terrorism”.

(c) **ENFORCEMENT BY STATE AND LOCAL OFFICERS.**—Section 70118(a) of title 46, United States Code, is amended—

(1) by striking “section 1 of title II of the Act of June 15, 1917 (chapter 30; 50 U.S.C. 191)” and inserting “section 70051”; and

(2) by striking “section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b))” and inserting “section 70116(b)”.

(d) **CHAPTER 701 DEFINITIONS.**—Section 70131(2) of title 46, United States Code, is amended—

(1) by striking “section 1 of title II of the Act of June 15, 1917 (50 U.S.C. 191)” and inserting “section 70051”; and

(2) by striking “section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b))” and inserting “section 70116(b)”.

### **PURPOSE OF LEGISLATION**

The purpose of H.R. 2741, as amended, is to authorize \$14.24 billion in funding for the United States Coast Guard (hereafter, Coast Guard or Service) in fiscal year (FY) 2024 and \$14.78 billion in FY 2025, setting aside \$400 million for each of the FYs 2024 and 2025 to fund the acquisition, construction, rebuilding, or improvement of Coast Guard shoreside infrastructure facilities. The bill also authorizes \$400 million for the acquisition of four Fast Response Cutters, \$125 million for a commercially available icebreaker, \$75 million to acquire a Great Lakes icebreaker, including \$20 million to procure long lead time materials, and \$30.5 million for Pacific Northwest heavy weather boats. The bill also authorizes \$138.5 million for one missionized HC-130J aircraft and \$113 million for four MH-60T Jayhawk aircraft. The bill reauthorizes the end-of-year strength of 44,500 active-duty personnel. Finally, the bill makes reforms to Coast Guard authorities and laws governing maritime commerce and navigation.

### **BACKGROUND AND NEED FOR LEGISLATION**

#### *Coast Guard*

The Coast Guard was established on January 28, 1915, through the consolidation of the Revenue Cutter Service (established in 1790) and the Lifesaving Service (established in 1848).<sup>1</sup> The Coast Guard later assumed the duties of three other agencies: the Lighthouse Service (established in 1789), the Steamboat Inspection Serv-

<sup>1</sup>Coast Guard, *History Timeline*, available at <https://www.history.uscg.mil/home/history-program/>.

ice (established in 1838), and the Bureau of Navigation (established in 1884).<sup>2</sup>

Under Section 102 of title 14, United States Code, the Coast Guard has primary responsibility to enforce or assist in the enforcement of all applicable Federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States; to ensure the safety of life and property at sea; to carry out domestic and international icebreaking activities; and, as one of the six armed forces of the United States, to maintain defense readiness and operate as a specialized service in the Navy upon the declaration of war or when the President directs.<sup>3</sup> The Coast Guard is composed of approximately 42,000 active-duty military members, 7,000 reservists, and 8,700 civilian employees.<sup>4</sup>

In FY 2022, the Coast Guard responded to 15,737 search and rescue cases, saving approximately 4,848 lives.<sup>5</sup> Additionally, the Coast Guard conducted more than 10,000 waterborne patrols in and around critical infrastructure and key resources at ports, waterways and coasts, maintained approximately 45,000 aids to navigation, and detained 472 suspected smugglers carrying 335,710 pounds of cocaine.<sup>6</sup>

H.R. 2741, as amended, authorizes the Coast Guard for the next two FYs at fiscally responsible levels to continue carrying out these missions, with the aid of additional afloat and air assets, and targeted funding to improve the Coast Guard's crumbling shoreside infrastructure and facilities.

#### *Investments in the Coast Guard*

The Coast Guard has endured chronic undercapitalization for many years. The Coast Guard estimates that there is a \$1 billion deferred shore facility maintenance backlog, while the Government Accountability Office (GAO) approximated that number at \$2.6 billion in February 2019.<sup>7</sup> As of 2018, the deferred maintenance backlog included more than 5,600 projects, while the recapitalization and new construction backlog included 125 projects.<sup>8</sup> GAO's analysis of Coast Guard data found that as of November 2018, there were hundreds of recapitalization projects without cost estimates—representing a majority of recapitalization projects.<sup>9</sup> Without adequate funding, excessive deterioration of these facilities jeopardizes Coast Guard mission readiness and operational capability. H.R. 2741, as amended, begins to chip away at the excessive infrastructure backlog by authorizing \$400 million for each of FYs 2024 and 2025 to improve Coast Guard shoreside infrastructure—the minimum number the Coast Guard has estimated would be necessary to prevent the further growth of the backlog. The Service has said

<sup>2</sup>*Id.*

<sup>3</sup>14 U.S.C. § 102.

<sup>4</sup>Coast Guard, *Biographies*, available at <https://www.uscg.mil/Biographies/Display/Article/3048180/admiral-linda-l-fagan/> [hereinafter Coast Guard Biographies].

<sup>5</sup>COAST GUARD, 2024 BUDGET OVERVIEW: POSTURE STATEMENT, available at [https://www.uscg.mil/Portals/0/documents/budget/2024/Coast\\_Guard\\_FY2024\\_Posture\\_Statement\\_FINAL.pdf](https://www.uscg.mil/Portals/0/documents/budget/2024/Coast_Guard_FY2024_Posture_Statement_FINAL.pdf).

<sup>6</sup>*Id.*

<sup>7</sup>GAO, GAO-19-711T, COAST GUARD SHORE INFRASTRUCTURE: ACTIONS NEEDED TO BETTER MANAGE ASSETS AND REDUCE RISKS AND COSTS (2019), available at <https://www.gao.gov/assets/gao-19-711t.pdf>.

<sup>8</sup>*Id.*

<sup>9</sup>*Id.*

as much as \$600 million yearly may be necessary to stem the growth of the backlog.

Additionally, H.R. 2741, as amended, authorizes \$130 million in FY 2024 for an indoor training facility and \$70 million for each of FYs 2024 and 2025 for the recapitalization of the barracks at the United States Coast Guard Training Center Cape May in Cape May, New Jersey. The Coast Guard's sole accession point for its enlisted workforce, Training Center Cape May houses recruits in antiquated barracks facing rapid deterioration. The legislation also authorizes \$130 million for FY 2024 to fund an expansion project at Coast Guard Base Seattle in Seattle, Washington, and \$30 million for each of FYs 2024 and 2025 to fund construction of a ship handling facility at the Coast Guard Yard in Baltimore, Maryland. For over a century, Coast Guard vessels have been built, repaired, and renovated in the Yard, which provides a unique capability to support the Coast Guard and the national fleet, including the National Oceanic and Atmospheric Administration, the Navy, the Army, and other Government agencies.

H.R. 2741, as amended, authorizes for FY 2024 \$400 million for the acquisition of four Fast Response Cutters, to be used by the Coast Guard in the Indo-Pacific Region. The legislation also provides \$125 million for a commercially available icebreaker, which will help bridge the Service's capability gap as it works to acquire three Polar Security Cutters (PSC) to replace its aged heavy icebreaker fleet. The Committee notes that the PSC program has suffered significant delays, and during a recent appearance before the Committee, the Commandant of the Coast Guard was unwilling to commit to the decade in which the first PSC would be delivered.<sup>10</sup> The Committee is optimistic that new leadership at the shipyard where the PSC is being built will address deficiencies within the program. The legislation also provides \$55 million for a Great Lakes icebreaker, \$20 million to procure long lead time materials for the Great Lakes icebreaker, and \$30.5 million for Pacific Northwest heavy weather boats. Additionally, \$138.5 million for one missionized HC-130J aircraft and \$113 million for four MH-60T. The Coast Guard currently has three unfunded aircraft of the 22 HC-130Js called for in its program of record.<sup>11</sup>

The Coast Guard is currently authorized at an active-duty end-strength of 44,500.<sup>12</sup> However, it is operating with a deficit of approximately 4,800 members across its workforce,<sup>13</sup> nearly 3,000 of which are active-duty personnel.<sup>14</sup> In FY 2023, the Coast Guard sought a total of 59,854 personnel positions to carry out its statutory missions.<sup>15</sup> Despite increased mission demands, the Coast Guard has faced limited growth in its ranks and faces a personnel

<sup>10</sup> *Review of Fiscal Year 2024 Budget Request for the Coast Guard: Hearing Before the Subcomm. on Coast Guard and Maritime Transp. of the H. Comm. on Transp. and Infrastructure*, 118th Cong. (Apr. 18, 2023).

<sup>11</sup> COAST GUARD, FY 2024 UNFUNDED PRIORITIES LIST (2023), available at [https://www.uscg.mil/Portals/0/documents/budget/2024/Unfunded\\_Priorities\\_List\\_FY2024.pdf](https://www.uscg.mil/Portals/0/documents/budget/2024/Unfunded_Priorities_List_FY2024.pdf) [hereinafter UNFUNDED PRIORITIES LIST].

<sup>12</sup> 14 U.S.C. § 4904.

<sup>13</sup> COAST GUARD, FY 2024 CONGRESSIONAL BUDGET JUSTIFICATION (2023), available at [https://www.uscg.mil/Portals/0/documents/budget/2024/Coast\\_Guard\\_FY2024\\_Congressional\\_Justification.pdf](https://www.uscg.mil/Portals/0/documents/budget/2024/Coast_Guard_FY2024_Congressional_Justification.pdf).

<sup>14</sup> United States Coast Guard Briefing to Congress, Coast Guard Recruiting & Retention (on file with Comm.).

<sup>15</sup> COAST GUARD, REPORT TO CONGRESS, MANPOWER REQUIREMENTS PLAN (on file with Comm.).

deficit. By 2025, the Coast Guard is expected to fall short by several hundred officers and nearly 6,000 enlisted members.<sup>16</sup>

The Service is confronting a landscape where the pool of eligible candidates for military service is shrinking. According to the Department of Defense, only 23 percent of Americans ages 17 to 24 are qualified to serve without a waiver; with physical fitness concerns, criminal history, and prescription and illegal drug-related issues being the primary disqualifier for many.<sup>17</sup> Moreover, just nine percent of those eligible to serve have an interest in doing so.<sup>18</sup> Compounding on these challenges is the current 3.5 percent unemployment rate.<sup>19</sup> Historically, military recruiting suffers when the nation has a robust economy and low unemployment.<sup>20</sup> To address these challenges, H.R. 2741, as amended, authorizes for each of the FYs 2024 and 2025 \$11.98 million to fund additional recruiting personnel and offices for the Coast Guard Recruiting Command and \$9 million to enhance Coast Guard recruiting capabilities.

#### *Maritime Transportation*

The maritime transportation system (MTS) is a key contributor to commerce and is therefore essential to the economic health and prosperity of the United States. The past two years has demonstrated the fragility of not only the United States supply chain, but the supply chain worldwide. Modernizing the operations of the MTS is more important than ever in the wake of the global COVID-19 pandemic and its associated supply chain crisis. The Committee is committed to supporting the MTS and growing our shipbuilding industry.

H.R. 2741, as amended, contains provisions to boost the pool of qualified United States mariners by reducing bureaucratic delays and barriers to Americans seeking a seagoing career. The Coast Guard is responsible for issuing Merchant Mariner Credentials.<sup>21</sup> The information technology (IT) infrastructure for the Coast Guard's Merchant Mariner Licensing and Documentation System was established in the early 1990s and has significant limitations. The system is used to issue approximately 200,000 merchant mariner credentials to mariners serving on United States vessels.<sup>22</sup> H.R. 2741, as amended, authorizes \$11 million to upgrade and modernize the credentialing system. Additionally, the legislation amends the requirements for certain merchant mariner credentials to consider advances in technology and training, and to align Coast Guard requirements with international requirements, and enables American nationals born in American Samoa to be eligible for merchant mariner credentials.

<sup>16</sup> United States Coast Guard Briefing to Congress, Coast Guard Recruiting & Retention (on file with Comm.).

<sup>17</sup> Molly Boigon & Courtney Kube, *Every branch of the military is struggling to make its 2022 recruiting goals, officials say*, NBC NEWS, (June 27, 2022), available at <https://www.nbcnews.com/news/military/every-branch-us-military-struggling-meet-2022-recruiting-goals-officia-rcna35078>.

<sup>18</sup> *Id.*

<sup>19</sup> Bureau of Labor Statistics, *The Employment Situation—March 2023*, available at <https://www.bls.gov/news.release/pdf/empisit.pdf>.

<sup>20</sup> Heather Mongilio, *Tough Military Recruiting Environment is About More than Low Unemployment, Experts Say*, USNI NEWS, (Dec. 2, 2022), available at <https://news.usni.org/2022/12/01/tough-military-recruiting-environment-is-about-much-more-than-low-unemployment-experts-say>.

<sup>21</sup> 46 U.S.C. § 7302.

<sup>22</sup> UNFUNDED PRIORITIES LIST, *supra* note 11.

### *Other Matters*

H.R. 2741, as amended, directs the Coast Guard to issue its final rule for the Atlantic Coast Port Access Route Study (ACPARS) not later than December 31, 2023. The Coast Guard commenced the ACPARS in 2011, and the final report was issued on March 14, 2016.<sup>23</sup> More than seven years later, and twelve years after the study was first commenced, the rulemaking to implement the findings of the study is still in progress, calling into question the Service's ability to fulfill its responsibilities to designate access routes to facilitate safe maritime navigation, as required by law.<sup>24</sup> The Committee has significant concerns about the length of time the Coast Guard has taken to implement the recommendations of the ACPARS, and mandated monthly briefings on the Service's rulemaking process as part of the *Don Young Coast Guard Authorization Act of 2022*.<sup>25</sup> The Committee expects the Coast Guard to commit to the timeline mandated by this Act.

As autonomous systems become more common place in the maritime domain, H.R. 2741, as amended, directs the Coast Guard to report to Congress on its efforts to establish an unmanned systems capabilities office. Additionally, the legislation establishes a National Autonomous Maritime Systems Advisory Committee within the Coast Guard, comprised of various stakeholders and experts that will be positioned to advise the Coast Guard on matters relating to the regulations and use of autonomous systems within the territorial waters of the United States. The Committee encourages the Coast Guard to utilize these resources as the Service works to keep pace with a changing technological landscape.

### HEARINGS

For the purposes of rule XIII, clause 3(c)(6)(A) of the 118th Congress the following hearing was used to develop or consider H.R. 2741:

On April 18, 2023, the Subcommittee on Coast Guard and Maritime Transportation held a hearing entitled "*Review of Fiscal Year 2024 Budget Request for the Coast Guard*." The hearing examined the President's Fiscal Year 2024 Budget Request for the Coast Guard. The Subcommittee received testimony from ADM Linda L. Fagan, Commandant, United States Coast Guard, Department of Homeland Security; Master Chief Heath B. Jones, Master Chief Petty Officer of the Coast Guard, United States Coast Guard, Department of Homeland Security.

### LEGISLATIVE HISTORY AND CONSIDERATION

H.R. 2741, the "*Coast Guard Authorization Act of 2023*", was introduced in the United States House of Representatives on April 20, 2023, by Mr. Graves of Missouri, Mr. Larsen of Washington, Mr. Webster of Florida, and Mr. Carbajal of California, and was referred to the Committee on Transportation and Infrastructure. Within the Committee on Transportation and Infrastructure, H.R. 2741 was referred to the Subcommittee on Coast Guard and Mari-

<sup>23</sup> ACPARS Notification, 82 Fed. Reg. 16,510 (Apr. 5, 2017) (codified at 33 C.F.R. § 167).

<sup>24</sup> 46 U.S.C. § 70003.

<sup>25</sup> *James M. Inhofe National Defense Authorization Act for Fiscal Year 2023*, Pub. L. No. 117-263.

time Transportation. The Subcommittee on Coast Guard and Maritime Transportation was discharged from further consideration of H.R. 2741 on April 26, 2023.

The Committee considered H.R. 2741 on April 26, 2023, and ordered the measure to be reported to the House with a favorable recommendation, as amended, by a recorded vote of 58 yeas to 3 nays.

The following amendments were offered:

An Amendment in the Nature of a Substitute to H.R. 2741, as amended, offered by Mr. Graves of Missouri (#1) was AGREED TO by voice vote.

A Manager's amendment to the Amendment in the Nature of a Substitute to H.R. 2741 offered by Mr. Graves of Missouri (#1A) was AGREED TO by voice vote.

An amendment to the Amendment in the Nature of a Substitute to H.R. 2741 offered by Ms. Scholten (10) (#1B); Page 50, after line 13, insert the following: TITLE V—PAY OUR COAST GUARD PARITY ACT OF 2023 SECTION 501. SHORT TITLE. This title may be cited as the “Pay Our Coast Guard Parity Act of 2023”. SEC. 502. FINDINGS. Congress finds the following: (1) The Coast Guard is a military service and a branch of the Armed Forces of the United States at all times regardless of whether it operates as a service in the Department of Homeland Security or as a service in the Navy. (2) Notwithstanding respective appropriations and except as otherwise provided in law, members of the Coast Guard should receive treatment equitable to that of other members of the Armed Forces with regard to pay and benefits. SEC. 503. COAST GUARD PAY; CONTINUATION. (a) IN GENERAL.—Chapter 27 of title 14, United States Code, is amended by adding at the end the following: “§ 2780. Pay; continuation during lapse in appropriations “(a) IN GENERAL.—In the case of any period in which there is a Coast Guard-specific funding lapse, there are appropriated such sums as may be necessary—“(1) to provide pay and allowances to military members of the Coast Guard, including the reserve component thereof, who perform active service or inactive-duty training during such period; “(2) to provide pay and benefits to qualified civilian employees of the Coast Guard; “(3) to provide pay and benefits to qualified contract employees of the Coast Guard; and “(4) to provide for—“(A) the payment of a death gratuity under sections 1475 through 1477 and 1489 of title 10, with respect to members of the Coast Guard; “(B) the payment or reimbursement of authorized funeral travel and travel related to the dignified transfer of remains and unit memorial services under section 481f of title 37, with respect to members of the Coast Guard; and “(C) the temporary continuation of a basic allowance of housing for dependents of members of the Coast Guard dying on active duty, as authorized by section 403(1) of title 37. “(b) COAST GUARD SPECIFIC FUNDING LAPSE.—For purposes of this section, a Coast Guard-specific funding lapse occurs in any case in which—“(1) a general appropriation bill providing appropriations for the Coast Guard for a fiscal year is not enacted before the beginning of such fiscal year (and no joint resolution making continuing appropriations for the Coast Guard is in effect); and “(2) a general appropriation bill providing appropriations for the Department of Defense for such fiscal year is enacted before the beginning

of such fiscal year (or a joint resolution making continuing appropriations for the Department of Defense is in effect. “(c) TERMINATION.—Appropriations and funds made available and authority granted for any fiscal year for any purpose under subsection (a) shall be available until whichever of the following first occurs: “(1) The enactment into law of an appropriation (including a continuing appropriation) for such purpose. “(2) The enactment into law of the applicable regular or continuing appropriations resolution or other Act without any appropriation for such purpose. “(3) The termination of availability of appropriations for the Department of Defense. “(4) The date that is 2 weeks after the beginning of the Coast Guard-specific funding lapse. “(d) RATE FOR OPERATIONS; APPLICABILITY TO APPROPRIATIONS ACTS.—Appropriations made pursuant to this section shall be at a rate for operations and to the extent and manner that would be provided by the pertinent appropriations Act. “(e) CHARGE TO FUTURE APPROPRIATIONS.—Expenditures made pursuant to this section shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is enacted into law. “(f) APPORTIONMENT.—Appropriations and funds made available by or authority granted under this section may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, but nothing in this section may be construed to waive any other provision of law governing the apportionment of funds. “(g) DEFINITIONS.—In this section: “(1) QUALIFIED CIVILIAN EMPLOYEE.—The term ‘qualified civilian employee’ means a civilian employee of the Coast Guard whom the Commandant determines is— “(A) providing support to members of the Coast Guard or another Armed Force; or “(B) performing work as an excepted employee or an employee performing emergency work, as such terms are defined by the Office of Personnel Management. “(2) QUALIFIED CONTRACT EMPLOYEE OF THE COAST GUARD.—The term ‘qualified contract employee of the Coast Guard’ means an individual performing work under a contract whom the Commandant determines is— “(A) providing support to military members or qualified civilian employees of the Coast Guard or another Armed Force; or “(B) required to perform work during a lapse in appropriations.”. (b) CLERICAL AMENDMENT.—The analysis for chapter 27 of title 14, United States Code, is amended by adding at the end the following: “2780. Pay; continuation during lapse in appropriations.”; was WITHDRAWN.

An amendment to the Amendment in the Nature of a Substitute to H.R. 2741 offered by Mr. Perry (104) (#1C); Page 46, after line 24, insert the following: SEC. 337. EXEMPTION FROM COASTWISE LAWS FOR VESSELS TRANSPORTING LIQUEFIED NATURAL GAS. (a) GENERAL ELIGIBILITY REQUIREMENTS.—Section 12103 of title 46, United States Code, is amended by adding at the end the following: “(d) EXCEPTION FOR VESSELS TRANSPORTING LIQUEFIED NATURAL GAS.—“(1) IN GENERAL.—Notwithstanding subsection (a), a certificate of documentation may be issued under this chapter for any vessel transporting methane, refrigerated liquid, commonly known as liquefied natural gas. “(2) CERTAIN VESSELS EXCLUDED.—Paragraph (1) shall not apply to—“(A) a vessel that is owned, in whole or in part, by—“(i) a Rus-

sian national; or “(ii) the Government of the Russian Federation; “(B) a Russian-flagged vessel; “(C) a vessel for which any crewmember is a Russian national; “(D) a vessel that is owned, in whole or in part, by—“(i) a Chinese national; or “(ii) the Government of the People’s Republic of China; “(E) a Chinese-flagged vessel; or “(F) a vessel for which any crewmember is a Chinese national.”. (b) COASTWISE ENDORSEMENT.—Section 12112(a)(2)(B) of title 46, United States Code, is amended—(1) in clause (ii) by striking “or” at the end; (2) in clause (iii) by striking “and” at the end and inserting “or”; and (3) by adding at the end the following: “(iv) transports methane, refrigerated liquid, commonly known as liquefied natural gas; and”.; was NOT AGREED TO by a recorded vote of 4 yeas and 53 nays (Roll Call Vote 004).

An amendment to the Amendment in the Nature of a Substitute to H.R. 2741 offered by Mr. Van Drew (27) (#1D); Page 20, after line 25, insert the following: Sec. 211. Port Access Routes. Section 70003 of title 46, United States Code, is amended—(1) in subsection (a) by striking “Except as provided in subsection (b) and subject to the requirements of subsection (c)” and inserting “Subject to the requirements of subsection (b)”; (2) by striking subsection (b); (3) by redesignating subsections (c) through (e) as subsections (b) through (d), respectively; and (4) in subsection (c) (as so redesignated) by striking “under subsection (c)” and inserting “under subsection (b)”.; was WITHDRAWN.

An amendment to the Amendment in the Nature of a Substitute to H.R. 2741 offered by Mr. Perry (114) (#1E); Page 20, after line 25, insert the following: SEC. 211. PROHIBITION ON PREFERENCE OF CARBON-NEUTRAL, CARBON-FREE, AND NET-ZERO CONSTRUCTION MATERIALS. (a) IN GENERAL.—Subchapter I of chapter 11 of title 14, United States Code, is amended by adding at the end the following: “§ 1112. Prohibition of preference of carbon-neutral, carbon-free, and net-zero construction materials “The Commandant may not operate, enter into, or renew a contract that includes a preference for the use of carbon-neutral, carbon-free, and net-zero construction materials.”. (b) CLERICAL AMENDMENT.—The analysis for chapter 11 of title 14, United States Code, is amended by inserting after the item relating to section 1111 the following: “1112. Prohibition of preference of carbon-neutral, carbon-free, and net-zero construction materials.”.; was NOT AGREED TO by voice vote.

An amendment to the Amendment in the Nature of a Substitute to H.R. 2741 offered by Mr. Perry (121) (#1F); Strike section 336 of the bill.; was NOT AGREED TO by a recorded vote of 2 yeas and 58 nays (Roll Call Vote 005).

An amendment to the Amendment in the Nature of a Substitute to H.R. 2741 offered by Mr. Perry (117) (#1G) Page 20, after line 25, insert the following: SEC. 211. PROHIBITION ON PROCUREMENT OF ELECTRIC VEHICLES AND INFRASTRUCTURE. (a) IN GENERAL.—Subchapter I of chapter 11 of title 14, United States Code, is amended by adding at the end the following: “§ 1112. Prohibition on procurement of electric vehicles and infrastructure “The Commandant may not operate, enter into, or renew a contract that procures electric vehicles, electric vehicle supply chains, charging ports, batteries, or electric heat pumps.”. (b) CLERICAL AMENDMENT.—The analysis for chapter 11 of title

14, United States Code, is amended by inserting after the item relating to section 1111 the following: “1112. Prohibition on procurement of electric vehicles and infrastructure.”; was NOT AGREED TO by voice vote.

An amendment to the Amendment in the Nature of a Substitute to H.R. 2741 offered by Mr. Babin (10) (#1H); Page 46, after line 24, insert the following: SEC. 337. REPORT ON SEX OFFENSES AND VIOLENCE ON SHIPS. Not later than 180 days after the date of enactment of this Act, the Commandant shall submit to Congress a report on occurrences of sex offenses and violence on ships described in section 4901(b)(1) that have overnight accommodations for between 10 and 15 individuals inclusive from January 2018 through the date of enactment of this Act.; was WITHDRAWN.

An amendment to the Amendment in the Nature of a Substitute to H.R. 2741 offered by Mr. Auchincloss (15) (#1I); Page 41, strike line 7 and all that follows through page 46, line 24 and insert the following: Sec. 336. Manning and Crewing Requirements for Certain Vessels, Vehicles, and Structures. (a) CLARIFICATION OF MANNING AND CREW REQUIREMENT.—Chapter 81 of title 46, United States Code, is amended by adding at the end the following: “8109. Exemptions from manning and crew requirements IN GENERAL.—The Secretary shall require the owner or operator of a covered facility to provide each individual who is manning or crewing the covered facility a minimum wage, as such term is defined in section 3141 of title 40. “(b) REVIEW OF COMPLIANCE.—The Secretary shall periodically, but not less than once annually, inspect each covered facility to verify the owner or operator of the covered facility’s compliance with the wage requirements. ‘(c) PENALTY.—In addition to revocation under subsection (e), the Secretary may impose on the owner or operator of a covered facility a civil penalty of \$10,000 per day for each day the covered facility is manned or crewed in violation of the wage requirements under this section. “(d) DEFINITIONS.—in this section: “(1) COVERED FACILITY.—The term ‘covered facility’ means any vessel, rig, platform, or other vehicle or structure, over 50 percent of which is owned by citizens of a foreign nation or with respect to which the citizens of a foreign nation have the right to effectively control, except to the extent and to the degree that the President determines that the government of such foreign nation or any of its political subdivisions has implemented, by statute, regulation, policy, or practice, a national manning requirement for equipment engaged in the exploring for, developing, or producing resources, including non-mineral energy resources in its offshore areas and operates under section 302(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356(a)(3)). “(2) SECRETARY.—The term ‘Secretary’ means the Secretary of the department in which the Coast Guard is operating.”. (b) REGULATIONS. .—Not later than 90 days after the enactment of this Act, the Secretary shall promulgate regulations that specify the requirements for minimum wage made by the amendments made by this section. (c) EXISTING EXEMPTIONS.—(1) EFFECT OF AMENDMENTS; TERMINATION.—Each exemption under section 30(c)(2) OF THE Outer Continental Shelf Lands Act (43 U.S.C. 1356(c)(2)) issued before the date of the enactment of this Act.—(A) shall not be affected by the amendments made by

this section during the 120-day period beginning on the date of the enactment of this Act; and (B) shall not be effective after such period. (2) NOTIFICATION OF HOLDERS.—Not later than 60 days after the date of the enactment of this Act, the Secretary shall notify all persons that hold such an exemption that it will expire as provided in paragraph (1). (d) CLERICAL AMENDMENT.—The analysis for chapter 81 of the title 46, United States Code, is amended by adding at the end the following: “8109. Exemptions from manning and crew requirements.”; was NOT AGREED TO by a recorded vote of 6 yeas, 54 nays, and 1 present (Roll Call Vote 006).

An amendment to the Amendment in the Nature of a Substitute to H.R. 2741 offered by Mr. Bean of Florida (5) (#1J); Page 46, after line 24, insert the following: SEC. 337. EXONERATION AND LIMITATION OF LIABILITY. (a) DEFINITION.—Section 30501(1)(A)(i) of title 46, United States Code, is amended—(1) in clause (i) by inserting “or a passenger vessel not conducting an overnight domestic voyage” after “wing-in-ground craft”; (2) in clause (ii)—(A) in subclause (I) by striking “; and” and inserting a semicolon; (B) by striking “carrying” and all that follows through “49” and inserting “carrying not more than 49”; and (C) by striking subclause (II). (b) LIMIT OF LIABILITY.—Section 30524(a) of title 46, United States Code, is amended by inserting “a passenger vessel not conducting an overnight domestic voyage,” after “lighters,”. (c) PROVISIONS REQUIRING NOTICE.—Section 30526 of title 46, United States Code, is amended—(1) in subsection (a) by inserting “a passenger vessel not conducting an overnight domestic voyage,” after “lighters,”; and (2) in subsection (b)—(A) in paragraph (1) by striking “2 years” and inserting “1 year”; and (B) in paragraph (2)—(i) by striking “in the case of sea going vessels”; and (ii) by striking “or in the case of covered small passenger vessels, to less than two years after the date of the injury or death.”; was WITHDRAWN.

An amendment to the Amendment in the Nature of a Substitute to H.R. 2741 offered by Mr. Collins (4) (#1K); strike section 312 of the bill.; was WITHDRAWN.

COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against.

*Committee on Transportation and Infrastructure Roll Call Vote No. 004*

On: agreeing to Amendment #1C offered by Mr. Perry.  
Not Agreed to: 4 yeas and 53 nays.

Member	Vote	Member	Vote
Mr. Graves of MO .....	Nay	Mr. Larsen of WA .....	Nay
Mr. Crawford .....	Nay	Ms. Norton .....	Nay
Mr. Webster of FL .....	Nay	Mrs. Napolitano .....	Nay
Mr. Massie .....	.....	Mr. Cohen .....	Nay
Mr. Perry .....	Yea	Mr. Garamendi .....	Nay
Mr. Babin .....	Nay	Mr. Johnson of GA .....	Nay

Member	Vote	Member	Vote
Mr. Graves of LA	Nay	Mr. Carson	Nay
Mr. Rouzer	Nay	Ms. Titus	Nay
Mr. Bost	Nay	Mr. Huffman	Nay
Mr. LaMalfa	Yea	Ms. Brownley	Nay
Mr. Westerman	Nay	Ms. Wilson of FL	Nay
Mr. Mast	Nay	Mr. Payne	Nay
Mrs. González-Colón	Nay	Mr. DeSaulnier	Nay
Mr. Stauber	Nay	Mr. Carbajal	Nay
Mr. Burchett	Nay	Mr. Stanton	Nay
Mr. Johnson of SD	Nay	Mr. Allred	Nay
Mr. Van Drew	Nay	Ms. Davids of KS	Nay
Mr. Nehls	Nay	Mr. Garcia of IL	Nay
Mr. Gooden of TX	Nay	Mr. Pappas	Nay
Mr. Mann	Nay	Mr. Moulton	Nay
Mr. Owens	Nay	Mr. Auchincloss	Nay
Mr. Yakym	Nay	Ms. Strickland	Nay
Mrs. Chavez-DeRemer	Nay	Mr. Carter of LA	Nay
Mr. Edwards	Nay	Mr. Ryan	Nay
Mr. Kean of NJ	Nay	Mrs. Peltola	Nay
Mr. D'Esposito	Nay	Mr. Menendez	Nay
Mr. Burlison	Yea	Ms. Hoyle of OR	Nay
Mr. James	Nay	Mrs. Sykes	Nay
Mr. Van Orden	Nay	Ms. Scholten	Nay
Mr. Williams of NY	Nay	Mrs. Foushee	Nay
Mr. Molinaro	Nay		
Mr. Collins	Yea		
Mr. Ezell	Nay		
Mr. Duarte	Nay		
Mr. Bean of FL	Nay		

*Committee on Transportation and Infrastructure Roll Call Vote No. 005*

On: agreeing to Amendment #1F offered by Mr. Perry.  
 Not Agreed to: 2 yeas and 58 nays.

Member	Vote	Member	Vote
Mr. Graves of MO	Nay	Mr. Larsen of WA	Nay
Mr. Crawford	Nay	Ms. Norton	Nay
Mr. Webster of FL	Nay	Mrs. Napolitano	Nay
Mr. Massie	Yea	Mr. Cohen	Nay
Mr. Perry	Yea	Mr. Garamendi	Nay
Mr. Babin	Nay	Mr. Johnson of GA	Nay
Mr. Graves of LA	Nay	Mr. Carson	Nay
Mr. Rouzer	Nay	Ms. Titus	Nay
Mr. Bost	Nay	Mr. Huffman	Nay
Mr. LaMalfa	Nay	Ms. Brownley	Nay
Mr. Westerman	Nay	Ms. Wilson of FL	Nay
Mr. Mast	Nay	Mr. Payne	Nay
Mrs. González-Colón	Nay	Mr. DeSaulnier	Nay
Mr. Stauber	Nay	Mr. Carbajal	Nay
Mr. Burchett	Nay	Mr. Stanton	Nay
Mr. Johnson of SD	Nay	Mr. Allred	Nay
Mr. Van Drew	Nay	Ms. Davids of KS	Nay
Mr. Nehls	Nay	Mr. Garcia of IL	Nay
Mr. Gooden of TX	Nay	Mr. Pappas	Nay
Mr. Mann	Nay	Mr. Moulton	Nay
Mr. Owens	Nay	Mr. Auchincloss	Nay
Mr. Yakym	Nay	Ms. Strickland	Nay
Mrs. Chavez-DeRemer	Nay	Mr. Carter of LA	Nay
Mr. Edwards	Nay	Mr. Ryan	Nay
Mr. Kean of NJ	Nay	Mrs. Peltola	Nay
Mr. D'Esposito	Nay	Mr. Menendez	Nay
Mr. Burlison	Nay	Ms. Hoyle of OR	Nay
Mr. James	Nay	Mrs. Sykes	Nay
Mr. Van Orden	Nay	Ms. Scholten	Nay

Member	Vote	Member	Vote
Mr. Williams of NY .....	Nay	Mrs. Foushee .....	Nay
Mr. Molinaro .....	Nay		
Mr. Collins .....	Nay		
Mr. Ezell .....	Nay		
Mr. Duarte .....	Nay		
Mr. Bean of FL .....	Nay		

*Committee on Transportation and Infrastructure Roll Call Vote No. 006*

On: agreeing to Amendment #1I offered by Mr. Auchincloss.  
 Not Agreed to: 6 yeas and 54 nays.

Member	Vote	Member	Vote
Mr. Graves of MO .....	Nay	Mr. Larsen of WA .....	Yea
Mr. Crawford .....	Nay	Ms. Norton .....	Nay
Mr. Webster of FL .....	Nay	Mrs. Napolitano .....	Nay
Mr. Massie .....	Nay	Mr. Cohen .....	Nay
Mr. Perry .....	Nay	Mr. Garamendi .....	Nay
Mr. Babin .....	Nay	Mr. Johnson of GA .....	Yea
Mr. Graves of LA .....	Nay	Mr. Carson .....	Yea
Mr. Rouzer .....	Nay	Ms. Titus .....	Nay
Mr. Bost .....	Nay	Mr. Huffman .....	Nay
Mr. LaMalfa .....	Nay	Ms. Brownley .....	Nay
Mr. Westerman .....	Nay	Ms. Wilson of FL .....	Nay
Mr. Mast .....	Nay	Mr. Payne .....	.....
Mrs. González-Colón .....	Nay	Mr. DeSaulnier .....	Nay
Mr. Stauber .....	Nay	Mr. Carbajal .....	Nay
Mr. Burchett .....	.....	Mr. Stanton .....	Nay
Mr. Johnson of SD .....	Nay	Mr. Allred .....	Nay
Mr. Van Drew .....	Nay	Ms. Davids of KS .....	Nay
Mr. Nehls .....	Nay	Mr. García of IL .....	Nay
Mr. Gooden of TX .....	Nay	Mr. Pappas .....	Nay
Mr. Mann .....	Nay	Mr. Moulton .....	Nay
Mr. Owens .....	Nay	Mr. Auchincloss .....	Yea
Mr. Yakym .....	Nay	Ms. Strickland .....	Nay
Mrs. Chavez-DeRemer .....	Nay	Mr. Carter of LA .....	.....
Mr. Edwards .....	Nay	Mr. Ryan .....	Yea
Mr. Kean of NJ .....	Nay	Mrs. Peltola .....	Nay
Mr. D'Esposito .....	Nay	Mr. Menendez .....	Nay
Mr. Burlison .....	Nay	Ms. Hoyle of OR .....	Present
Mr. James .....	Nay	Mrs. Sykes .....	Nay
Mr. Van Orden .....	.....	Ms. Scholten .....	Nay
Mr. Williams of NY .....	Nay	Mrs. Foushee .....	Yea
Mr. Molinaro .....	Nay		
Mr. Collins .....	Nay		
Mr. Ezell .....	Nay		
Mr. Duarte .....	Nay		
Mr. Bean of FL .....	Nay		

*Committee on Transportation and Infrastructure Roll Call Vote No. 007*

On: agreeing to Final Passage, H.R. 2741, as amended.  
 Agreed to: 58 yeas and 3 nays.

Member	Vote	Member	Vote
Mr. Graves of MO .....	Yea	Mr. Larsen of WA .....	Yea
Mr. Crawford .....	Yea	Ms. Norton .....	Yea
Mr. Webster of FL .....	Yea	Mrs. Napolitano .....	Yea
Mr. Massie .....	Yea	Mr. Cohen .....	Yea
Mr. Perry .....	Nay	Mr. Garamendi .....	Yea
Mr. Babin .....	Yea	Mr. Johnson of GA .....	Yea
Mr. Graves of LA .....	Yea	Mr. Carson .....	Yea

Member	Vote	Member	Vote
Mr. Rouzer .....	Yea	Ms. Titus .....	Yea
Mr. Bost .....	Yea	Mr. Huffman .....	Yea
Mr. LaMalfa .....	Yea	Ms. Brownley .....	Yea
Mr. Westerman .....	Yea	Ms. Wilson of FL .....	Yea
Mr. Mast .....	Yea	Mr. Payne .....	.....
<i>Mrs. González-Colón</i> .....	Yea	Mr. DeSaulnier .....	Yea
Mr. Stauber .....	Yea	Mr. Carbajal .....	Yea
Mr. Burchett .....	.....	Mr. Stanton .....	Yea
Mr. Johnson of SD .....	Yea	Mr. Allred .....	Yea
Mr. Van Drew .....	Yea	Ms. Davids of KS .....	Yea
Mr. Nehls .....	Yea	Mr. Garcia of IL .....	Yea
Mr. Gooden of TX .....	Yea	Mr. Pappas .....	Yea
Mr. Mann .....	Yea	Mr. Moulton .....	Yea
Mr. Owens .....	Yea	Mr. Auchincloss .....	Nay
Mr. Yakym .....	Yea	Ms. Strickland .....	Yea
Mrs. Chavez-DeRemer .....	Yea	Mr. Carter of LA .....	.....
Mr. Edwards .....	Yea	Mr. Ryan .....	Yea
Mr. Kean of NJ .....	Yea	Mrs. Peltola .....	Yea
Mr. D'Esposito .....	Yea	Mr. Menendez .....	Yea
Mr. Burlison .....	Yea	Ms. Hoyle of OR .....	Yea
Mr. James .....	Yea	Mrs. Sykes .....	Yea
Mr. Van Orden .....	.....	Ms. Scholten .....	Yea
Mr. Williams of NY .....	Yea	Mrs. Foushee .....	Yea
Mr. Molinaro .....	Yea		
Mr. Collins .....	Nay		
Mr. Ezell .....	Yea		
Mr. Duarte .....	Yea		
Mr. Bean of FL .....	Yea		

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

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

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

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

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the *Congressional Budget Act of 1974*, the Committee has received the enclosed cost estimate for H.R. 2741 from the Director of the Congressional Budget Office:

At a Glance			
H.R. 2741, Coast Guard Authorization Act of 2023			
As ordered reported by the House Committee on Transportation and Infrastructure on April 26, 2023			
By Fiscal Year, Millions of Dollars	2023	2023-2028	2023-2033
Direct Spending (Outlays)	0	*	*
Revenues	0	*	*
Increase or Decrease (-) in the Deficit	0	*	*
Spending Subject to Appropriation (Outlays)	0	27,205	28,665
Increases <i>net direct spending</i> in any of the four consecutive 10-year periods beginning in 2034?	*	Statutory pay-as-you-go procedures apply?	Yes
		Mandate Effects	
Increases <i>on-budget deficits</i> in any of the four consecutive 10-year periods beginning in 2034?	No	Contains intergovernmental mandate?	Yes, Under Threshold
		Contains private-sector mandate?	Yes, Under Threshold
* = between -\$500,000 and \$500,000.			

The bill would:

- Reauthorize and amend programs administered by the Coast Guard
- Amend various requirements for obtaining the Merchant Mariner Credential
- Accelerate spending to respond to oil spills
- Impose new civil and criminal penalties on vessel operators
- Impose intergovernmental and private-sector mandates by expanding the Coast Guard's authority to regulate the security of vessels and facilities and requiring certain vessel operators to comply with registration, notification, and inspection requirements.

Estimated budgetary effects would mainly stem from:

- Authorizing appropriations for Coast Guard programs for fiscal years 2024 and 2025
- Collecting fees from applicants for the Merchant Mariner Credential
- Accelerating spending available without further appropriation for responding to oil spills
- Increasing collections of civil and criminal penalties

Bill summary: H.R. 2741 would reauthorize and amend programs administered by the Coast Guard for fiscal years 2024 and 2025. The bill also would amend the requirements for obtaining the Merchant Mariner Credential (MMC), accelerate spending for activities in response to oil spills, and impose new civil and criminal penalties on vessel operators for certain violations.

Estimated Federal cost: The estimated budgetary effect of H.R. 2741 is shown in Table 1. The costs of the legislation largely fall within budget functions 050 (national defense), 300 (natural resources and environment), 400 (transportation), 450 (community and regional development), and 750 (administration of justice).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 2741

	By fiscal year, millions of dollars—													
	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2023– 2028	2023– 2033	
Estimated Authorization <sup>a</sup>	0	14,243	14,781	*	*	*	*	*	*	*	*	29,024	29,024	
Estimated Outlays .....	0	8,275	11,569	4,056	1,868	1,437	904	365	122	52	17	27,205	28,665	

\*=between zero and \$500,000.

Enacting H.R. 2741 would affect direct spending and increase revenues. CBO estimates that the net decrease in the deficit would total less than \$500,000 over the 2023–2033 period.

<sup>a</sup> H.R. 2741 also would authorize the appropriation of about \$1.1 billion in 2024 for Coast Guard retired pay. That amount is not included in the table because retired pay is an appropriated entitlement. Spending is governed by underlying provisions in law that would not be affected by the bill.

**Basis of estimate:** For this estimate, CBO assumes that H.R. 2741 will be enacted near the end of fiscal year 2023, that the authorized amounts will be provided as specified in the bill, and that outlays will follow historical spending patterns.

**Spending subject to appropriation:** H.R. 2741 would authorize the appropriation of \$29.0 billion over the 2023–2028 period. Assuming appropriation of the authorized amounts, CBO estimates that implementing the bill would cost \$27.2 billion over the same period and \$1.5 billion after 2028. CBO also estimates that about \$400 million would not be spent.

TABLE 2.—ESTIMATED INCREASES IN SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 2741

	By fiscal year, millions of dollars—						
	2023	2024	2025	2026	2027	2028	2023–2028
<b>Operations and Support:</b>							
Authorization .....	0	10,750	11,288	0	0	0	22,038
Estimated Outlays .....	0	8,063	10,724	2,585	333	113	21,818
<b>Procurement, Construction, and Improvements:</b>							
Authorization .....	0	3,478	3,478	0	0	0	6,956
Estimated Outlays .....	0	209	835	1,461	1,530	1,322	5,357
<b>Research and Development:</b>							
Authorization .....	0	15	15	0	0	0	30
Estimated Outlays .....	0	3	10	10	5	2	30
<b>Other Activities:</b>							
Estimated Authorization .....	0	*	*	*	*	*	*
Estimated Outlays .....	0	*	*	*	*	*	*
<b>Total Changes:</b>							
Estimated Authorization .....	0	14,243	14,781	*	*	*	29,024
Estimated Outlays .....	0	8,275	11,569	4,056	1,868	1,437	27,205

\* = between zero and \$500,000.

**Coast Guard:** H.R. 2741 would authorize appropriations totaling \$14.2 billion in 2024 and \$14.8 billion in 2025 for ongoing activities. The total authorized amount includes the following:

- \$22.0 billion for operations and support, including activities to enforce compliance with environmental regulations;
- \$7.0 billion to procure, construct, and improve mission-related vessels, aircraft, facilities, and infrastructure; and
- \$30 million for research and development.

For fiscal year 2023, the Congress appropriated \$9.7 billion for operations and support; \$1.7 billion for procurement, construction, and improvements; and \$7 million for research and development.

**Other activities:** H.R. 2741 also would affect spending subject to appropriation for agencies other than the Coast Guard. For example, section 204 would require the National Oceanic and Atmos-

pheric Administration and the Federal Emergency Management Agency to assist the Coast Guard in developing tsunami evacuation plans, and sections 312 and 313 would require Customs and Border Protection to publish information on the activities of certain vessels. CBO estimates that the total cost to meet those requirements would not exceed \$500,000 over the 2023–2028 period.

Direct spending: CBO estimates that enacting several sections of H.R. 2741 would affect direct spending. Individually, each would increase or decrease direct spending by less than \$500,000 over the 2023–2033 period. CBO estimates that taken together, those provisions would have an insignificant effect on net direct spending over the same period, but CBO cannot determine whether the net change would be an increase or a decrease in direct spending.

Merchant Mariner Credential: Several sections of H.R. 2741 would amend the requirements for obtaining the MMC, which could change collections of application and examination fees. MMC fees are recorded in the budget as offsetting receipts (that is, as reductions in direct spending). CBO estimates that the resulting change in direct spending would not be significant in any year because few MMC applications are likely to be affected and fees for the credential are relatively small.

Oil spills: Other provisions in H.R. 2741 could accelerate spending related to oil spills that is available without further appropriation. Those provisions would limit judicial review after an oil spill and clarify the types of data that may be used in adjudicating claims for damage. CBO estimates that enacting those provisions would not significantly affect net direct spending over the 2023–2033 period.

Coast Guard retired pay: H.R. 2741 also would authorize the appropriation of roughly \$1.1 billion in 2024 for Coast Guard retired pay, a mandatory account that receives an annual appropriation. That account is permanently authorized and governed by underlying provisions in law; therefore, the spending that would be authorized by the bill is already reflected in CBO's baseline. Because the bill would not affect any of the underlying provisions for retired pay, enacting that provision would have no effect on direct spending.

Revenues: Sections 331, 343, and 346 would create new civil or criminal penalties for operating vessels negligently, for manufacturing or distributing controlled substances, and for violating various requirements for crews on vessels and rigs, respectively. Civil and criminal penalties are recorded in the budget as revenues. Criminal fines are deposited in the Crime Victims Fund and later spent without further appropriation. CBO estimates that the revenues and direct spending associated with those penalties would not be significant in any year because of the relatively small number of cases likely to be affected.

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. CBO estimates that enacting the bill would decrease the deficit by less than \$500,000 over the 2023–2033 period. Direct spending would change by an insignificant amount, and revenues would increase by less than \$500,000 in every year and over the 2023–2033 period.

Increase in long-term net direct spending and deficits: CBO estimates that enacting H.R. 2741 would not significantly affect net direct spending in any of the four consecutive 10-year periods beginning in 2034, but CBO cannot determine whether those long-term effects would be increases or decreases in direct spending.

CBO estimates that enacting H.R. 2741 would not increase on budget deficits in any of the four consecutive 10-year periods beginning in 2034.

Mandates: H.R. 2741 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates the costs to comply would not exceed the thresholds established in UMRA for intergovernmental and private-sector mandates (\$99 million and \$198 million in 2023, respectively, adjusted annually for inflation).

The bill would allow the Coast Guard to implement new regulations to protect vessels, bridges, and structures (such as port facilities) that operate in or adjacent to federal waters from cybersecurity and physical threats. Regulations under the bill would impose a mandate by expanding existing requirements on some publicly and privately owned facilities to ensure the security of computer and telecommunication systems and property.

The cost to comply with the mandate would depend on regulations to be published by the Coast Guard. Because high-risk facilities and other affected entities already are subject to extensive security-related regulations, CBO estimates that any new regulations under the bill would result in a small incremental increase in compliance costs.

H.R. 2741 would impose private-sector mandates on certain vessel operators by requiring them to register with the Coast Guard and to submit to additional inspections. CBO estimates that the cost of those mandates would be small.

The bill also would impose a private-sector mandate on U.S. entities with financial interests in foreign-flagged vessels that operate on the Outer Continental Shelf by requiring operators to file notifications with Customs and Border Protection. Because the required information is readily available, CBO estimates that the cost of the mandate would be small and only include the share of costs borne by U.S. entities.

Estimate prepared by: Federal costs: Aaron Krupkin (transportation); Aldo Prosperi (national defense); Aurora Swanson (natural resources and environment); Mandates: Brandon Lever.

Estimate reviewed by: Susan Willie, Chief, Natural and Physical Resources Cost Estimates Unit; Kathleen FitzGerald, Chief, Public and Private Mandates Unit; H. Samuel Papenfuss, Deputy Director of Budget Analysis; Chad Chirico, Director of Budget Analysis.

Estimate approved by: Phillip L. Swagel, Director, Congressional Budget Office.

#### PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to reauthorize the Coast Guard in support of its missions.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 2741, as amended, establishes or reauthorizes a program of the Federal government known to be duplicative of another Federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED TARIFF BENEFITS

In compliance with clause 9 of rule XXI of the Rules of the House of Representatives, this bill, as reported, contains no congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of the rule XXI.

#### FEDERAL MANDATES STATEMENT

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

#### PREEMPTION CLARIFICATION

Section 423 of the *Congressional Budget Act of 1974* requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that H.R. 2741, as amended, does not preempt any state, local, or tribal law.

#### ADVISORY COMMITTEE STATEMENT

Section 5(b) of the *Federal Advisory Committee Act* requires the report of any Committee establishing, or authorizing the establishment of any advisory committee, to include a statement as to whether the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee. The Committee finds that issues related to use and regulations of autonomous maritime systems poses sufficiently new and distinct questions for the Coast Guard that the creation of the *National Advisory Committee on Autonomous Maritime Systems* is merited instead of the expansion of the mandate of any existing advisory committee.

#### APPLICABILITY TO LEGISLATIVE BRANCH

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

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

*Section 1. Short title; Table of Contents*

This section provides that the Act may be cited as the “*Coast Guard Authorization Act of 2023*.”

*Section 2. Commandant defined*

This section defines the term “Commandant” within the bill to mean the Commandant of the Coast Guard.

## Title I—Authorization of Appropriations

*Section 101. Authorizations of appropriations*

This section amends Section 4902 of title 14, United States Code, to authorize appropriations of \$14.24 billion for fiscal year 2024 and \$14.78 billion for fiscal year 2025 for the Coast Guard.

*Section 102. Shoreside infrastructure and facilities and information technology*

This section authorizes \$36.3 million for fiscal year 2024 to modernize the Coast Guard’s information technology (IT) infrastructure and \$400 million for each of fiscal years 2024 and 2025 to fund the acquisition, construction, rebuilding, or improvement of Coast Guard shoreside infrastructure facilities. Of the authorized amounts for IT infrastructure, \$11 million is for a new merchant mariner credentialing system. In addition to those amounts, the section authorizes \$130 million in fiscal year 2024 for an indoor training facility and \$70 million for each of fiscal years 2024 and 2025 for the recapitalization of the barracks at the United States Coast Guard Training Center Cape May in Cape May, New Jersey. \$30 million is authorized for each of fiscal years 2024 and 2025 to fund construction of a ship handling facility at the Coast Guard Yard in Baltimore, Maryland, and \$130 million is authorized for fiscal year 2024 to fund an expansion project at Coast Guard Base in Seattle, Washington.

*Section 103. Availability of amounts for acquisition of additional vessels and aircraft*

This section authorizes for fiscal year 2024 \$400 million for the acquisition of four Fast Response Cutters, \$125 million for a commercially available icebreaker, \$55 million for a Great Lakes icebreaker, \$20 million to procure long lead time materials for a Great Lakes icebreaker, and \$30.5 million for Pacific Northwest heavy weather boats. This section also authorizes for fiscal year 2024 \$138.5 million for one missionized HC-130J aircraft and \$113 million for four MH-60T Jayhawk aircraft.

*Section 104. Authorization for certain programs and services*

This section authorizes for each of the fiscal years 2024 and 2025 \$11.98 million to fund additional recruiting personnel and offices for the Coast Guard recruiting Command and \$9 million to enhance Coast Guard recruiting capabilities.

*Section 105. Fishing vessel safety*

This section authorizes for each of the fiscal years 2024 and 2025 \$3 million in grants for the Fishing Safety Training Grants Program and \$3 million in grants for the Fishing Safety Research Grant Program.

*Section 106. Authorized levels of military strength and training*

This section authorizes 44,500 active-duty personnel for the Coast Guard for each of the fiscal years 2024 and 2025, 2,500 student years for recruit and special training, 165 student years for flight training, 385 student years for professional training, and 1,200 student years for officer acquisition.

## Title II—Coast Guard

*Section 201. Prohibition on use of lead systems integrators*

This section defines the term “lead systems integrators” as such term is defined in the *National Defense Authorization Act for Fiscal Year 2006* (P.L. 109–163).

*Section 202. Ports and waterways safety*

This section conforms port safety provisions to port security changes made in the maritime title of the *FAA Reauthorization Act of 2018* (P.L. 115–254).

*Section 203. Minor construction increase*

This section increases the threshold for minor construction and improvements for Coast Guard assets that can be funded with operating funds to \$2 million.

*Section 204. Tsunami evacuation plans*

This section directs the Coast Guard to establish tsunami evacuation plans for units and sectors located within areas at high or very high risk to tsunamis.

*Section 205. Study on bering strait vessel traffic projections and emergency response posture at the Port of Point Spencer, Alaska*

This section directs a National Academies of Science study on the current volume of commercial traffic that transits through the Bering Strait and projections for traffic growth over the next decade. The report would also assess the adequacy of emergency response capabilities and infrastructure at the Port of Point Spencer, Alaska, to address future navigation safety risks and geographic challenges necessary to conduct emergency maritime response operations in the Arctic environment.

*Section 206. Service life extension programs*

This section provides the Coast Guard additional flexibility regarding service life extension programs for Coast Guard cutters.

*Section 207. Underwater inspections brief*

This section directs the Coast Guard to provide a brief on the Service’s underwater inspection in lieu of drydock program within 30 days of enactment.

*Section 208. St. Lucie River Railroad Bridge*

This section directs the Coast Guard to conduct an independent boat traffic study at the St. Lucie River Railroad Bridge before adopting a final deviation.

*Section 209. Online incident reporting system*

This section directs the Coast Guard's National Response Center to develop an online capacity to receive a notification of an oil discharge or release of a hazardous substance and allow any notification to the National Response Center that is required under Federal law or regulation to be submitted through the application.

*Section 210. Maritime domain awareness in Coast Guard sector for Puerto Rico and Virgin Islands*

This section directs the Coast Guard to provide a report to Congress on issues concerning maritime domain awareness in the area of responsibility of the Coast Guard for Puerto Rico and the United States Virgin Islands.

*Section 211. Public availability of information on monthly drug and migrant interdictions*

This section directs the Coast Guard to make available publicly information on the interdiction and quantity of drugs and number of migrants interdicted.

*Section 212. Report on establishment of an unmanned systems capabilities office*

This section directs the Coast Guard to report to Congress on its efforts to establish an unmanned systems capabilities office.

*Section 213. Rulemaking regarding port access routes*

This section directs the Coast Guard to issue its final rule for the Atlantic Coast Port Route Access Study by December 31, 2023.

*Section 214. Great Lakes Icebreaker*

This section directs the Coast Guard to submit a strategy to Congress regarding the acquisition of the Great Lakes Icebreaker.

## Title III—Maritime

## Subtitle A—American Samoa Mariners Act of 2023

*Section 301. Merchant seamen licenses, certificate, and documents; manning of vessels*

This section would enable American Samoans who meet the definition of a United States National to be eligible for merchant mariner credentials.

## Subtitle B—Vessel Operations

*Section 311. Definitions*

This section provides definitions.

*Section 312. Notification*

This section requires certain vessel operators to provide notifications before undertaking certain operations.

*Section 313. Publication of fines and penalties*

This section requires the publication of certain penalties and pre-penalty notices issued against vessel operators.

#### Subtitle C—Merchant Mariner Credentialing

*Section 321. Revising merchant mariner deck training requirements*

This section amends the requirements for certain merchant mariner credentials to consider advances in technology and training, and to align Coast Guard requirements with international requirements.

*Section 322. Technical amendments*

This section changes the term “seamen” to “seafarer” in chapter 73 of title 46.

*Section 323. Renewal of merchant mariner licenses and documents.*

This section clarifies that renewals to existing merchant mariner credentials begin the day after the expiration of the existing credential.

#### Subtitle D—Vessel Safety

*Section 331. Grossly negligent operations of a vessel*

This section would make the grossly negligent operation of the vessel that results in serious bodily injury a Class E felony.

*Section 332. Administrative procedure for security risks*

This section provides technical corrections to the requirements to hold a merchant mariner credential.

*Section 333. Requirements for DUKW amphibious passenger vessels*

This section amends the definition of vessels covered under section 11502 of P.L. 117–263.

*Section 334. Inspection and examination*

This section would allow the Coast Guard to implement risk-based inspections of vessels carrying liquified natural gas.

#### Subtitle E—Other Matters

*Section 341. Anchor handling activities*

This section clarifies requirements for certain vessels engaged in supporting offshore activities.

*Section 342. Establishment of a National Advisory Committee on Autonomous Maritime Systems*

This section establishes a National Autonomous Maritime Systems Advisory Committee within the Coast Guard.

*Section 343. Controlled substance onboard vessels*

This section clarifies that under section 70503(a) of title 46, United States Code, it is a prohibited act to place or cause to be placed a controlled substance on a vessel.

*Section 344. Nonoperating individual*

This section extends through 2027 the current moratorium on enforcement of violations of the requirement workers on certain vessels, unless specifically exempted in law, have a merchant mariner credential even if those workers are not involved in the operation of the vessel. This extension allows workers not involved in the operation of the vessel to work on such vessel without having a merchant mariner credential.

*Section 345. Information on type approval certificates*

This section requires the Coast Guard to provide certain ballast water data to states upon their request.

*Section 346. Manning and crewing requirements for certain vessels, vehicles, and structures*

This section clarifies manning and crewing requirements for certain maritime operators.

*Section 347. Classification societies*

This section amends current law to allow the delegation of authority to inspect mobile offshore drilling units (MODUs) working on the United States outer Continental Shelf to certain foreign classification societies even if the home nation of such societies do not allow delegate inspection authority for MODUs operating the water of the home nation.

## Title IV—Oil Pollution Incident Liability

*Section 401. Vessel response plans*

This section amends certain Coast Guard requirements for vessel response plans.

*Section 402. Use of marine casualty investigations*

This section would clarify that the Coast Guard can use Marine Casualty Investigation Reports when adjudicating claims under the *Oil Pollution Act*.

*Section 403. Timing of review*

This section clarifies the timing of legal challenges against a Federal On-Scene Coordinator's response decisions during an oil spill emergency.

## Title V—Technical, Conforming, and Clarifying Amendments

*Section 501. Technical and conforming amendments*

This section contains technical amendments related to authorities in title 46 United States Code.

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

## CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

## TITLE 14, UNITED STATES CODE

\* \* \* \* \*

SUBTITLE I—ESTABLISHMENT, POWERS,  
DUTIES, AND ADMINISTRATION

\* \* \* \* \*

## CHAPTER 5—FUNCTIONS AND POWERS

\* \* \* \* \*

Sec.

\* \* \* \* \*

## SUBCHAPTER II—LIFE SAVING AND LAW ENFORCEMENT AUTHORITIES

\* \* \* \* \*

529. *Public availability of information on monthly drug and migrant interdictions.*

\* \* \* \* \*

SUBCHAPTER II—LIFE SAVING AND LAW ENFORCEMENT  
AUTHORITIES

\* \* \* \* \*

**§529. *Public availability of information on monthly drug  
and migrant interdictions***

(a) *IN GENERAL.*—Not later than the 15th day of each month, the Commandant shall make available to the public on the website of the Coast Guard the number of drug and migrant interdictions carried out by the Coast Guard during the preceding month.

(b) *CONTENTS.*—In making information about interdictions publicly available under subsection (a), the Commandant shall include a description of the following:

(1) *The number of incidents in which drugs were interdicted, the amount and type of drugs interdicted, and the Coast Guard sectors and geographic areas of responsibility in which such incidents occurred.*

(2) *The number of incidents in which migrants were interdicted, the number of migrants interdicted, and the Coast*

*Guard sectors and geographic areas of responsibility in which such incidents occurred.*

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**CHAPTER 9—ADMINISTRATION**

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**SUBCHAPTER I—REAL AND PERSONAL PROPERTY**

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**§ 903. Use of certain appropriated funds**

(a) Funds appropriated to or for the use of the Coast Guard for procurement, construction, and improvement of facilities and for research and development shall remain available until expended.

(b) The Secretary may use any funds appropriated to or for the use of the Coast Guard for other construction purposes to restore, repair, or replace facilities that have been damaged or destroyed, including acquisition of sites.

(c) The Secretary may use any funds appropriated to or for the use of the Coast Guard for other construction purposes to acquire, construct, convert, extend, and install at Coast Guard installations and facilities, needed permanent or temporary public works, including the preparation of sites and the furnishing of appurtenances, utilities, and equipment, but excluding the construction of family quarters, costing not more than \$200,000 for any one project.

(d) MINOR CONSTRUCTION AND IMPROVEMENT.—

(1) IN GENERAL.—Subject to the reporting requirements set forth in paragraph (2), each fiscal year the Secretary may expend from amounts made available for the operations and support of the Coast Guard not more than ~~[\$1,500,000]~~ \$2,000,000 for minor construction and improvement projects at any location.

(2) REPORT.—Not later than the date on which the President submits to Congress a budget under section 1105 of title 31 each year, 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 describing each project carried out under paragraph (1), in the most recently concluded fiscal year, for which the amount expended under such paragraph for such project was more than \$1,000,000. If no such project was carried out during a fiscal year, no report under this paragraph shall be required with respect to that fiscal year.

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**CHAPTER 11—ACQUISITIONS**

\* \* \* \* \*

Sec.

\* \* \* \* \*

**SUBCHAPTER II—IMPROVED ACQUISITION PROCESS AND PROCEDURES**

\* \* \* \* \*

1138. *Service life extension programs.*

\* \* \* \* \*

SUBCHAPTER I—GENERAL PROVISIONS

\* \* \* \* \*

**§ 1105. Prohibition on use of lead systems integrators**

(a) IN GENERAL.—

(1) USE OF LEAD SYSTEMS INTEGRATOR.—The Commandant may not use a private sector entity as a lead systems integrator.

(2) FULL AND OPEN COMPETITION.—The Commandant shall use full and open competition for any acquisition contract unless otherwise excepted in accordance with Federal acquisition laws and regulations promulgated under those laws, including the Federal Acquisition Regulation.

(3) NO EFFECT ON SMALL BUSINESS ACT.—Nothing in this subsection shall be construed to supersede or otherwise affect the authorities provided by and under the Small Business Act (15 U.S.C. 631 et seq.).

(b) LIMITATION ON FINANCIAL INTEREST IN SUBCONTRACTORS.—Neither an entity performing lead systems integrator functions for a Coast Guard acquisition nor a Tier 1 subcontractor for any acquisition may have a financial interest in a subcontractor below the Tier 1 subcontractor level unless—

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

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

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

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

(c) DEFINITION.—*In this section, the term “lead systems integrator” has the meaning given such term in section 805(c) of the National Defense Authorization Act for Fiscal Year 2006 (Public Law 109–163).*

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SUBCHAPTER II—IMPROVED ACQUISITION PROCESS AND PROCEDURES

\* \* \* \* \*

**§ 1138. Service life extension programs**

(a) IN GENERAL.—*Requirements for a Level 1 or Level 2 acquisition project or program under sections 1131 through 1134 shall not apply to an acquisition by the Coast Guard that is a service life extension program.*

(b) *DEFINITION.*—*In this section, the term “service life extension program” means a capital investment that is solely intended to extend the service life and address obsolescence of components or systems of a particular capability or asset.*

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**SUBTITLE IV—COAST GUARD AUTHORIZATIONS AND REPORTS TO CONGRESS**

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**CHAPTER 49—AUTHORIZATIONS**

\* \* \* \* \*

**§ 4902. Authorizations of appropriations**

Funds are authorized to be appropriated for **[fiscal years 2022 and 2023]** *fiscal years 2024 and 2025* for necessary expenses of the Coast Guard as follows:

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

**[(i) \$10,000,000,000 for fiscal year 2022; and**

**[(ii) \$10,750,000,000 for fiscal year 2023.]**

*(i) \$10,750,000,000 for fiscal year 2024; and*

*(ii) \$11,287,500,000 for fiscal year 2025.*

(B) Of the amount authorized under subparagraph (A)(i), **[\$23,456,000]** *\$24,353,000* shall be for environmental compliance and restoration.

(C) Of the amount authorized under subparagraph (A)(ii), **[\$24,353,000]** *\$25,570,000* shall be for environmental compliance and restoration.

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

**[(i) \$3,312,114,000 for fiscal year 2022; and**

**[(ii) \$3,477,600,000 for fiscal year 2023.]**

*(i) \$3,477,600,000 for fiscal year 2024; and*

*(ii) \$3,477,600,000 for fiscal year 2025.*

(B) Of the amounts authorized under subparagraph (A), the following amounts shall be for the alteration of bridges:

**[(i) \$20,400,000 for fiscal year 2022; and**

**[(ii) \$20,808,000 for fiscal year 2023.]**

*(i) \$20,808,000 for fiscal year 2024; and*

*(ii) \$20,808,000 for fiscal year 2025.*

(3) To the Commandant 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) \$7,476,000 for fiscal year 2022; and  
 [(B) \$14,681,084 for fiscal year 2023.]  
 (A) \$14,681,084 for fiscal year 2024; and  
 (B) \$15,415,000 for fiscal year 2025.

[(4) For the Coast Guard’s Medicare-eligible retiree health care fund contribution to the Department of Defense—

[(A) \$240,577,000 for fiscal year 2022; and  
 [(B) \$252,887,000 for fiscal year 2023.]

(4) For retired pay, including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose, payments under the Retired Serviceman’s Family Protection and Survivor Benefits Plans, payment for career status bonuses, payment of continuation pay under section 356 of title 37, concurrent receipts, combat-related special compensation, and payments for medical care of retired personnel and the dependents of such personnel under chapter 55 of title 10, \$1,147,244,000 for fiscal year 2024.

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**§ 4904. 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 44,500 for each of [fiscal years 2022 and 2023] *fiscal years 2024 and 2025*.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads for each of [fiscal years 2022 and 2023] *fiscal years 2024 and 2025* 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, 385 student years.
- (4) For officer acquisition, 1,200 student years.

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**TITLE 46, UNITED STATES CODE**

Subtitle	Sec.
I. GENERAL .....	101
II. VESSELS AND [SEAMEN] SEAFARER .....	2101

\* \* \* \* \*

**SUBTITLE II—VESSELS AND [SEAMEN]  
 SEAFARER**

\* \* \* \* \*

**PART A—GENERAL PROVISIONS**

\* \* \* \* \*

**CHAPTER 21—GENERAL**

\* \* \* \* \*

**§ 2101. General definitions**

In this subtitle—

(1) “associated equipment”—

(A) means—

(i) a system, accessory, component, or appurtenance of a recreational vessel; or

(ii) a marine safety article intended for use on board a recreational vessel; but

(B) with the exception of emergency locator beacons for recreational vessels operating beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured or beyond 3 nautical miles from the coastline of the Great Lakes, does not include radio equipment.

(2) “Coast Guard” means the organization established and continued under section 1 of title 14.

(3) “Commandant” means the Commandant of the Coast Guard.

(4) “commercial service” includes any type of trade or business involving the transportation of goods or individuals, except service performed by a combatant vessel.

(5) “consideration” means an economic benefit, inducement, right, or profit including pecuniary payment accruing to an individual, person, or entity, but not including a voluntary sharing of the actual expenses of the voyage, by monetary contribution or donation of fuel, food, beverage, or other supplies.

(6) “crude oil” means a liquid hydrocarbon mixture occurring naturally in the earth, whether or not treated to render it suitable for transportation, and includes crude oil from which certain distillate fractions may have been removed, and crude oil to which certain distillate fractions may have been added.

(7) “crude oil tanker” means a tanker engaged in the trade of carrying crude oil.

(8) “dangerous drug” means a narcotic drug, a controlled substance, or a controlled substance analog (as defined in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802)).

(9) “discharge”, when referring to a substance discharged from a vessel, includes spilling, leaking, pumping, pouring, emitting, emptying, or dumping, however caused.

(10) “ferry” means a vessel that is used on a regular schedule—

(A) to provide transportation only between places that are not more than 300 miles apart; and

(B) to transport only—

(i) passengers; or

(ii) vehicles, or railroad cars, that are being used, or have been used, in transporting passengers or goods.

(11) “fish” means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life, except marine mammals and birds.

(12) “fishing vessel” means a vessel that commercially engages in the catching, taking, or harvesting of fish or an activity that can reasonably be expected to result in the catching, taking, or harvesting of fish.

(13) “fish processing vessel” means a vessel that commercially prepares fish or fish products other than by gutting, decapitating, gilling, skinning, shucking, icing, freezing, or brine chilling.

(14) “fish tender vessel” means a vessel that commercially supplies, stores, refrigerates, or transports fish, fish products, or materials directly related to fishing or the preparation of fish to or from a fishing, fish processing, or fish tender vessel or a fish processing facility.

(15) “freight vessel” means a motor vessel of more than 15 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title that carries freight for hire, except an oceanographic research vessel or an offshore supply vessel.

(16) “Great Lakes barge” means a non-self-propelled vessel of at least 3,500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title operating on the Great Lakes.

(17) “hazardous material” means a liquid material or substance that is—

(A) flammable or combustible;

(B) designated a hazardous substance under section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321); or

(C) designated a hazardous material under section 5103(a) of title 49.

(18) “major conversion” means a conversion of a vessel that—

(A) substantially changes the dimensions or carrying capacity of the vessel;

(B) changes the type of the vessel;

(C) substantially prolongs the life of the vessel; or

(D) otherwise so changes the vessel that it is essentially a new vessel, as decided by the Secretary.

(19) “marine environment” means—

(A) the navigable waters of the United States and the land and resources in and under those waters;

(B) the waters and fishery resources of an area over which the United States asserts exclusive fishery management authority;

(C) the seabed and subsoil of the outer Continental Shelf of the United States, the resources of the Shelf, and the waters superjacent to the Shelf; and

(D) the recreational, economic, and scenic values of the waters and resources referred to in subclauses (A)–(C) of this clause.

(20) “*merchant mariner credential*” means a merchant mariner license, certificate, or document that the Secretary is authorized to issue pursuant to this title.

[(20)] (21) “mobile offshore drilling unit” means a vessel capable of engaging in drilling operations for the exploration or exploitation of subsea resources.

[(21)] (22) “motor vessel” means a vessel propelled by machinery other than steam.

[(22)] (23) “nautical school vessel” means a vessel operated by or in connection with a nautical school or an educational institution under section 558 of title 40.

[(23)] (24) “navigable waters of the United States” includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.

[(24)] (25) “oceanographic research vessel” means a vessel that the Secretary finds is being employed only in instruction in oceanography or limnology, or both, or only in oceanographic or limnological research, including studies about the sea such as seismic, gravity meter, and magnetic exploration and other marine geophysical or geological surveys, atmospheric research, and biological research.

[(25)] (26) “offshore supply vessel” means a motor vessel that regularly carries goods, supplies, individuals in addition to the crew, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources.

[(26)] (27) “oil” includes oil of any type or in any form, including petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes except dredged spoil.

[(27)] (28) “oil spill response vessel” means a vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material.

[(28)] (29) “overall in length” means—

(A) for a foreign vessel or a vessel engaged on a foreign voyage, the greater of—

- (i) 96 percent of the length on a waterline at 85 percent of the least molded depth measured from the top of the keel (or on a vessel designed with a rake of keel, on a waterline parallel to the designed waterline); or
- (ii) the length from the fore side of the stem to the axis of the rudder stock on that waterline; and

(B) for any other vessel, the horizontal distance of the hull between the foremost part of the stem and the aftermost part of the stern, excluding fittings and attachments.

[(29)] (30) “passenger”—

(A) means an individual carried on the vessel except—

- (i) the owner or an individual representative of the owner or, in the case of a vessel under charter, an individual charterer or individual representative of the charterer;
- (ii) the master; or
- (iii) a member of the crew engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for on board services;

(B) on an offshore supply vessel, means an individual carried on the vessel except—

- (i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;
- (ii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

(iii) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; or

(iv) an individual employed in a phase of exploration, exploitation, or production of offshore mineral or energy resources served by the vessel;

(C) on a fishing vessel, fish processing vessel, or fish tender vessel, means an individual carried on the vessel except—

(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

(ii) a managing operator;

(iii) an employee of the owner, or of a subcontractor to the owner, engaged in the business of the owner;

(iv) an employee of the charterer, or of a subcontractor to the charterer, engaged in the business of the charterer; or

(v) an observer or sea sampler on board the vessel pursuant to a requirement of State or Federal law; or

(D) on a sailing school vessel, means an individual carried on the vessel except—

(i) an individual included in clause (i), (ii), or (iii) of subparagraph (A) of this paragraph;

(ii) an employee of the owner of the vessel engaged in the business of the owner, except when the vessel is operating under a demise charter;

(iii) an employee of the demise charterer of the vessel engaged in the business of the demise charterer; or

(iv) a sailing school instructor or sailing school student.

[(30)] (31) “passenger for hire” means a passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.

[(31)] (32) “passenger vessel” means a vessel of at least 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title—

(A) carrying more than 12 passengers, including at least one passenger for hire;

(B) that is chartered and carrying more than 12 passengers;

(C) that is a submersible vessel carrying at least one passenger for hire; or

(D) that is a ferry carrying a passenger.

[(32)] (33) “product carrier” means a tanker engaged in the trade of carrying oil except crude oil.

[(33)] (34) “public vessel” means a vessel that—

(A) is owned, or demise chartered, and operated by the United States Government or a government of a foreign country; and

(B) is not engaged in commercial service.

[(34)] (35) “recreational vessel” means a vessel—

- (A) being manufactured or operated primarily for pleasure; or
- (B) leased, rented, or chartered to another for the latter's pleasure.
- [(35)] (36) "recreational vessel manufacturer" means a person engaged in the manufacturing, construction, assembly, or importation of recreational vessels, components, or associated equipment.
- [(36)] (37) "riding gang member" means an individual who—
- (A) has not been issued a merchant mariner document under chapter 73;
- (B) does not perform—
- (i) watchstanding, automated engine room duty watch, or personnel safety functions; or
- (ii) cargo handling functions, including any activity relating to the loading or unloading of cargo, the operation of cargo-related equipment (whether or not integral to the vessel), and the handling of mooring lines on the dock when the vessel is made fast or let go;
- (C) does not serve as part of the crew complement required under section 8101;
- (D) is not a member of the steward's department; and
- (E) is not a citizen or temporary or permanent resident of a country designated by the United States as a sponsor of terrorism or any other country that the Secretary, in consultation with the Secretary of State and the heads of other appropriate United States agencies, determines to be a security threat to the United States.
- [(37)] (38) "sailing instruction" means teaching, research, and practical experience in operating vessels propelled primarily by sail and may include—
- (A) any subject related to that operation and to the sea, including seamanship, navigation, oceanography, other nautical and marine sciences, and maritime history and literature; and
- (B) only when in conjunction with a subject referred to in subclause (A) of this clause, instruction in mathematics and language arts skills to sailing school students having learning disabilities.
- [(38)] (39) "sailing school instructor" means an individual who is on board a sailing school vessel to provide sailing instruction, but does not include an operator or crewmember who is among those required to be on board the vessel to meet a requirement established under part F of this subtitle.
- [(39)] (40) "sailing school student" means an individual who is on board a sailing school vessel to receive sailing instruction.
- [(40)] (41) "sailing school vessel" means a vessel—
- (A) that is less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title;
- (B) carrying more than 6 individuals who are sailing school instructors or sailing school students;
- (C) principally equipped for propulsion by sail, even if the vessel has an auxiliary means of propulsion; and

(D) owned or demise chartered, and operated by an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of that Code, or by a State or political subdivision of a State, during times that the vessel is operated by the organization, State, or political subdivision only for sailing instruction.

[(41)] (42)(A) Subject to subparagraph (B), “scientific personnel” means individuals on board an oceanographic research vessel only to engage in scientific research, or to instruct or receive instruction in oceanography or limnology.

(B)(i) Such term includes an individual who is on board an oceanographic research vessel only to—

- (I) engage in scientific research;
- (II) instruct in oceanography or limnology; or
- (III) receive instruction in oceanography or limnology.

(ii) For purposes of clause (i), the age of an individual may not be considered in determining whether the individual is described in such clause.

[(42)] (43) “seagoing barge” means a non-self-propelled vessel of at least 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title making voyages beyond the Boundary Line.

[(43)] (44) “seagoing motor vessel” means a motor vessel of at least 300 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title making voyages beyond the Boundary Line.

[(44)] (45) “Secretary” means the Secretary of the department in which the Coast Guard is operating.

[(45)] (46) “sexual assault” means any form of abuse or contact as defined in chapter 109A of title 18, or a substantially similar offense under State, local, or Tribal law.

[(46)] (47) “sexual harassment” means—

(A) conduct that—

(i) involves unwelcome sexual advances, requests for sexual favors, or deliberate or repeated offensive comments or gestures of a sexual nature if any—

(I) submission to such conduct is made either explicitly or implicitly a term or condition of employment, pay, career, benefits, or entitlements of the individual;

(II) submission to, or rejection, of such conduct by an individual is used as a basis for decisions affecting that individual’s job, pay, career, benefits, or entitlements;

(III) such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creates an intimidating, hostile, or offensive work environment; or

(IV) conduct may have been by an individual’s supervisor, a supervisor in another area, a co-worker, or another credentialed mariner; and

(ii) is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the environment as hostile or offensive;

(B) any use or condonation associated with first-hand or personal knowledge, by any individual in a supervisory or command position, of any form of sexual behavior to control, influence, or affect the career, pay, benefits, entitlements, or employment of a subordinate; **and** *or*

(C) any intentional or repeated unwelcome verbal comment or gesture of a sexual nature towards or about an individual by the individual's supervisor, a supervisor in another area, a coworker, or another credentialed mariner.

**[(47)] (48)** "small passenger vessel" means a wing-in-ground craft, regardless of tonnage, carrying at least one passenger for hire, and a vessel of less than 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title—

(A) carrying more than 6 passengers, including at least one passenger for hire;

(B) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying more than 6 passengers;

(C) that is chartered with no crew provided or specified by the owner or the owner's representative and carrying more than 12 passengers;

(D) that is a submersible vessel carrying at least one passenger for hire; or

(E) that is a ferry carrying more than 6 passengers.

**[(48)] (49)** "steam vessel" means a vessel propelled in whole or in part by steam, except a recreational vessel of not more than 40 feet in length.

**[(49)] (50)** "submersible vessel" means a vessel that is capable of operating below the surface of the water.

**[(50)] (51)** "tanker" means a self-propelled tank vessel constructed or adapted primarily to carry oil or hazardous material in bulk in the cargo spaces.

**[(51)] (52)** "tank vessel" means a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue, and that—

(A) is a vessel of the United States;

(B) operates on the navigable waters of the United States; or

(C) transfers oil or hazardous material in a port or place subject to the jurisdiction of the United States.

**[(52)] (53)** "towing vessel" means a commercial vessel engaged in or intending to engage in the service of pulling, pushing, or hauling along side, or any combination of pulling, pushing, or hauling along side.

**[(53)] (54)** "uninspected passenger vessel" means an uninspected vessel—

(A) of at least 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title—

(i) carrying not more than 12 passengers, including at least one passenger for hire; or

(ii) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than 12 passengers; and

(B) of less than 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title—

(i) carrying not more than 6 passengers, including at least one passenger for hire; or

(ii) that is chartered with the crew provided or specified by the owner or the owner's representative and carrying not more than 6 passengers.

[(54)] (55) "uninspected vessel" means a vessel not subject to inspection under section 3301 of this title that is not a recreational vessel.

[(55)] (56) "vessel of war" means a vessel—

(A) belonging to the armed forces of a country;

(B) bearing the external marks distinguishing vessels of war of that country;

(C) under the command of an officer commissioned by the government of that country and whose name appears in the appropriate service list or its equivalent; and

(D) staffed by a crew under regular armed forces discipline.

[(56)] (57) "wing-in-ground craft" means a vessel that is capable of operating completely above the surface of the water on a dynamic air cushion created by aerodynamic lift due to the ground effect between the vessel and the water's surface.

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**CHAPTER 23—OPERATION OF VESSELS GENERALLY**

\* \* \* \* \*

**§ 2302. Penalties for negligent operations and interfering with safe operation**

(a) A person operating a vessel in a negligent manner or interfering with the safe operation of a vessel, so as to endanger the life, limb, or property of a person is liable to the United States Government for a civil penalty of not more than \$5,000 in the case of a recreational vessel, or \$25,000 in the case of any other vessel.

[(b) A person operating a vessel in a grossly negligent manner that endangers the life, limb, or property of a person commits a class A misdemeanor.]

(b) *GROSSLY NEGLIGENT OPERATION.*—

(1) *MISDEMEANOR.*—*A person operating a vessel in a grossly negligent manner that endangers the life, limb, or property of a person commits a class A misdemeanor.*

(2) *FELONY.*—*A person operating a vessel in a grossly negligent manner that results in serious bodily injury, as defined in section 1365(h)(3) of title 18—*

*(A) commits a class E felony; and*

*(B) may be assessed a civil penalty of not more than \$35,000.*

(c) An individual who is under the influence of alcohol, or a dangerous drug in violation of a law of the United States when operating a vessel, as determined under standards prescribed by the Secretary by regulation—

- (1) is liable to the United States Government for a civil penalty of not more than \$5,000; or
- (2) commits a class A misdemeanor.

(d) For a penalty imposed under this section, the vessel also is liable in rem unless the vessel is—

- (1) owned by a State or a political subdivision of a State;
- (2) operated principally for governmental purposes; and
- (3) identified clearly as a vessel of that State or subdivision.

(e)(1) A vessel may not transport Government-impelled cargoes if—

(A) the vessel has been detained and determined to be substandard by the Secretary for violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention and determination in an electronic form, including the name of the owner of the vessel; or

(B) the operator of the vessel has on more than one occasion had a vessel detained and determined to be substandard by the Secretary for violation of an international safety convention to which the United States is a party, and the Secretary has published notice of that detention and determination in an electronic form, including the name of the owner of the vessel.

(2) The prohibition in paragraph (1) expires for a vessel on the earlier of—

(A) 1 year after the date of the publication in electronic form on which the prohibition is based; or

(B) any date on which the owner or operator of the vessel prevails in an appeal of the violation of the relevant international convention on which the detention is based.

(3) As used in this subsection, the term “Government-impelled cargo” means cargo for which a Federal agency contracts directly for shipping by water or for which (or the freight of which) a Federal agency provides financing, including financing by grant, loan, or loan guarantee, resulting in shipment of the cargo by water.

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**PART B—INSPECTION AND REGULATION OF VESSELS**

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**CHAPTER 33—INSPECTION GENERALLY**

\* \* \* \* \*

**§ 3316. Classification societies**

(a) Each department, agency, and instrumentality of the United States Government shall recognize the American Bureau of Shipping as its agent in classifying vessels owned by the Government

and in matters related to classification, as long as the Bureau is maintained as an organization having no capital stock and paying no dividends. The Secretary and the Secretary of Transportation each shall appoint one representative (except when the Secretary is the Secretary of Transportation, in which case the Secretary shall appoint both representatives) who shall represent the Government on the executive committee of the Bureau. The Bureau shall agree that the representatives shall be accepted by it as active members of the committee. The representatives shall serve without compensation, except for necessary traveling expenses.

(b)(1) The Secretary may delegate to the American Bureau of Shipping or another classification society recognized by the Secretary as meeting acceptable standards for such a society, for a vessel documented or to be documented under chapter 121 of this title, the authority to—

- (A) review and approve plans required for issuing a certificate of inspection required by this part;
- (B) conduct inspections and examinations; and
- (C) issue a certificate of inspection required by this part and other related documents.

(2) The Secretary may make a delegation under paragraph (1) to a foreign classification society only—

- (A) to the extent that the government of the foreign country in which the society is headquartered delegates authority and provides access to the American Bureau of Shipping to inspect, certify, and provide related services to vessels documented in that country;
- (B) if the foreign classification society has offices and maintains records in the United States; and
- (C) if the Secretary of State determines that the foreign classification society does not provide comparable services in or for a state sponsor of terrorism.

(3) When an inspection or examination has been delegated under this subsection, the Secretary's delegate—

- (A) shall maintain in the United States complete files of all information derived from or necessarily connected with the inspection or examination for at least 2 years after the vessel ceases to be certified; and
- (B) shall permit access to those files at all reasonable times to any officer, employee, or member of the Coast Guard designated—
  - (i) as a marine inspector and serving in a position as a marine inspector; or
  - (ii) in writing by the Secretary to have access to those files.

(c)(1) A classification society (including an employee or agent of that society) may not review, examine, survey, or certify the construction, repair, or alteration of a vessel in the United States unless the society has applied for approval under this subsection and the Secretary has reviewed and approved that society with respect to the conduct of that society under paragraph (2).

(2) The Secretary may approve a person for purposes of paragraph (1) only if the Secretary determines that—

- (A) the vessels surveyed by the person while acting as a classification society have an adequate safety record; and

- (B) the person has an adequate program to—
- (i) develop and implement safety standards for vessels surveyed by the person;
  - (ii) make the safety records of the person available to the Secretary in an electronic format;
  - (iii) provide the safety records of a vessel surveyed by the person to any other classification society that requests those records for the purpose of conducting a survey of the vessel; and
  - (iv) request the safety records of a vessel the person will survey from any classification society that previously surveyed the vessel.
- (d)(1) The Secretary may delegate to the American Bureau of Shipping or another classification society recognized by the Secretary as meeting acceptable standards for such a society, for a United States offshore facility, the authority to—
- (A) review and approve plans required for issuing a certificate of inspection, a certificate of compliance, or any other certification and related documents issued by the Coast Guard pursuant to regulations issued under section 30 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356); and
  - (B) conduct inspections and examinations.
- (2) The Secretary may make a delegation under paragraph (1) to a foreign classification society only if—
- (A) the foreign society has offices and maintains records in the United States;
  - (B)
    - (i) the government of the foreign country in which the foreign society is headquartered delegates that authority to the American Bureau of Shipping; or *(i) the government of the foreign country in which the foreign society is headquartered—*
      - (I) delegates that authority to the American Bureau of Shipping; or*
      - (II) does not delegate that authority to any classification society; or*
    - (ii) *the Secretary has entered into an agreement with the government of the foreign country in which the foreign society is headquartered that—*
      - (I) ensures the government of the foreign country will accept plan review, inspections, or examinations conducted by the American Bureau of Shipping and provide equivalent access to inspect, certify, and provide related services to offshore facilities located in that country or operating under the authority of that country; and*
      - (II) is in full accord with principles of reciprocity in regards to any delegation contemplated by the Secretary under paragraph (1); and*
    - (C) *the Secretary of State determines that the foreign classification society does not provide comparable services in or for a state sponsor of terrorism.*
- (3) *If an inspection or examination is conducted under authority delegated under this subsection, the person to which the authority was delegated—*
- (A) *shall maintain in the United States complete files of all information derived from or necessarily connected with the in-*

specification or examination for at least 2 years after the United States offshore facility ceases to be certified; and

(B) shall permit access to those files at all reasonable times to any officer, employee, or member of the Coast Guard designated—

(i) as a marine inspector and serving in a position as a marine inspector; or

(ii) in writing by the Secretary to have access to those files.

(4) For purposes of this subsection—

(A) the term “offshore facility” means any installation, structure, or other device (including any vessel not documented under chapter 121 of this title or the laws of another country), fixed or floating, that dynamically holds position or is temporarily or permanently attached to the seabed or subsoil under the sea; and

(B) the term “United States offshore facility” means any offshore facility, fixed or floating, that dynamically holds position or is temporarily or permanently attached to the seabed or subsoil under the territorial sea of the United States or the outer Continental Shelf (as that term is defined in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331)), including any vessel, rig, platform, or other vehicle or structure subject to regulation under section 30 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356).

(5) CLARIFICATION ON AUTHORITY.—Nothing in this subsection authorizes the Secretary to make a delegation under paragraph (2) to a classification society from the People’s Republic of China.

(e) The Secretary shall revoke a delegation made to a classification society under subsection (b) or (d) if the Secretary of State determines that the classification society provides comparable services in or for a state sponsor of terrorism.

(f)(1) Upon request of an owner or operator of an offshore supply vessel, the Secretary shall delegate the authorities set forth in paragraph (1) of subsection (b) with respect to such vessel to a classification society to which a delegation is authorized under that paragraph. A delegation by the Secretary under this subsection shall be used for any vessel inspection and examination function carried out by the Secretary, including the issuance of certificates of inspection and all other related documents.

(2) If the Secretary determines that a certificate of inspection or related document issued under authority delegated under paragraph (1) of this subsection with respect to a vessel has reduced the operational safety of that vessel, the Secretary may terminate the certificate or document, respectively.

(3) Not later than 2 years after the date of the enactment of the Howard Coble Coast Guard and Maritime Transportation Act of 2014, and for each year of the subsequent 2-year period, the Secretary shall provide to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing—

(A) the number of vessels for which a delegation was made under paragraph (1);

(B) any savings in personnel and operational costs incurred by the Coast Guard that resulted from the delegations; and

(C) based on measurable marine casualty and other data, any impacts of the delegations on the operational safety of vessels for which the delegations were made, and on the crew on those vessels.

(g)(1) There shall be within the Coast Guard an office that conducts comprehensive and targeted oversight of all recognized organizations that act on behalf of the Coast Guard.

(2) The staff of the office shall include subject matter experts, including inspectors, investigators, and auditors, who possess the capability and authority to audit all aspects of such recognized organizations.

(3) In this subsection the term “recognized organization” has the meaning given that term in section 2.45–1 of title 46, Code of Federal Regulations, as in effect on the date of the enactment of the Hamm Alert Maritime Safety Act of 2018.

(h) In this section, the term “state sponsor of terrorism” means any country the government of which the Secretary of State has determined has repeatedly provided support for acts of international terrorism pursuant to section 6(j) of the Export Administration Act of 1979 (as continued in effect under the International Emergency Economic Powers Act), section 620A of the Foreign Assistance Act of 1961, section 40 of the Arms Export Control Act, or any other provision of law.

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**CHAPTER 37—CARRIAGE OF LIQUID BULK DANGEROUS CARGOES**

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**§ 3714. Inspection and examination**

(a)(1) **[The Secretary]** *Except as provided in subsection (c), the Secretary shall have each vessel to which this chapter applies inspected or examined at least once each year.*

(2) Each of those vessels that is more than 10 years of age shall undergo a special and detailed inspection of structural strength and hull integrity as specified by the Secretary.

(3) The Secretary may make contracts for conducting inspections or examinations in the United States and in foreign countries. An inspector conducting an inspection or examination under contract may not issue a certificate of inspection or a certificate of compliance, but the inspector may issue a temporary certificate.

(4) The Secretary shall prescribe by regulation reasonable fees for an inspection or examination conducted under this section outside the United States, or which, when involving a foreign vessel, is conducted under a contract authorized by paragraph (3) of this subsection. The owner, charterer, or managing operator of a vessel inspected or examined by the Secretary is liable for the fees. Amounts received as fees shall be deposited in the Treasury.

(5) The Secretary may allow provisional entry of a vessel to conduct an inspection or examination under this chapter.

(b) Each vessel to which this chapter applies shall have on board those documents the Secretary considers necessary for inspection and enforcement, including documents listing—

- (1) the type, grade, and approximate quantities of cargo on board;
- (2) the shipper and consignee of the cargo;
- (3) the places of origin and destination of the vessel; and
- (4) the name of an agent in the United States authorized to accept service of legal process.

*(c)(1) With respect to examinations of liquefied natural gas tank vessels and vessels that carry bulk liquefied gases as cargo, including examinations under section 153.808 and part 154 of title 46, Code of Federal Regulations (as in effect on the date of enactment of the Coast Guard Authorization Act of 2023), the Secretary may adopt a risk-based examination schedule to which such vessels are to be examined and the frequency with which such examinations occur.*

*(2) The Secretary may not adopt a risk-based examination schedule under paragraph (1) until the Secretary has—*

*(A) received and reviewed the National Academies study required under section 8254(b) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283);*

*(B) conducted the assessment recommended in the Government Accountability Office report submitted under section 8254(a) of such Act;*

*(C) concluded through such assessment that a risk-based examination schedule provides not less than the level of safety provided by the annual examinations required under subsection (a)(1); and*

*(D) provided the results of such assessment to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.*

**[(c)]** (d) Each vessel to which this chapter applies that operates in the United States shall have a person designated as authorized to accept service of legal process for the vessel.

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**CHAPTER 45—UNINSPECTED COMMERCIAL FISHING  
INDUSTRY VESSELS**

\* \* \* \* \*

**§ 4502. Safety standards**

(a) The Secretary shall prescribe regulations which require that each vessel to which this chapter applies shall be equipped with—

- (1) readily accessible fire extinguishers capable of promptly and effectively extinguishing a flammable or combustible liquid fuel fire;
- (2) at least one readily accessible life preserver or other life-saving device for each individual on board;
- (3) an efficient flame arrestor, backfire trap, or other similar device on the carburetors of each inboard engine which uses gasoline as fuel;

(4) the means to properly and efficiently ventilate enclosed spaces, including engine and fuel tank compartments, so as to remove explosive or flammable gases;

(5) visual distress signals;

(6) other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment; and

(7) a placard as required by regulations prescribed under section 10603(b) of this title.

(b)(1) In addition to the requirements of subsection (a) of this section, the Secretary shall prescribe regulations requiring the installation, maintenance, and use of the equipment in paragraph (2) of this subsection for vessels to which this chapter applies that—

(A) operate beyond 3 nautical miles from the baseline from which the territorial sea of the United States is measured or beyond 3 nautical miles from the coastline of the Great Lakes;

(B) operate with more than 16 individuals on board; or

(C) in the case of a fish tender vessel, engage in the Aleutian trade.

(2) The equipment to be required is as follows:

(A) alerting and locating equipment, including emergency position indicating radio beacons;

(B) subject to paragraph (3), a survival craft that ensures that no part of an individual is immersed in water sufficient to accommodate all individuals on board;

(C) at least one readily accessible immersion suit for each individual on board that vessel when operating on the waters described in section 3102 of this title;

(D) marine radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;

(E) navigation equipment, including compasses, nautical charts, and publications;

(F) first aid equipment and medical supplies sufficient for the size and area of operation of the vessel; and

(G) ground tackle sufficient for the vessel.

(3) Except for a nonapplicable vessel, an auxiliary craft shall satisfy the equipment requirement under paragraph (2)(B) if such craft is—

(A) necessary for normal fishing operations;

(B) readily accessible during an emergency; and

(C) capable, in accordance with the Coast Guard capacity rating, when applicable, of safely holding all individuals on board the vessel to which the craft functions as an auxiliary.

(c)(1) In addition to the requirements described in subsections (a) and (b) of this section, the Secretary may prescribe regulations establishing the standards in paragraph (2) of this subsection for vessels to which this chapter applies that—

(A)(i) were built after December 31, 1988, or undergo a major conversion completed after that date; and

(ii) operate with more than 16 individuals on board; or

(B) in the case of a fish tender vessel, engage in the Aleutian trade.

- (2) The standards shall be minimum safety standards, including standards relating to—
- (A) navigation equipment, including radars and fathometers;
  - (B) lifesaving equipment, immersion suits, signaling devices, bilge pumps, bilge alarms, life rails, and grab rails;
  - (C) fire protection and firefighting equipment, including fire alarms and portable and semiportable fire extinguishing equipment;
  - (D) use and installation of insulation material;
  - (E) storage methods for flammable or combustible material;
- and
- (F) fuel, ventilation, and electrical systems.
- (d)(1) The Secretary shall prescribe regulations for the operating stability of a vessel to which this chapter applies—
- (A) that was built after December 31, 1989; or
  - (B) the physical characteristics of which are substantially altered after December 31, 1989, in a manner that affects the vessel's operating stability.
- (2) The Secretary may accept, as evidence of compliance with this subsection, a certification of compliance issued by the person providing insurance for the vessel or by another qualified person approved by the Secretary.
- (e) In prescribing regulations under this chapter, the Secretary—
- (1) shall consider the specialized nature and economics of the operations and the character, design, and construction of the vessel; and
  - (2) may not require the alteration of a vessel or associated equipment that was constructed or manufactured before the effective date of the regulation.
- (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, but may require an exam at dockside every 2 years for vessels described in subsection (b) if—
    - (A) requested by an owner or operator; or
    - (B) the vessel is—
      - (i) at least 50 feet overall in length;
      - (ii) built before July 1, 2013; and
      - (iii) 25 years of age or older; and
  - (3) shall issue a certificate of compliance to a vessel meeting the requirements of this chapter and satisfying the requirements in paragraph (2).
- (g)(1) The individual in charge of a vessel described in subsection (b) must pass a training program approved by the Secretary that meets the requirements in paragraph (2) of this subsection and hold a valid certificate issued under that program.
- (2) The training program shall—
- (A) be based on professional knowledge and skill obtained through sea service and hands-on training, including training in seamanship, stability, collision prevention, navigation, fire

fighting and prevention, damage control, personal survival, emergency medical care, emergency drills, and weather;

(B) require an individual to demonstrate ability to communicate in an emergency situation and understand information found in navigation publications;

(C) recognize and give credit for recent past experience in fishing vessel operation; and

(D) provide for issuance of a certificate to an individual that has successfully completed the program.

(3) The Secretary shall prescribe regulations implementing this subsection. The regulations shall require that individuals who are issued a certificate under paragraph (2)(D) must complete refresher training at least once every 5 years as a condition of maintaining the validity of the certificate.

(4) The Secretary shall establish 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 of Health and Human Services 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 of Health and Human Services, in consultation with and based on criteria established by the Commandant of the Coast Guard 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 fiscal year 2023 for grants under this subsection.]

(4) *AUTHORIZATION OF APPROPRIATIONS.—Out of funds made available under section 4902(1)(A) of title 14, \$3,000,000 shall be available for each of fiscal years 2024 and 2025 for grants under this subsection.*

(j)(1) The Secretary of Health and Human Services 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 of Health and Human Services, in consultation with and based on criteria established by the Commandant of the Coast Guard, 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 fiscal year 2023 for activities under this subsection.]

(4) *AUTHORIZATION OF APPROPRIATIONS.—Out of funds made available under section 4902(1)(A) of title 14, \$3,000,000 shall be available for each of fiscal years 2024 and 2025 for grants under this subsection.*

(k) For the purposes of this section, the term “auxiliary craft” means a vessel that is carried onboard a fishing vessel and is normally used to support fishing operations.

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**PART D—MARINE CASUALTIES**

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**CHAPTER 63—INVESTIGATING MARINE CASUALTIES**

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**§ 6308. Information barred in legal proceedings**

(a) Notwithstanding any other provision of law, no part of a report of a marine casualty investigation conducted under section 6301 of this title, including findings of fact, opinions, recommendations, deliberations, or conclusions, shall be admissible as evidence or subject to discovery in any civil or administrative proceedings, other than an administrative proceeding [initiated] *conducted* by the United States.

(b) Any member or employee of the Coast Guard investigating a marine casualty pursuant to section 6301 of this title shall not be subject to deposition or other discovery, or otherwise testify in such proceedings relevant to a marine casualty investigation, without the permission of the Secretary. The Secretary shall not withhold permission for such employee or member to testify, either orally or upon written questions, on solely factual matters at a time and place and in a manner acceptable to the Secretary if the information is not available elsewhere or is not obtainable by other means.

(c) Nothing in this section prohibits the United States from calling the employee or member as an expert witness to testify on its behalf. Further, nothing in this section prohibits the employee or member from being called as a fact witness in any case in which the United States is a party. If the employee or member is called as an expert or fact witness, the applicable Federal Rules of Civil Procedure govern discovery. If the employee or member is called as

a witness, the report of a marine casualty investigation conducted under section 6301 of this title shall not be admissible, as provided in subsections (a) and (b), and shall not be considered the report of an expert under the Federal Rules of Civil Procedure.

(d) The information referred to in subsections (a), (b), and (c) of this section shall not be considered an admission of liability by the United States or by any person referred to in those conclusions and statements.

(e) *For purposes of this section, an administrative proceeding conducted by the United States includes proceedings under section 7701 and claims adjudicated under section 1013 of the Oil Pollution Act of 1990 (33 U.S.C. 2713).*

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**PART E—[MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS] *MERCHANT MARINER CREDENTIALS***

\* \* \* \* \*

**CHAPTER 71—LICENSES AND CERTIFICATES OF REGISTRY**

\* \* \* \* \*

Sec.

7101. Issuing and classifying licenses and certificates of registry.

**[7102. Citizenship.]**

*7102. Citizenship or noncitizen nationality.*

\* \* \* \* \*

**§ 7102. Citizenship or noncitizen nationality**

Licenses and certificates of registry for individuals on documented vessels may be issued only to citizens or *noncitizen nationals* (as such term is described in section 308 of the Immigration and Nationality Act (8 U.S.C. 1408) of the United States.

**§ 7116. Examinations for merchant mariner credentials**

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

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

**[(c) MERCHANT MARINER CREDENTIAL DEFINED.**—In this section, the term “merchant mariner credential” has the meaning that term has in section 7510.]

**CHAPTER 73—MERCHANT MARINERS’ DOCUMENTS**

Sec.

7301. General.

7302. Issuing merchant mariners’ documents and continuous discharge books.

7303. Possession and description of merchant mariners’ documents.

**[7304. Citizenship notation on merchant mariners’ documents.]**

*7304. Citizenship or nationalization notation on merchant mariners’ documents.*

7305. Oaths for holders of merchant mariners’ documents.

- 【7306. General requirements and classifications for able seamen.】
- 7306. *General requirements and classifications for members of deck departments.*
- 7307. Able 【seamen】 *seafarers*—unlimited.
- 7308. Able 【seamen】 *seafarers*—limited.
- 7309. Able 【seamen】 *seafarers*—special.
- 7310. Able 【seamen】 *seafarers*—offshore supply vessels.
- 7311. Able 【seamen】 *seafarers*—sail.
- 7311a. Able 【seamen】 *seafarers*—fishing industry.

**§ 7301. General**

- (a) In this chapter—
  - (1) “service on deck” means service in the deck department in work related to the work usually performed on board vessels by able 【seamen】 *seafarers* and may include service on fishing, fish processing, fish tender vessels and on public vessels of the United States;
  - (2) 360 days is equal to one year’s service; and
  - (3) a day is equal to 8 hours of labor or duty.
- (b) The Secretary may prescribe regulations to carry out this chapter.

\* \* \* \* \*

**§ 7304. Citizenship or noncitizen nationality notation on merchant mariners’ documents**

An individual applying for a merchant mariner’s document shall provide satisfactory proof that the individual is a citizen or noncitizen national (as such term is described in section 308 of the Immigration and Nationality Act (8 U.S.C. 1408) of the United States before that notation is made on the document.

\* \* \* \* \*

**【§ 7306. General requirements and classifications for able seamen**

- 【(a) To qualify for an endorsement as able seaman authorized by this section, an applicant must provide satisfactory proof that the applicant—
  - 【(1) is at least 18 years of age;
  - 【(2) has the service required by the applicable section of this part;
  - 【(3) is qualified professionally as demonstrated by an applicable examination or educational requirements; and
  - 【(4) is qualified as to sight, hearing, and physical condition to perform the seaman’s duties.
- 【(b) The classifications authorized for endorsement as able seaman are the following:
  - 【(1) able seaman—unlimited.
  - 【(2) able seaman—limited.
  - 【(3) able seaman—special.
  - 【(4) able seaman—offshore supply vessels.
  - 【(5) able seaman—sail.
  - 【(6) able seaman—fishing industry.】

**§ 7306. General requirements and classifications for members of deck departments**

(a) *IN GENERAL.*—The Secretary may issue a merchant mariner credential, to members of the deck department in the following classes:

- (1) *Able Seaman-Unlimited.*
- (2) *Able Seaman-Limited.*
- (3) *Able Seaman-Special.*
- (4) *Able Seaman-Offshore Supply Vessels.*
- (5) *Able Seaman-Sail.*
- (6) *Able Seaman-Fishing Industry.*
- (7) *Ordinary Seaman.*

(b) *CLASSIFICATION OF CREDENTIALS.*—The Secretary may classify the merchant mariner credential issued under subsection (a) based on—

- (1) *the tonnage and means of propulsion of vessels;*
- (2) *the waters on which vessels are to be operated; or*
- (3) *other appropriate standards.*

(c) *CONSIDERATIONS.*—In issuing the credential under subsection (a), the Secretary may consider the following qualifications of the merchant mariner:

- (1) *Age.*
- (2) *Character.*
- (3) *Habits of life.*
- (4) *Experience.*
- (5) *Professional qualifications demonstrated by satisfactory completion of applicable examinations or other educational requirements.*
- (6) *Physical condition, including sight and hearing.*
- (7) *Other requirements established by the Secretary, including career patterns and service appropriate to the particular service, industry, or job functions the individual is engaged.*

**§ 7307. Able [seamen] seafarers—unlimited**

The required service for the endorsement of able [seaman] seafarer—unlimited, qualified for unlimited service on a vessel on any waters, is at least [3 years'] 18 months' service on deck on board vessels operating at sea or on the Great Lakes.

**§ 7308. Able [seamen] seafarers—limited**

The required service for the endorsement of able [seaman] seafarer—limited, qualified for limited service on a vessel on any waters, is at least [18 months'] 12 months' service on deck on board vessels of at least 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title operating on the oceans or navigable waters of the United States (including the Great Lakes).

**§ 7309. Able [seamen] seafarers—special**

The required service for the endorsement of able [seaman] seafarer—special, qualified for special service on a vessel on any waters, is at least 12 months' service on deck on board vessels operating on the oceans or the navigable waters of the United States (including the Great Lakes).

**§ 7310. Able [seamen] seafarers—offshore supply vessels**

For service on a vessel of less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title engaged in support of exploration, exploitation, or production of offshore mineral or energy resources, an individual may be rated as able [seaman] seafarer—offshore supply vessels if the individual has at least 6 months' service on deck on board vessels operating on the oceans or the navigable waters of the United States (including the Great Lakes).

**§ 7311. Able [seamen] seafarers—sail**

For service on a sailing school vessel on any waters, an individual may be rated as able [seaman] seafarer—sail if the individual has at least 6 months' service on deck on sailing school vessels, oceanographic research vessels powered primarily by sail, or equivalent sailing vessels operating on the oceans or navigable waters of the United States (including the Great Lakes).

**§ 7311a. Able [seamen] seafarers—fishing industry**

For service on a fish processing vessel, an individual may be rated as able [seaman] seafarer—fishing industry if the individual has at least 6 months' service on deck on board vessels operating on the oceans or the navigable waters of the United States (including the Great Lakes).

**§ 7312. Scale of employment**

(a) Individuals qualified as able [seamen] seafarers—unlimited under section 7307 of this title may constitute all of the able [seamen] seafarers required on a vessel.

(b) Individuals qualified as able [seamen] seafarers—limited under section 7308 of this title may constitute all of the able [seamen] seafarers required on a vessel of less than 1,600 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title or on a vessel operating on the Great Lakes and the Saint Lawrence River as far east as Sept Iles. Individuals qualified as able [seamen] seafarers—limited may constitute not more than 50 percent of the number of able [seamen] seafarers required on board other vessels.

(c) Individuals qualified as able [seamen] seafarers—special under section 7309 of this title may constitute—

(1) all of the able [seamen] seafarers required on a vessel of not more than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title or on a seagoing barge or towing vessel; and

(2) not more than 50 percent of the number of able [seamen] seafarers required on board other vessels.

(d) Individuals qualified as able [seamen] seafarers—offshore supply vessel under section 7310 of this title may constitute all of the able [seamen] seafarers required on board a vessel of less than 500 gross tons as measured under section 14502 of this title or 6,000 gross tons as measured under section 14302 of this title engaged in support of exploration, exploitation, or production of off-

shore mineral or energy resources. Individuals qualified as able **[seamen] seafarers**—limited under section 7308 of this title may constitute all of the able **[seamen] seafarers** required on board a vessel of at least 500 gross tons as measured under section 14502 of this title or 6,000 gross tons as measured under section as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title engaged in support of exploration, exploitation, or production of offshore mineral or energy resources.

(e) When the service of able **[seamen] seafarers**—limited or able **[seamen] seafarers**—special is authorized for only a part of the required number of able **[seamen] seafarers** on board a vessel, the combined percentage of those individuals so qualified may not be greater than 50 percent of the required number.

(f) Individuals qualified as able **[seamen] seafarers**—fishing industry under section 7311a of this title may constitute—

(1) all of the able **[seamen] seafarers** required on a fish processing vessel entered into service before January 1, 1988, and of more than 1,600 gross tons but not more than 5,000 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; and

(2) all of the able **[seamen] seafarers** required on a fish processing vessel entered into service after December 31, 1987, and having more than 16 individuals on board primarily employed in the preparation of fish or fish products but of not more than 5,000 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title.

### **§ 7313. General requirements for members of engine departments**

(a) Classes of endorsement as qualified members of the engine department on vessels of at least 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title (except vessels operating on rivers or lakes (except the Great Lakes)) may be prescribed by regulation.

(b) The ratings of wiper **[and coal passer]** are entry ratings and are not ratings as qualified members of the engine department.

(c) An applicant for an endorsement as qualified member of the engine department must provide satisfactory proof that the applicant—

(1) has the service required by section 7314 of this title;

(2) is qualified professionally as demonstrated by an applicable examination; and

(3) is qualified as to sight, hearing, and physical condition to perform the member's duties.

\* \* \* \* \*

**§ 7315. Training**

[(a) Graduation from a nautical school vessel approved under law and regulation may be substituted for the service requirements under section 7307 or 7314 of this title.]

(a) *Graduation from a nautical school program approved by the Secretary may be substituted for the service requirements under sections 7307–7312 and 7314.*

(b) The satisfactory completion of other courses of instruction approved by the Secretary may be substituted for not more than [one-third] *one-half* of the required service on deck at sea under sections [7307–7311 of this title] *7–7312 and 7314.*

[(c) The satisfactory completion of other courses of instruction approved by the Secretary may be substituted for not more than one-half of the required service at sea under section 7314 of this title.]

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**CHAPTER 75—GENERAL PROCEDURES FOR LICENSING, CERTIFICATION, AND DOCUMENTATION**

\* \* \* \* \*

**§ 7502. Records**

(a) The Secretary shall maintain records, including electronic records, on the issuances, denials, suspensions, and revocations of licenses, certificates of registry, merchant mariners' documents, and endorsements on those licenses, certificates, and documents.

(b) The Secretary may prescribe regulations requiring a vessel owner or managing operator of a commercial vessel, or the employer of a [seaman] *seafarer* on that vessel, to maintain records of each individual engaged on the vessel subject to inspection under chapter 33 on matters of engagement, discharge, and service for not less than 5 years after the date of the completion of the service of that individual on the vessel. The regulations may require that a vessel owner, managing operator, or employer shall make these records available to the individual and the Coast Guard on request.

(c) A person violating this section, or a regulation prescribed under this section, is liable to the United States Government for a civil penalty of not more than \$5,000.

\* \* \* \* \*

**§ 7507. Authority to extend the duration of licenses, certificates of registry, and merchant mariner documents**

(a) LICENSES AND CERTIFICATES OF REGISTRY.—Notwithstanding sections 7106 and 7107, the Secretary of the department in which the Coast Guard is operating may—

- (1) extend for not more than one year an expiring license or certificate of registry issued for an individual under chapter 71 if the Secretary determines that the extension is required to enable the Coast Guard to eliminate a backlog in processing applications for those licenses or certificates of registry or in response to a national emergency or natural disaster, as deemed necessary by the Secretary; or

(2) issue for not more than five years an expiring license or certificate of registry issued for an individual under chapter 71 for the exclusive purpose of aligning the expiration date of such license or certificate of registry with the expiration date of a merchant mariner's document.

(b) **MERCHANT MARINER DOCUMENTS.**—Notwithstanding section 7302(g), the Secretary may—

(1) extend for not more than one year an expiring merchant mariner's document issued for an individual under chapter 73 if the Secretary determines that the extension is required to enable the Coast Guard to eliminate a backlog in processing applications for those 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 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 license or certificate of registry.

(c) **MANNER OF EXTENSION.**—Any extensions granted under this section may be granted to individual **[seamen]** *seafarers* or a specifically identified group of **[seamen]** *seafarers*.

(d) **RENEWAL.**—*With respect to any renewal of an active merchant mariner credential issued under this part that is not an extension under subsection (a) or (b), such credential shall begin the day after the expiration of the active credential of the credential holder.*

\* \* \* \* \*

## § 7510. Examinations for merchant mariner credentials

(a) **DISCLOSURE NOT REQUIRED.**—Notwithstanding any other provision of law, the Secretary is not required to disclose to the public—

(1) a question from any examination for a merchant mariner credential;

(2) the answer to such a question, including any correct or incorrect answer that may be presented with such question; and

(3) any quality or characteristic of such a question, including—

(A) the manner in which such question has been, is, or may be selected for an examination;

(B) the frequency of such selection; and

(C) the frequency that an examinee correctly or incorrectly answered such question.

(b) **EXCEPTION FOR CERTAIN QUESTIONS.**—Notwithstanding subsection (a), the Secretary may, for the purpose of preparation by the general public for examinations required for merchant mariner credentials, release an examination question and answer that the Secretary has retired or is not presently on or part of an examination, or that the Secretary determines is appropriate for release.

(c) **EXAM REVIEW.**—

(1) **IN GENERAL.**—Not later than 90 days after the date of the enactment of the Coast Guard Authorization Act of 2016, and once every two years thereafter, the Commandant shall commission a working group to review new questions for inclusion

in examinations required for merchant mariner credentials, composed of—

- (A) 1 subject matter expert from the Coast Guard;
  - (B) representatives from training facilities and the maritime industry, of whom—
    - (i) one-half shall be representatives from approved training facilities; and
    - (ii) one-half shall be representatives from the appropriate maritime industry;
  - (C) at least 1 representative from the National Merchant Marine Personnel Advisory Committee;
  - (D) at least 2 representatives from the State maritime academies, of whom one shall be a representative from the deck training track and one shall be a representative of the engineer license track;
  - (E) representatives from other Coast Guard Federal advisory committees, as appropriate, for the industry segment associated with the subject examinations;
  - (F) at least 1 subject matter expert from the Maritime Administration; and
  - (G) at least 1 human performance technology representative.
- (2) INCLUSION OF PERSONS KNOWLEDGEABLE ABOUT EXAMINATION TYPE.—The working group shall include representatives knowledgeable about the examination type under review.
- (3) LIMITATION.—The requirement to convene a working group under paragraph (1) does not apply unless there are new examination questions to review.
- (4) BASELINE REVIEW.—
- (A) IN GENERAL.—Within 1 year after the date of the enactment of the Coast Guard Authorization Act of 2016, the Secretary shall convene the working group to complete a baseline review of the Coast Guard’s Merchant Mariner Credentialing Examination, including review of—
    - (i) the accuracy of examination questions;
    - (ii) the accuracy and availability of examination references;
    - (iii) the length of merchant mariner examinations; and
    - (iv) the use of standard technologies in administering, scoring, and analyzing the examinations.
  - (B) PROGRESS REPORT.—The Coast Guard shall provide a progress report to the appropriate congressional committees on the review under this paragraph.
- (5) FULL MEMBERSHIP NOT REQUIRED.—The Coast Guard may convene the working group without all members present if any non-Coast-Guard representative is present.
- (6) NONDISCLOSURE AGREEMENT.—The Secretary shall require all members of the working group to sign a nondisclosure agreement with the Secretary.
- (7) TREATMENT OF MEMBERS AS FEDERAL EMPLOYEES.—A member of the working group who is not a Federal Government employee shall not be considered a Federal employee in the service or the employment of the Federal Government, except that such a member shall be considered a special govern-

ment employee, as defined in section 202(a) of title 18 for purposes of sections 203, 205, 207, 208, and 209 of such title and shall be subject to any administrative standards of conduct applicable to an employee of the department in which the Coast Guard is operating.

(8) FORMAL EXAM REVIEW.—The Secretary shall ensure that the Coast Guard Performance Technology Center—

(A) prioritizes the review of examinations required for merchant mariner credentials; and

(B) not later than 3 years after the date of enactment of the Coast Guard Authorization Act of 2016, completes a formal review, including an appropriate analysis, of the topics and testing methodology employed by the National Maritime Center for merchant mariner licensing.

(9) CHAPTER 10 OF TITLE 5.—Chapter 10 of title 5 shall not apply to any working group created under this section to review the Coast Guard’s merchant mariner credentialing examinations.

[(d) MERCHANT MARINER CREDENTIAL DEFINED.—In this section, the term “merchant mariner credential” means a merchant mariner license, certificate, or document that the Secretary is authorized to issue pursuant to this title.]

\* \* \* \* \*

**CHAPTER 77—SUSPENSION AND REVOCATION**

\* \* \* \* \*

**§ 7702. Administrative procedure**

(a) Sections 551–559 of title 5 apply to each hearing under this chapter about suspending or revoking a license, certificate of registry, or merchant mariner’s document.

(b) The individual whose license, certificate of registry, or merchant mariner’s document has been suspended or revoked under this chapter may appeal, within 30 days, the suspension or revocation to the Secretary.

(c)(1) The Secretary shall request a holder of a license, certificate of registry, or merchant mariner’s document to make available to the Secretary, under section 30305(b)(7) of title 49, all information contained in the National Driver Register related to an offense described in section 205(a)(3)(A) or (B) of that Act committed by the individual.

(2) The Secretary shall require the testing of the holder of a license, certificate of registry, or merchant mariner’s document for use of alcohol and dangerous drugs in violation of law or Federal regulation. The testing may include preemployment (with respect to dangerous drugs only), periodic, random, and reasonable cause testing, and shall include post-accident testing.

(d)(1) The Secretary may temporarily, for not more than 45 days, suspend and take possession of the license, certificate of registry, or merchant mariner’s document held by [an individual if—] *an individual—*

(A) *if—*

[(A)] (i) that individual performs a safety sensitive function on a vessel, as determined by the Secretary; and

[(B)] (ii) there is probable cause to believe that the individual—

[(i)] (I) has, while acting under the authority of that license, certificate, or document, performed the safety sensitive function in violation of law or Federal regulation regarding use of alcohol or a dangerous drug;

[(ii)] (II) has been convicted of an offense that would prevent the issuance or renewal of the license, certificate, or document;

[(iii)] (III) within the 3-year period preceding the initiation of a suspension proceeding, has been convicted of an offense described in section 30304(a)(3)(A) or (B) of title 49; or

[(iv)] (IV) is a security risk that poses a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment[.]; or

(B) if there is probable cause to believe that the individual has violated company policy and is a security risk that poses a threat to other individuals on the vessel.

(2) If a license, certificate, or document is temporarily suspended under this section, an expedited hearing under subsection (a) of this section shall be held within 30 days after the temporary suspension.

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**PART F—MANNING OF VESSELS**

\* \* \* \* \*

**CHAPTER 81—GENERAL**

Sec.  
8101. Complement of inspected vessels.

\* \* \* \* \*

**[8103. Citizenship and Navy Reserve requirements.]**  
8103. *Citizenship or noncitizen nationality and Navy Reserve requirements.*

\* \* \* \* \*

8109. *Exemptions from manning and crew requirements.*

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**§ 8103. Citizenship or noncitizen nationality and Navy Reserve requirements**

(a) Except as otherwise provided in this title, only a citizen or noncitizen national of the United States may serve as master, chief engineer, radio officer, or officer in charge of a deck watch or engineering watch on a documented vessel.

(b)(1) Except as otherwise provided in this section, on a documented vessel—

- (A) each unlicensed [seaman] seafarer must be—
  - (i) a citizen or noncitizen national of the United States;
  - (ii) an alien lawfully admitted to the United States for permanent residence; or
  - (iii) a foreign national who is enrolled in the United States Merchant Marine Academy; and

(B) not more than 25 percent of the total number of unlicensed **【seamen】** *seafarers* on the vessel may be aliens lawfully admitted to the United States for permanent residence.

(2) Paragraph (1) of this subsection does not apply to—

(A) a yacht;

(B) a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)); and

(C) a fishing vessel fishing outside of the exclusive economic zone.

(3) The Secretary may waive a citizenship *or noncitizen nationality* requirement under this section, other than a requirement that applies to the master of a documented vessel, with respect to—

(A) an offshore supply vessel or other similarly engaged vessel of less than 1,600 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title that operates from a foreign port;

(B) a mobile offshore drilling unit or other vessel engaged in support of exploration, exploitation, or production of offshore mineral energy resources operating beyond the water above the outer Continental Shelf (as that term is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)); and

(C) any other vessel if the Secretary determines, after an investigation, that qualified **【seamen】** *seafarers* who are citizens *or noncitizen nationals* of the United States are not available.

(c) On each departure of a vessel (except a passenger vessel) for which a construction differential subsidy has been granted, all of the **【seamen】** *seafarers* of the vessel must be citizens *or noncitizen nationals* of the United States.

(d)(1) On each departure of a passenger vessel for which a construction differential subsidy has been granted, at least 90 percent of the entire complement (including licensed individuals) must be citizens *or noncitizen nationals* of the United States.

(2) An individual not required by this subsection to be a citizen *or noncitizen national* of the United States may be engaged only if the individual has a declaration of intention to become a citizen *or noncitizen national* of the United States or other evidence of admission to the United States for permanent residence. An alien may be employed only in the steward's department of the passenger vessel.

(e) If a documented vessel is deprived for any reason of the services of an individual (except the master and the radio officer) when on a foreign voyage and a vacancy consequently occurs, until the vessel's return to a port at which in the most expeditious manner a replacement who is a citizen *or noncitizen national* of the United States can be obtained, an individual not a citizen *or noncitizen national* of the United States may serve in—

(1) the vacancy; or

(2) a vacancy resulting from the promotion of another individual to fill the original vacancy.

(f) A person employing an individual in violation of this section or a regulation prescribed under this section is liable to the United

States Government for a civil penalty of \$500 for each individual so employed.

(g) A deck or engineer officer employed on a vessel on which an operating differential subsidy is paid, or employed on a vessel (except a vessel of the Coast Guard or Great Lakes St. Lawrence Seaway Development Corporation) owned or operated by the Department of Transportation or by a corporation organized or controlled by the Department, if eligible, shall be a member of the Navy Reserve.

(h) The President may—

(1) suspend any part of this section during a proclaimed national emergency; and

(2) when the needs of commerce require, suspend as far and for a period the President considers desirable, subsection (a) of this section for crews of vessels of the United States documented for foreign trade.

(i)(1) Except as provided in paragraph (3) of this subsection, each unlicensed **[seaman]** *seafarer* on a fishing, fish processing, or fish tender vessel that is engaged in the fisheries in the navigable waters of the United States or the exclusive economic zone must be—

(A) a citizen or *noncitizen national* of the United States;

(B) an alien lawfully admitted to the United States for permanent residence;

(C) any other alien allowed to be employed under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

(D) an alien allowed to be employed under the immigration laws of the Commonwealth of the Northern Mariana Islands if the vessel is permanently stationed at a port within the Commonwealth and the vessel is engaged in the fisheries within the exclusive economic zone surrounding the Commonwealth or another United States territory or possession.

(2) Not more than 25 percent of the unlicensed **[seamen]** *seafarers* on a vessel subject to paragraph (1) of this subsection may be aliens referred to in clause (C) of that paragraph.

(3) This subsection does not apply to a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)).

(j) RIDING GANG MEMBER.—This section does not apply to an individual who is a riding gang member.

(k) CREW REQUIREMENTS FOR LARGE PASSENGER VESSELS.—

(1) CITIZENSHIP AND NATIONALITY.—Each unlicensed **[seaman]** *seafarer* on a large passenger vessel shall be—

(A) a citizen or *noncitizen national* of the United States;

(B) an alien lawfully admitted to the United States for permanent residence;

(C) an alien allowed to be employed in the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), including an alien crewman described in section 101(a)(15)(D)(i) of that Act (8 U.S.C. 1101(a)(15)(D)(i)), who meets the requirements of paragraph (3)(A) of this subsection; or

(D) a foreign national who is enrolled in the United States Merchant Marine Academy.

(2) PERCENTAGE LIMITATION FOR ALIEN SEAMEN.—Not more than 25 percent of the unlicensed **[seamen]** *seafarers* on a vessel described in paragraph (1) of this subsection may be aliens referred to in subparagraph (B) or (C) of that paragraph.

(3) SPECIAL RULES FOR CERTAIN UNLICENSED SEAMEN.—

(A) QUALIFICATIONS.—An unlicensed **[seaman]** *seafarer* described in paragraph (1)(C) of this subsection—

(i) shall have been employed, for a period of not less than 1 year, on a passenger vessel under the same common ownership or control as the vessel described in paragraph (1) of this subsection, as certified by the owner or managing operator of such vessel to the Secretary;

(ii) shall have no record of material disciplinary actions during such employment, as verified in writing by the owner or managing operator of such vessel to the Secretary;

(iii) shall have successfully completed a United States Government security check of the relevant domestic and international databases, as appropriate, or any other national security-related information or database;

(iv) shall have successfully undergone an employer background check—

(I) for which the owner or managing operator provides a signed report to the Secretary that describes the background checks undertaken that are reasonably and legally available to the owner or managing operator including personnel file information obtained from such **[seaman]** *seafarer* and from databases available to the public with respect to the **[seaman]** *seafarer*;

(II) that consisted of a search of all information reasonably available to the owner or managing operator in the seaman's country of citizenship and any other country in which the **[seaman]** *seafarer* receives employment referrals, or resides;

(III) that is kept on the vessel and available for inspection by the Secretary; and

(IV) the information derived from which is made available to the Secretary upon request; and

(v) may not be a citizen or temporary or permanent resident of a country designated by the United States as a sponsor of terrorism or any other country that the Secretary, in consultation with the Secretary of State and the heads of other appropriate United States agencies, determines to be a security threat to the United States.

(B) RESTRICTIONS.—An unlicensed **[seaman]** *seafarer* described in paragraph (1)(C) of this subsection—

(i) may be employed only in the steward's department of the vessel; and

(ii) may not perform watchstanding, automated engine room duty watch, or vessel navigation functions.

(C) STATUS, DOCUMENTATION, AND EMPLOYMENT.—An unlicensed [seaman] *seafarer* described in subparagraph (C) or (D) of paragraph (1) of this subsection—

(i) is deemed to meet the nationality requirements necessary to qualify for a merchant mariner's document notwithstanding the requirements of part 12 of title 46, Code of Federal Regulations;

(ii) is deemed to meet the proof-of-identity requirements necessary to qualify for a merchant mariner's document, as prescribed under regulations promulgated by the Secretary, if the [seaman] *seafarer* possesses—

(I) an unexpired passport issued by the government of the country of which the [seaman] *seafarer* is a citizen or subject; and

(II) an unexpired visa issued to the [seaman] *seafarer*, as described in paragraph (1)(C);

(iii) shall, if eligible, be issued a merchant mariner's document with an appropriate annotation reflecting the restrictions of subparagraph (B) of this paragraph; and

(iv) may be employed for a period of service on board not to exceed 36 months in the aggregate as a non-immigrant crewman described in section 101(a)(15)(D)(i) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(D)(i)) on vessels engaged in domestic voyages notwithstanding the departure requirements and time limitations of such section and section 252 of the Immigration and Nationality Act (8 U.S.C. 1282) and the regulations and rules promulgated thereunder.

(4) MERCHANT MARINER'S DOCUMENT REQUIREMENTS NOT AFFECTED.—This subsection shall not be construed to affect any requirement under Federal law that an individual must hold a merchant mariner's document.

(5) DEFINITIONS.—In this subsection:

(A) STEWARD'S DEPARTMENT.—The term "steward's department" means the department that includes entertainment personnel and all service personnel, including wait staff, housekeeping staff, and galley workers, as defined in the vessel security plan approved by the Secretary pursuant to section 70103(c) of this title.

(B) LARGE PASSENGER VESSEL.—The term "large passenger vessel" means a vessel of more than 70,000 gross tons, as measured under section 14302 of this title, with capacity for at least 2,000 passengers and documented with a coastwise endorsement under chapter 121 of this title.

(I) NONCITIZEN NATIONAL DEFINED.—*In this section, the term "noncitizen national" means an individual described in section 308 of the Immigration and Nationality Act (8 U.S.C. 1408).*

#### § 8104. Watches

(a) An owner, charterer, managing operator, master, individual in charge, or other person having authority may permit an officer

to take charge of the deck watch on a vessel when leaving or immediately after leaving port only if the officer has been off duty for at least 6 hours within the 12 hours immediately before the time of leaving.

(b) On an oceangoing or coastwise vessel of not more than 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title (except a fishing, fish processing, or fish tender vessel), a licensed individual may not be required to work more than 9 of 24 hours when in port, including the date of arrival, or more than 12 of 24 hours at sea, except in an emergency when life or property are endangered.

(c) On a towing vessel (except a towing vessel operated only for fishing, fish processing, fish tender, or engaged in salvage operations) operating on the Great Lakes, harbors of the Great Lakes, and connecting or tributary waters between Gary, Indiana, Duluth, Minnesota, Niagara Falls, New York, and Ogdensburg, New York, an individual in the deck or engine department may not be required to work more than 8 hours in one day or permitted to work more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period, except in an emergency when life or property are endangered.

(d) On a merchant vessel of more than 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title (except a vessel only operating on rivers, harbors, lakes (except the Great Lakes), bays, sounds, bayous, and canals, a fishing, fish tender, or whaling vessel, a fish processing vessel of not more than 5,000 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, yacht, or vessel engaged in salvage operations), the licensed individuals, sailors, and oilers shall be divided, when at sea, into at least 3 watches, and shall be kept on duty successively to perform ordinary work incident to the operation and management of the vessel. The requirement of this subsection applies to radio officers only when at least 3 radio officers are employed. An individual in the deck or engine department may not be required to work more than 8 hours in one day.

(e) On a vessel designated by subsection (d) of this section—

(1) an individual may not be—

(A) engaged to work alternately in the deck and engine departments; or

(B) required to work in the engine department if engaged for deck department duty or required to work in the deck department if engaged for engine department duty;

(2) an individual may not be required to do unnecessary work on Sundays, New Year's Day, July 4th, Labor Day, Thanksgiving Day, or Christmas Day, when the vessel is in a safe harbor, but this clause does not prevent dispatch of a vessel on a voyage; and

(3) when the vessel is in a safe harbor, 8 hours (including anchor watch) is a day's work.

(f) Subsections (d) and (e) of this section do not limit the authority of the master or other officer or the obedience of the **seamen** *seafarers* when, in the judgment of the master or other officer, any part of the crew is needed for—

- (1) maneuvering, shifting the berth of, mooring, or unmooring, the vessel;
- (2) performing work necessary for the safety of the vessel, or the vessel's passengers, crew, or cargo;
- (3) saving life on board another vessel in jeopardy; or
- (4) performing fire, lifeboat, or other drills in port or at sea.

(g)(1) On a towing vessel, an offshore supply vessel, or a barge to which this section applies, that is engaged on a voyage of less than 600 miles, the licensed individuals and crewmembers may be divided, when at sea, into at least 2 watches.

(2) Paragraph (1) applies to an offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title if the individuals engaged on the vessel are in compliance with hours of service requirements (including recording and recordkeeping of that service) as prescribed by the Secretary.

(h) On a vessel to which section 8904 of this title applies, an individual licensed to operate a towing vessel may not work for more than 12 hours in a consecutive 24-hour period except in an emergency.

(i) A person violating subsection (a) or (b) of this section is liable to the United States Government for a civil penalty of \$10,000.

(j) The owner, charterer, or managing operator of a vessel on which a violation of subsection (c), (d), (e), or (h) of this section occurs is liable to the Government for a civil penalty of \$10,000. The individual is entitled to discharge from the vessel and receipt of wages earned.

(k) On a fish processing vessel subject to inspection under part B of this subtitle, the licensed individuals and deck crew shall be divided, when at sea, into at least 3 watches.

(l) Except as provided in subsection (k) of this section, on a fish processing vessel, the licensed individuals and deck crew shall be divided, when at sea, into at least 2 watches if the vessel—

- (1) entered into service before January 1, 1988, and is more than 1,600 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; or
- (2) entered into service after December 31, 1987, and has more than 16 individuals on board primarily employed in the preparation of fish or fish products.

(m) This section does not apply to a fish processing vessel—

- (1) entered into service before January 1, 1988, and not more than 1,600 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; or
- (2) entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products.

(n) On a tanker, a licensed individual or **seaman** *seafarer* may not be permitted to work more than 15 hours in any 24-hour pe-

riod, or more than 36 hours in any 72-hour period, except in an emergency or a drill. In this subsection, “work” includes any administrative duties associated with the vessel whether performed on board the vessel or onshore.

(o)(1) Except as provided in paragraph (2) of this subsection, on a fish tender vessel of not more than 500 gross tons as measured under section 14502 of this title, or less than 500 gross tons as measured under section 14502 of this title, or is less than 2,500 gross tons as measured under section 14302 of this title engaged in the Aleutian trade, the licensed individuals and crewmembers shall be divided, when at sea, into at least 3 watches.

(2) On a fish tender vessel of not more than 500 gross tons as measured under section 14502 of this title, or less than 500 gross tons as measured under section 14502 of this title, or is less than 2,500 gross tons as measured under section 14302 of this title engaged in the Aleutian trade, the licensed individuals and crewmembers shall be divided, when at sea, into at least 2 watches, if the vessel—

(A) before September 8, 1990, operated in that trade; or

(B)(i) before September 8, 1990, was purchased to be used in that trade; and

(ii) before June 1, 1992, entered into service in that trade.

(p) The Secretary may prescribe the watchstanding and work hours requirements for an oil spill response vessel.

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#### § 8106. Riding gangs

(a) IN GENERAL.—The owner or managing operator of a freight vessel of the United States on voyages covered by the International Convention for Safety of Life at Sea, 1974 (32 UST 47m) shall—

(1) ensure that—

(A) subject to subsection (d), each riding gang member on the vessel—

(i) is a United States citizen or an alien lawfully admitted to the United States for permanent residence;

or

(ii) possesses a United States nonimmigrant visa for individuals desiring to enter the United States temporarily for business, employment-related and personal identifying information, and any other documentation required by the Secretary;

(B) all required documentation for such member is kept on the vessel and available for inspection by the Secretary; and

(C) each riding gang member is identified on the vessel’s crew list;

(2) ensure that—

(A) the owner or managing operator attests in a certificate that the background of each riding gang member has been examined and found to be free of any credible information indicating a material risk to the security of the vessel, the vessel’s cargo, the ports the vessel visits, or other individuals onboard the vessel;

(B) the background check consisted of a search of all information reasonably available to the owner or managing

operator in the riding gang member's country of citizenship and any other country in which the riding gang member works, receives employment referrals, or resides;

(C) the certificate required under subparagraph (A) is kept on the vessel and available for inspection by the Secretary; and

(D) the information derived from any such background check is made available to the Secretary upon request;

(3) ensure that each riding gang member, while on board the vessel, is subject to the same random chemical testing and reporting regimes as crew members;

(4) ensure that each such riding gang member receives basic safety familiarization and basic safety training approved by the Coast Guard as satisfying the requirements for such training under the International Convention of Training, Certification, and Watchkeeping for Seafarers, 1978;

(5) prevent from boarding the vessel, or cause the removal from the vessel at the first available port, and disqualify from future service on board any other vessel owned or operated by that owner or operator, any riding gang member—

(A) who has been convicted in any jurisdiction of an offense described in paragraph (2) or (3) of section 7703;

(B) whose license, certificate of registry, or merchant mariner's document has been suspended or revoked under section 7704; or

(C) who otherwise constitutes a threat to the safety of the vessel;

(6) ensure and certify to the Secretary that the sum of—

(A) the number of riding gang members on board a freight vessel, and

(B) the number of individuals in addition to crew permitted under section 3304, does not exceed 12;

(7) ensure that every riding gang member is employed on board the vessel under conditions that meet or exceed the minimum international standards of all applicable international labor conventions to which the United States is a party, including all of the merchant **seamen** *seafarers* protection and relief provided under United States law; and

(8) ensure that each riding gang member—

(A) is supervised by an individual who holds a license issued under chapter 71; and

(B) only performs work in conjunction with individuals who hold merchant mariners documents issued under chapter 73 and who are part of the vessel's crew.

(b) PERMITTED WORK.—Subject to subsection (f), a riding gang member on board a vessel to which subsection (a) applies who is neither a United States citizen nor an alien lawfully admitted to the United States for permanent residence may not perform any work on board the vessel other than—

(1) work in preparation of a vessel entering a shipyard located outside of the United States;

(2) completion of the residual repairs after departing a shipyard located outside of the United States; or

(3) technical in-voyage repairs, in excess of any repairs that can be performed by the vessel's crew, in order to advance the vessel's useful life without having to actually enter a shipyard.

(c) WORKDAY LIMIT.—

(1) IN GENERAL.—The maximum number of days in any calendar year that the owner or operator of a vessel to which subsection (a) applies may employ on board riding gang members who are neither United States citizens nor aliens lawfully admitted to the United States for permanent residence for work on board that vessel is 60 days. If the vessel is at sea on the 60th day, each riding gang member shall be discharged from the vessel at the next port of call reached by the vessel after the date on which the 60-workday limit is reached.

(2) CALCULATION.—For the purpose of calculating the 60-workday limit under this subsection, each day worked by a riding gang member who is neither a United States citizen nor an alien lawfully admitted to the United States for permanent residence shall be counted against the limitation.

(d) EXCEPTIONS FOR WARRANTY WORK.—

(1) IN GENERAL.—Subsections (b), (c), (e), and (f) do not apply to a riding gang member employed exclusively to perform, and who performs only, work that is—

(A) customarily performed by original equipment manufacturers' technical representatives;

(B) required by a manufacturer's warranty on specific machinery and equipment; or

(C) required by a contractual guarantee or warranty on actual repairs performed in a shipyard located outside of the United States.

(2) CITIZENSHIP REQUIREMENT.—Subsection (a)(1)(A) applies only to a riding gang member described in paragraph (1) who is on the vessel when it calls at a United States port.

(e) RECORDKEEPING.—In addition to the requirements of subsection (a), the owner or managing operator of a vessel to which subsection (a) applies shall ensure that all information necessary to ensure compliance with this section, as determined by the Secretary, is entered into the vessel's official logbook required by chapter 113.

(f) FAILURE TO EMPLOY QUALIFIED AVAILABLE U.S. CITIZENS OR RESIDENTS.—

(1) IN GENERAL.—The owner or operator of a vessel to which subsection (a) applies may not employ a riding gang member who is neither a United States citizen nor an alien lawfully admitted to the United States for permanent residence to perform work described in subsection (b) unless the owner or operator determines, in accordance with procedures established by the Secretary to carry out section 8103(b)(3)(C), that there is not a sufficient number of United States citizens or individuals lawfully admitted to the United States for permanent residence who are qualified and available for the work for which the riding gang member is to be employed.

(2) CIVIL PENALTY.—A violation of paragraph (1) is punishable by a civil penalty of not more than \$10,000 for each day during which the violation continues.

(3) CONTINUING VIOLATIONS.—The maximum amount of a civil penalty for a violation under this subsection shall be \$100,000.

(4) DETERMINATION OF AMOUNT.—In determining the amount of the penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, the history of prior offenses, the ability to pay, and such other matters as justice may require.

(5) COMPROMISE, MODIFICATION, AND REMITTAL.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.

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**§ 8109. Exemptions from manning and crew requirements**

(a) *IN GENERAL.*—The Secretary may provide an exemption described in subsection (b) to the owner or operator of a covered facility if each individual who is manning or crewing the covered facility is—

- (1) a citizen of the United States;
- (2) an alien lawfully admitted to the United States for permanent residence; or
- (3) a citizen of the nation under the laws of which the vessel is documented.

(b) *REQUIREMENTS FOR ELIGIBILITY FOR EXEMPTION.*—An exemption under this subsection is an exemption from the regulations established pursuant to section 302(a)(3) of the Outer Continental Shelf Lands Act (43 U.S.C. 1356(a)(3)).

(c) *LIMITATIONS.*—An exemption under this section—

(1) shall provide that the number of individuals manning or crewing the covered facility who are described in paragraphs (2) and (3) of subsection (a) may not exceed two and one-half times the number of individuals required to man or crew the covered facility under the laws of the nation under the laws of which the covered facility is documented; and

(2) shall be effective for not more than 12 months, but may be renewed by application to and approval by the Secretary.

(d) *APPLICATION.*—To be eligible for an exemption or a renewal of an exemption under this section, the owner or operator of a covered facility shall apply to the Secretary with an application that includes a sworn statement by the applicant of all information required for the issuance of the exemption.

(e) *REVOCATION.*—

(1) *IN GENERAL.*—The Secretary—

(A) may revoke an exemption for a covered facility under this section if the Secretary determines that information provided in the application for the exemption was false or incomplete, or is no longer true or complete; and

(B) shall immediately revoke such an exemption if the Secretary determines that the covered facility, in the effective period of the exemption, was manned or crewed in a manner not authorized by the exemption.

(2) *NOTICE REQUIRED.*—The Secretary shall provide notice of a determination under subparagraph (A) or (B) of paragraph (1) to the owner or operator of the covered facility.

(f) *REVIEW OF COMPLIANCE.*—The Secretary shall periodically, but not less than once annually, inspect each covered facility that operates under an exemption under this section to verify the owner or operator of the covered facility's compliance with the exemption. During an inspection under this subsection, the Secretary shall require all crew members serving under the exemption to hold a valid transportation security card issued under section 70105.

(g) *PENALTY.*—In addition to revocation under subsection (e), the Secretary may impose on the owner or operator of a covered facility a civil penalty of \$10,000 per day for each day the covered facility—

(1) is manned or crewed in violation of an exemption under this subsection; or

(2) operated under an exemption under this subsection that the Secretary determines was not validly obtained.

(h) *NOTIFICATION OF SECRETARY OF STATE.*—The Secretary shall notify the Secretary of State of each exemption issued under this section, including the effective period of the exemption.

(i) *DEFINITIONS.*—In this section:

(1) *COVERED FACILITY.*—The term “covered facility” means any vessel, rig, platform, or other vehicle or structure, over 50 percent of which is owned by citizens of a foreign nation or with respect to which the citizens of a foreign nation have the right effectively to control, except to the extent and to the degree that the President determines that the government of such foreign nation or any of its political subdivisions has implemented, by statute, regulation, policy, or practice, a national manning requirement for equipment engaged in the exploring for, developing, or producing resources, including non-mineral energy resources in its offshore areas.

(2) *SECRETARY.*—The term “Secretary” means the Secretary of the department in which the Coast Guard is operating.

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**CHAPTER 87—UNLICENSED PERSONNEL**

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**§ 8702. Certain crew requirements**

(a) This section applies to a vessel of at least 100 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title except—

(1) a vessel operating only on rivers and lakes (except the Great Lakes);

(2) a barge (except a seagoing barge or a barge to which chapter 37 of this title applies);

(3) a fishing, fish tender, or whaling vessel (except a fish tender vessel engaged in the Aleutian trade) or a yacht;

(4) a sailing school vessel with respect to sailing school instructors and sailing school students;

(5) an oceanographic research vessel with respect to scientific personnel;

(6) a fish processing vessel entered into service before January 1, 1988, and not more than 1,600 gross tons as measured under section 14502 of this title, or an alternate tonnage meas-

ured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title or entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products; and

(7) a fish processing vessel (except a vessel to which clause (6) of this subsection applies) with respect to individuals on board primarily employed in the preparation of fish or fish products or in a support position not related to navigation.

(b) A vessel may operate only if at least—

(1) 75 percent of the crew in each department on board is able to understand any order spoken by the officers, and

(2) 65 percent of the deck crew (excluding licensed individuals) have merchant mariners' documents endorsed for a rating of at least able [seaman] *seafarer*, except that this percentage may be reduced to 50 percent—

(i) on a vessel permitted under section 8104 of this title to maintain a 2-watch system; or

(ii) on a fish tender vessel engaged in the Aleutian trade.

(c) An able [seaman] *seafarer* is not required on a towing vessel operating on bays and sounds connected directly with the seas.

(d) An individual having a rating of less than able [seaman] *seafarer* may not be permitted at the wheel in ports, harbors, and other waters subject to congested vessel traffic, or under conditions of reduced visibility, adverse weather, or other hazardous circumstances.

(e) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel operated in violation of this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of \$10,000.

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**CHAPTER 91—TANK VESSEL MANNING STANDARDS**

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**§ 9101. Standards for foreign tank vessels**

(a)(1) The Secretary shall evaluate the manning, training, qualification, and watchkeeping standards of a foreign country that issues documentation for any vessel to which chapter 37 of this title applies—

(A) on a periodic basis; and

(B) when the vessel is involved in a marine casualty required to be reported under section 6101(a)(4) or (5) of this title.

(2) After each evaluation made under paragraph (1) of this subsection, the Secretary shall determine whether—

(A) the foreign country has standards for licensing and certification of [seamen] *seafarers* that are at least equivalent to United States law or international standards accepted by the United States; and

(B) those standards are being enforced.

(3) If the Secretary determines under this subsection that a country has failed to maintain or enforce standards at least equivalent

to United States law or international standards accepted by the United States, the Secretary shall prohibit vessels issued documentation by that country from entering the United States until the Secretary determines those standards have been established and are being enforced.

(4) The Secretary may allow provisional entry of a vessel prohibited from entering the United States under paragraph (3) of this subsection if—

(A) the owner or operator of the vessel establishes, to the satisfaction of the Secretary, that the vessel is not unsafe or a threat to the marine environment; or

(B) the entry is necessary for the safety of the vessel or individuals on the vessel.

(b) A foreign vessel to which chapter 37 of this title applies that has on board oil or hazardous material in bulk as cargo or cargo residue shall have a specified number of personnel certified as tankerman or equivalent, as required by the Secretary, when the vessel transfers oil or hazardous material in a port or place subject to the jurisdiction of the United States. The requirement of this subsection shall be noted in applicable terminal operating procedures. A transfer operation may take place only if the crewmember in charge is capable of clearly understanding instructions in English.

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## PART H—IDENTIFICATION OF VESSELS

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### CHAPTER 121—DOCUMENTATION OF VESSELS

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#### SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION

##### § 12111. Registry endorsement

(a) REQUIREMENTS.—A registry endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

(b) AUTHORIZED ACTIVITY.—A vessel for which a registry endorsement is issued may engage in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

(c) CERTAIN VESSELS OWNED BY TRUSTS.—

(1) NONAPPLICATION OF BENEFICIARY CITIZENSHIP REQUIREMENT.—For the issuance of a certificate of documentation with only a registry endorsement, the beneficiaries of a trust are not required to be citizens of the United States if the trust qualifies under paragraph (2) and the vessel is subject to a charter to a citizen of the United States.

(2) REQUIREMENTS FOR TRUST TO QUALIFY.—

(A) IN GENERAL.—Subject to subparagraph (B), a trust qualifies under this paragraph with respect to a vessel only if—

(i) each trustee is a citizen of the United States; and

(ii) the application for documentation of the vessel includes the affidavit of each trustee stating that the trustee is not aware of any reason involving a beneficiary of the trust that is not a citizen of the United States, or involving any other person that is not a citizen of the United States, as a result of which the beneficiary or other person would hold more than 25 percent of the aggregate power to influence or limit the exercise of the authority of the trustee with respect to matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States.

(B) AUTHORITY OF NON-CITIZENS.—If any person that is not a citizen of the United States has authority to direct or participate in directing a trustee for a trust in matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States or in removing a trustee for a trust without cause, either directly or indirectly through the control of another person, the trust is not qualified under this paragraph unless the trust instrument provides that persons who are not citizens of the United States may not hold more than 25 percent of the aggregate authority to so direct or remove a trustee.

(C) OWNERSHIP BY NON-CITIZENS.—Subparagraphs (A) and (B) do not prohibit a person that is not a citizen of the United States from holding more than 25 percent of the beneficial interest in a trust.

(3) CITIZENSHIP OF PERSON CHARTERING VESSEL.—If a person chartering a vessel from a trust that qualifies under paragraph (2) is a citizen of the United States under section 50501 of this title, the vessel is deemed to be owned by a citizen of the United States for purposes of that section and related laws, except chapter 531 of this title.

(d) ACTIVITIES INVOLVING MOBILE OFFSHORE DRILLING UNITS.—  
(1) IN GENERAL.—Only a vessel for which a certificate of documentation with a registry endorsement is issued may engage in—

(A) the setting, relocation, or recovery of the anchors or other mooring equipment of a mobile offshore drilling unit *or other energy production or transmission facility, or vessel engaged in the launch, recovery, or support of commercial space transportation or space exploration activities* that is located over the outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a))); or

(B) the transportation of merchandise or personnel to or from a point in the United States from or to a mobile offshore drilling unit *or other energy production or transmission facility, or vessel engaged in the launch, recovery, or support of commercial space transportation or space exploration activities* located over the outer Continental Shelf that is not attached to the seabed.

(2) COASTWISE TRADE NOT AUTHORIZED.—Nothing in paragraph (1) authorizes the employment in the coastwise trade of

a vessel that does not meet the requirements of section 12112 of this title.

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SUBCHAPTER III—MISCELLANEOUS

§ 12131. Command of documented vessels

(a) IN GENERAL.—Except as provided in subsection (b), a documented vessel may be placed under the command only of a citizen or noncitizen national (as such term is described in section 308 of the Immigration and Nationality Act (8 U.S.C. 1408)) of the United States.

(b) EXCEPTIONS.—Subsection (a) does not apply to—

- (1) a vessel with only a recreational endorsement; or
(2) an unmanned barge operating outside of the territorial waters of the United States.

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§ 12135. Invalidation of certificates of documentation

A certificate of documentation or an endorsement on the certificate is invalid if the vessel for which it is issued—

- (1) no longer meets the requirements of this chapter and regulations prescribed under this chapter applicable to the certificate or endorsement; or
(2) is placed under the command of an individual not a citizen or noncitizen national (as such term is described in section 308 of the Immigration and Nationality Act (8 U.S.C. 1408)) of the United States in violation of section 12131 of this title.

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PART K—NATIONAL MARITIME TRANSPORTATION ADVISORY COMMITTEES

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CHAPTER 151—NATIONAL MARITIME TRANSPORTATION ADVISORY COMMITTEES

Sec. 15101. National Chemical Transportation Safety Advisory Committee.

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15110. Establishment of a national advisory committee on autonomous maritime systems.

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§ 15110. Establishment of a national advisory committee on autonomous maritime systems

(a) ESTABLISHMENT.—There is established a National Advisory Committee on Autonomous Maritime Systems (in this section referred to as the "Committee").

(b) FUNCTION.—The Committee shall advise the Secretary on matters relating to the regulation and use of Autonomous Systems within the territorial waters of the United States.

(c) *MEMBERSHIP.*—

(1) *IN GENERAL.*—*The Committee shall consist of 8 members appointed by the Secretary in accordance with this section and section 15109.*

(2) *EXPERTISE.*—*Each member of the Committee shall have particular expertise, knowledge, and experience in matters relating to the function of the Committee.*

(3) *REPRESENTATION.*—*Each of the following groups shall be represented by at least 1 member on the Committee:*

(A) *Marine safety or security entities.*

(B) *Vessel design and construction entities.*

(C) *Entities engaged in the production or research of unmanned vehicles, including drones, autonomous or semi-autonomous vehicles, or any other product or service integral to the provision, maintenance, or management of such products or services.*

(D) *Port districts, authorities, or terminal operators.*

(E) *Vessel operators.*

(F) *National labor unions representing merchant mariners.*

(G) *Maritime pilots.*

(H) *Commercial space transportation operators.*

(I) *Academic institutions.*

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**SUBTITLE V—MERCHANT MARINE**

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**PART D—PROMOTIONAL PROGRAMS**

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**CHAPTER 551—COASTWISE TRADE**

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**§ 55102. Transportation of merchandise**

(a) *DEFINITION.*—*In this section, the term “merchandise” includes—*

(1) *merchandise owned by the United States Government, a State, or a subdivision of a State; and*

(2) *valueless material.*

(b) *REQUIREMENTS.*—*Except as otherwise provided in this chapter or chapter 121 of this title, a vessel may not provide any part of the transportation of merchandise by water, or by land and water, between points in the United States to which the coastwise laws apply, either directly or via a foreign port, unless the vessel—*

(1) *is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and*

(2) *has been issued a certificate of documentation with a coastwise endorsement under chapter 121 or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.*

(c) PENALTY.—Merchandise transported in violation of subsection (b) is liable to seizure by and forfeiture to the Government. Alternatively, an amount equal to the value of the merchandise (as determined by the Secretary of Homeland Security) or the actual cost of the transportation, whichever is greater, may be recovered from any person transporting the merchandise or causing the merchandise to be transported.

(d) PUBLICATION OF PENALTY.—

(1) IN GENERAL.—*Not later than 14 days after the issuance of a pre-penalty notice or a penalty, including a settlement, under subsection (c), the Secretary of Homeland Security shall publish such pre-penalty notice or a notification of such penalty in the Customs Bulletin and Decisions to the party impacted by the penalty.*

(2) CONTENTS.—*A pre-penalty notice or penalty notification published under paragraph (1) shall include—*

*(A) the name and the International Maritime Organization identification number of the vessel that is the subject of the penalty;*

*(B) the name of the owner of the vessel that is the subject of the penalty;*

*(C) the amount of the fine or value of merchandise seized; and*

*(D) a summary of the alleged misconduct and justification for imposing a penalty.*

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**SUBTITLE VII—SECURITY AND DRUG ENFORCEMENT**

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**CHAPTER 700—PORTS AND WATERWAYS SAFETY**

\* \* \* \* \*

**SUBCHAPTER II—PORTS AND WATERWAYS SAFETY**

**§ 70011. Waterfront safety**

(a) IN GENERAL.—The Secretary may take such action as is necessary to—

(1) prevent damage to, or the destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to such waters, *including damage or destruction resulting from cyber incidents, transnational organized crime, or foreign state threats*; and

(2) protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss or *harm resulting from cyber incidents, transnational organized crime, or foreign state threats.*

(b) ACTIONS AUTHORIZED.—Actions authorized by subsection (a) include—

(1) establishing procedures, measures, and standards for the handling, loading, unloading, storage, stowage, and movement

on a structure (including the emergency removal, control, and disposition) of explosives or other dangerous articles and substances, including oil or hazardous material as those terms are defined in section 2101;

(2) prescribing minimum safety equipment requirements for a structure to assure adequate protection from fire, explosion, natural disaster, and other serious accidents or casualties;

(3) establishing water or waterfront safety zones, or other measures, for limited, controlled, or conditional access and activity when necessary for the protection of any vessel, structure, waters, or shore area; **[and]**

(4) establishing procedures for examination to assure compliance with the requirements prescribed under this section**[.]**; *and*

(5) *prohibiting a representative of a government of a country that the Secretary of State has determined has repeatedly provided support for acts of international terrorism under section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) from visiting a facility for which a facility security plan is required under section 70103(c).*

(c) STATE LAW.—Nothing in this section, with respect to structures, prohibits a State or political subdivision thereof from prescribing higher safety equipment requirements or safety standards than those that may be prescribed by regulations under this section.

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SUBCHAPTER III—CONDITION FOR ENTRY INTO PORTS IN THE UNITED STATES

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**§ 70022. Prohibition on entry and operation**

(a) PROHIBITION.—

(1) IN GENERAL.—Except as otherwise provided in this section, no vessel described in subsection (b) may enter or operate in the navigable waters of the United States or transfer cargo in any port or place under the jurisdiction of the United States.

(2) LIMITATIONS ON APPLICATION.—

(A) IN GENERAL.—The prohibition under paragraph (1) shall not apply with respect to—

(i) a vessel described in subsection (b)(1), if the Secretary of State determines that—

(I) the vessel is owned or operated by or on behalf of a country the government of which the Secretary of State determines is closely cooperating with the United States with respect to implementing the applicable United Nations Security Council resolutions (as such term is defined in section 3 of the North Korea Sanctions and Policy Enhancement Act of 2016); or

(II) it is in the national security interest not to apply the prohibition to such vessel; or

(ii) a vessel described in subsection (b)(2), if the Secretary of State determines that the vessel is no longer registered as described in that subsection.

(B) NOTICE.—Not later than 15 days after making a determination under subparagraph (A), the Secretary of State shall submit to the Committee on Foreign Affairs and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate written notice of the determination and the basis upon which the determination was made.

(C) PUBLICATION.—The Secretary of State shall publish a notice in the Federal Register of each determination made under subparagraph (A).

(b) VESSELS DESCRIBED.—A vessel referred to in subsection (a) is a foreign vessel for which a notice of arrival is required to be filed under section 70001(a)(5), and that—

(1) is on the most recent list of vessels published in [Federal Register] *the Federal Register* under subsection (c)(2); or

(2) more than 180 days after the publication of such list, is knowingly registered, pursuant to the 1958 Convention on the High Seas entered into force on September 30, 1962, by a government the agents or instrumentalities of which are maintaining a registration of a vessel that is included on such list.

(c) INFORMATION AND PUBLICATION.—The Secretary of the department in which the Coast Guard is operating, with the concurrence of the Secretary of State, shall—

(1) maintain timely information on the registrations of all foreign vessels over 300 gross tons that are known to be—

(A) owned or operated by or on behalf of the Government of North Korea or a North Korean person;

(B) owned or operated by or on behalf of any country in which a sea port is located, the operator of which the President has identified in the most recent report submitted under section 205(a)(1)(A) of the North Korea Sanctions and Policy Enhancement Act of 2016; or

(C) owned or operated by or on behalf of any country identified by the President as a country that has not complied with the applicable United Nations Security Council resolutions (as such term is defined in section 3 of such Act); and

(2) periodically publish in the Federal Register a list of the vessels described in paragraph (1).

(d) NOTIFICATION OF GOVERNMENTS.—

(1) IN GENERAL.—The Secretary of State shall notify each government, the agents or instrumentalities of which are maintaining a registration of a foreign vessel that is included on a list published under subsection (c)(2), not later than 30 days after such publication, that all vessels registered under such government's authority are subject to subsection (a).

(2) ADDITIONAL NOTIFICATION.—In the case of a government that continues to maintain a registration for a vessel that is included on such list after receiving an initial notification under paragraph (1), the Secretary shall issue an additional

notification to such government not later than 120 days after the publication of a list under subsection (c)(2).

(e) NOTIFICATION OF VESSELS.—Upon receiving a notice of arrival under section 70001(a)(5) from a vessel described in subsection (b), the Secretary of the department in which the Coast Guard is operating shall notify the master of such vessel that the vessel may not enter or operate in the navigable waters of the United States or transfer cargo in any port or place under the jurisdiction of the United States, unless—

(1) the Secretary of State has made a determination under subsection (a)(2); or

(2) the Secretary of the department in which the Coast Guard is operating allows provisional entry of the vessel, or transfer of cargo from the vessel, under subsection (f).

(f) PROVISIONAL ENTRY OR CARGO TRANSFER.—Notwithstanding any other provision of this section, the Secretary of the department in which the Coast Guard is operating may allow provisional entry of, or transfer of cargo from, a vessel, if such entry or transfer is necessary for the safety of the vessel or persons aboard.

(g) RIGHT OF INNOCENT PASSAGE AND RIGHT OF TRANSIT PASSAGE.—This section shall not be construed as authority to restrict the right of innocent passage or the right of transit passage as recognized under international law.

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#### SUBCHAPTER VI—REGULATION OF VESSELS IN TERRITORIAL WATERS OF UNITED STATES

##### **§ 70051. Regulation of anchorage and movement of vessels during national emergency**

Whenever the President by proclamation or Executive order declares a national emergency to exist by reason of actual or threatened war, insurrection, or invasion, or disturbance or threatened disturbance of the international relations of the United States, or whenever the Attorney General determines that an actual or anticipated mass migration of aliens en route to, or arriving off the coast of, the United States presents urgent circumstances requiring an immediate Federal response, the Secretary of the department in which the Coast Guard is operating may make, subject to the approval of the President, rules and regulations governing the anchorage and movement of any vessel, foreign or domestic, in the territorial waters of the United States, may inspect such vessel at any time, place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters of the United States, or to secure the observance of the rights and obligations of the United States, may take, by and with the consent of the President, for such purposes, full possession and control of such vessel and remove therefrom the officers and crew thereof and all other persons not specially authorized by him to go or remain on board thereof.

Whenever the President finds that the security of the United States is endangered by reason of actual or threatened war, or invasion, or insurrection, or subversive activity, or *cyber incidents*, or *transnational organized crime*, or *foreign state threats*, or of disturbances or threatened disturbances of the international relations

of the United States, the President is authorized to institute such measures and issue such rules and regulations—

(a) to govern the anchorage and movement of any foreign-flag vessels in the territorial waters of the United States, to inspect such vessels at any time, to place guards thereon, and, if necessary in his opinion in order to secure such vessels from damage or injury, or to prevent damage or injury to any harbor or waters of the United States, or to secure the observance of rights and obligations of the United States, may take for such purposes full possession and control of such vessels and remove therefrom the officers and crew thereof, and all other persons not especially authorized by him to go or remain on board thereof;

(b) to safeguard against destruction, loss, or injury from sabotage or other subversive acts, accidents, or other causes of similar nature, vessels, harbors, ports, and waterfront facilities in the United States and all territory and water, continental or insular, subject to the jurisdiction of the United States.

The President may delegate the authority to issue such rules and regulations to the Secretary of the department in which the Coast Guard is operating. Any appropriation available to any of the Executive Departments shall be available to carry out the provisions of this subchapter.

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**CHAPTER 701—PORT SECURITY**

\* \* \* \* \*

**SUBCHAPTER I—GENERAL**

\* \* \* \* \*

**§ 70116. Port, harbor, and coastal facility security**

(a) GENERAL AUTHORITY.—The Secretary may take actions described in subsection (b) to prevent or respond to an act of terrorism, cyber incidents, transnational organized crime, and foreign state threats against—

(1) an individual, vessel, or public or commercial structure, that is—

- (A) subject to the jurisdiction of the United States; and
- (B) located within or adjacent to the marine environment; or

(2) a vessel of the United States or an individual on board that vessel.

(b) SPECIFIC AUTHORITY.—Under subsection (a), the Secretary may—

(1) carry out or require measures, including inspections, port and harbor patrols, the establishment of security and safety zones, and the development of contingency plans and procedures, to prevent or respond to acts of **terrorism cyber terrorism, cyber incidents, transnational organized crime, and foreign state threats;**

(2) recruit members of the Regular Coast Guard and the Coast Guard Reserve and train members of the Regular Coast Guard and the Coast Guard Reserve in the techniques of pre-

venting and responding to acts of terrorism, cyber incidents, transnational organized crime, and foreign state threats; and (3) dispatch properly trained and qualified, armed (as needed), Coast Guard personnel on vessels and public or commercial structures on or adjacent to waters subject to United States jurisdiction to deter or respond to acts of terrorism, cyber incidents, transnational organized crime, foreign state threats, or transportation security incidents, as defined in section 70101 of title 46, United States Code.

(c) DEFINITIONS, ADMINISTRATION, AND ENFORCEMENT.—This section shall be treated as part of chapter 700 for purposes of sections 70031, 70032, 70033, 70035, and 70036. When preventing or responding to acts of terrorism, cyber incidents, transnational organized crime, or foreign state threats, the Secretary may carry out this section without regard to chapters 5 and 6 of title 5 or Executive Order Nos. 12866 and 13563.

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**§ 70118. Enforcement by State and local officers**

(a) IN GENERAL.—Any State or local government law enforcement officer who has authority to enforce State criminal laws may make an arrest for violation of a security zone regulation prescribed under [section 1 of title II of the Act of June 15, 1917 (chapter 30; 50 U.S.C. 191)] *section 70051* or security or safety zone regulation under [section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b))] *section 70116(b)* or a safety zone regulation prescribed under section 10(d) of the Deepwater Port Act of 1974 (33 U.S.C. 1509(d)) by a Coast Guard official authorized by law to prescribe such regulations, if—

- (1) such violation is a felony; and
- (2) the officer has reasonable grounds to believe that the person to be arrested has committed or is committing such violation.

(b) OTHER POWERS NOT AFFECTED.—The provisions of this section are in addition to any power conferred by law to such officers. This section shall not be construed as a limitation of any power conferred by law to such officers, or any other officer of the United States or any State. This section does not grant to such officers any powers not authorized by the law of the State in which those officers are employed.

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SUBCHAPTER II—PORT SECURITY ZONES

**§ 70131. Definitions**

In this subchapter:

- (1) LAW ENFORCEMENT AGENCY.—The term “law enforcement agency” means an agency of a State, a political subdivision of a State, or a Federally recognized tribe that is authorized by law to supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.
- (2) SECURITY ZONE.—The term “security zone” means a security zone, established by the Commandant of the Coast Guard or the Commandant’s designee pursuant to [section 1 of title

II of the Act of June 15, 1917 (50 U.S.C. 191)] *section 70051* or [section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b))] *section 70116(b)*, for a vessel carrying especially hazardous cargo when such vessel—

(A) enters, or operates within, the internal waters of the United States and the territorial sea of the United States;

or

(B) transfers such cargo or residue in any port or place, under the jurisdiction of the United States, within the territorial sea of the United States or the internal waters of the United States.

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**CHAPTER 705—MARITIME DRUG LAW ENFORCEMENT**

\* \* \* \* \*

**§ 70503. Prohibited acts**

(a) PROHIBITIONS.—[While on board a covered vessel, an individual] *An individual* may not knowingly or intentionally—

[(1) manufacture or distribute, or possess with intent to manufacture or distribute, a controlled substance;]

*(1) manufacture or distribute, possess with intent to manufacture or distribute, or place or cause to be placed with intent to manufacture or distribute a controlled substance on board a covered vessel;*

(2) destroy (including jettisoning any item or scuttling, burning, or hastily cleaning a vessel), or attempt or conspire to destroy, property that is subject to forfeiture under section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) *aboard a covered vessel*; or

(3) conceal, or attempt or conspire to conceal, more than \$100,000 in currency or other monetary instruments on the person of such individual or in any conveyance, article of luggage, merchandise, or other container, or compartment of or aboard the covered vessel if that vessel is outfitted for smuggling.

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

(c) NONAPPLICATION.—

(1) IN GENERAL.—Subject to paragraph (2), subsection (a) does not apply to—

(A) a common or contract carrier or an employee of the carrier who possesses or distributes a controlled substance in the lawful and usual course of the carrier’s business; or

(B) a public vessel of the United States or an individual on board the vessel who possesses or distributes a controlled substance in the lawful course of the individual’s duties.

(2) ENTERED IN MANIFEST.—Paragraph (1) applies only if the controlled substance is part of the cargo entered in the vessel’s manifest and is intended to be imported lawfully into the country of destination for scientific, medical, or other lawful purposes.

(d) BURDEN OF PROOF.—The United States Government is not required to negative a defense provided by subsection (c) in a complaint, information, indictment, or other pleading or in a trial or other proceeding. The burden of going forward with the evidence supporting the defense is on the person claiming its benefit.

(e) COVERED VESSEL DEFINED.—In this section the term “covered vessel” means—

(1) a vessel of the United States or a vessel subject to the jurisdiction of the United States; or

(2) any other vessel if the individual is a citizen of the United States or a resident alien of the United States.

\* \* \* \* \*

**DON YOUNG COAST GUARD AUTHORIZATION ACT OF 2022**

**DIVISION K—DON YOUNG COAST GUARD AUTHORIZATION ACT OF 2022**

**SEC. 11001. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This division may be cited as the “Don Young Coast Guard Authorization Act of 2022”.

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

Sec. 11001. Short title; table of contents.

\* \* \* \* \*

**TITLE CXII—COAST GUARD**

\* \* \* \* \*

**Subtitle G—Miscellaneous Provisions**

Sec. 11255. Modification of prohibition on operation or procurement of foreign-made unmanned aircraft systems.

\* \* \* \* \*

**[Sec. 11269. Public availability of information on monthly migrant interdictions.]**

\* \* \* \* \*

**TITLE CXII—COAST GUARD**

\* \* \* \* \*

**Subtitle G—Miscellaneous Provisions**

\* \* \* \* \*

**[SEC. 11269. PUBLIC AVAILABILITY OF INFORMATION ON MONTHLY MIGRANT INTERDICTIONS.]**

[Not later than the 15th day of each month, the Commandant shall make available to the public on the website of the Coast

Guard the number of migrant interdictions carried out by the Coast Guard during the preceding month.】

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**SECTION 11502 OF THE JAMES H. INHOFE NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2023**

**SEC. 11502. REQUIREMENTS FOR [DUKW AMPHIBIOUS PASSENGER VESSELS] COMMERCIAL AMPHIBIOUS SMALL PASSENGER VESSELS.**

(a) RULEMAKING REQUIRED.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Commandant shall initiate a rulemaking to establish additional safety standards for [DUKW amphibious passenger vessels] *commercial amphibious small passenger vessels*.

(2) DEADLINE FOR REGULATIONS.—The regulations issued under paragraph (1) shall take effect not later than 18 months after the Commandant promulgates a final rule pursuant to such paragraph.

(b) REQUIREMENTS.—The regulations required under subsection (a) shall include the following:

(1) A requirement that operators of [DUKW amphibious passenger vessels] *commercial amphibious small passenger vessels* provide reserve buoyancy for such vessels through passive means, including watertight compartmentalization, built-in flotation, or such other means as determined appropriate by the Commandant, in order to ensure that such vessels remain afloat and upright in the event of flooding, including when carrying a full complement of passengers and crew.

(2) An identification, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, of limiting environmental conditions, such as weather, in which [DUKW amphibious passenger vessels] *commercial amphibious small passenger vessels* may safely operate and a requirement that such limiting conditions be described in the certificate of inspection of each [DUKW amphibious passenger vessel] *commercial amphibious small passenger vessel*.

(3) Requirements that an operator of a [DUKW amphibious passenger vessel] *commercial amphibious small passenger vessel*—

(A) proceed to the nearest harbor or safe refuge in any case in which a watch or warning is issued for wind speeds exceeding the wind speed equivalent used to certify the stability of such [DUKW amphibious passenger vessel] *commercial amphibious small passenger vessel*; and

(B) maintain and monitor a weather monitor radio receiver at the operator station of the vessel that is automatically activated by the warning alarm device of the National Weather Service.

(4) A requirement that—

(A) operators of [DUKW amphibious passenger vessels] *commercial amphibious small passenger vessels* inform

passengers that seat belts may not be worn during waterborne operations;

(B) before the commencement of waterborne operations, a crew member shall visually check that the seatbelt of each passenger is unbuckled; and

(C) operators or crew maintain a log recording the actions described in subparagraphs (A) and (B).

(5) A requirement for annual training for operators and crew of **【DUKW amphibious passenger vessels】** *commercial amphibious small passenger vessels*, including—

(A) training for personal flotation and seat belt requirements, verifying the integrity of the vessel at the onset of each waterborne departure, identification of weather hazards, and use of National Weather Service resources prior to operation; and

(B) training for crew to respond to emergency situations, including flooding, engine compartment fires, man-overboard situations, and in water emergency egress procedures.

(c) CONSIDERATION.—In issuing the regulations required under subsection (a), the Commandant shall consider whether personal flotation devices should be required for the duration of the waterborne transit of a **【DUKW amphibious passenger vessel】** *commercial amphibious small passenger vessel*.

(d) WAIVER.—The Commandant may waive the reserve buoyancy requirements described in subsection (b)(1) for a **【DUKW amphibious passenger vessel】** *commercial amphibious small passenger vessel* if the Commandant certifies in writing, using the best available science, to the appropriate congressional committees that such requirement is not practicable or technically or practically achievable for such vessel.

(e) NOTICE TO PASSENGERS.—A **【DUKW amphibious passenger vessel】** *commercial amphibious small passenger vessel* that receives a waiver under subsection (d) shall provide a prominently displayed notice on its website, ticket counter, and each ticket for passengers that the vessel is exempt from meeting Coast Guard safety compliance standards concerning reserve buoyancy.

(f) INTERIM REQUIREMENTS.—Prior to issuing final regulations pursuant to subsection (a) and not later than 180 days after the date of enactment of this Act, the Commandant shall require that operators of **【DUKW amphibious passenger vessels】** *commercial amphibious small passenger vessels* implement the following requirements:

(1) Remove the canopies and any window coverings of such vessels for waterborne operations, or install in such vessels a canopy that does not restrict horizontal or vertical escape by passengers in the event of flooding or sinking.

(2) If a canopy and window coverings are removed from any such vessel pursuant to paragraph (1), require that all passengers wear a personal flotation device approved by the Coast Guard before the onset of waterborne operations of such vessel.

(3) Reengineer such vessels to permanently close all unnecessary access plugs and reduce all through-hull penetrations to the minimum number and size necessary for operation.

(4) Install in such vessels independently powered electric bilge pumps that are capable of dewatering such vessels at the volume of the largest remaining penetration in order to supplement an operable Higgins pump or a dewatering pump of equivalent or greater capacity.

(5) Install in such vessels not fewer than 4 independently powered bilge alarms.

(6) Conduct an in-water inspection of any such vessel after each time a through-hull penetration of such vessel has been removed or uncovered.

(7) Verify through an in-water inspection the watertight integrity of any such vessel at the outset of each waterborne departure of such vessel.

(8) Install underwater LED lights that activate automatically in an emergency.

(9) Otherwise comply with any other provisions of relevant Coast Guard guidance or instructions in the inspection, configuration, and operation of such vessels.

(g) IMPLEMENTATION.—The Commandant shall implement the interim requirements under subsection (f) without regard to chapters 5 and 6 of title 5, United States Code, and Executive Order Nos. 12866 and 13563 (5 U.S.C. 601 note).

(h) [DEFINITIONS.—] APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—[In this section:]

[(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term “appropriate congressional committees”] *In this section, the term “appropriate congressional committees” means the Committee Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.*

[(2) DUKW AMPHIBIOUS PASSENGER VESSEL.—The term “DUKW amphibious passenger vessel” means a vessel that uses, modifies, or is derived from the GMC DUKW–353 design, and which is operating as a small passenger vessel in waters subject to the jurisdiction of the United States, as defined in section 2.38 of title 33, Code of Federal Regulations (or a successor regulation).]

(i) APPLICATION.—*This section shall apply to amphibious vessels operating as a small passenger vessel in waters subject to the jurisdiction of the United States, as such term is defined in section 2.38 of title 33, Code of Federal Regulations (as in effect on the date of enactment of the Coast Guard Authorization Act of 2023).*

**WILLIAM M. (MAC) THORNBERRY NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2021**

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**DIVISION G—ELIJAH E. CUMMINGS COAST GUARD AUTHORIZATION ACT OF 2020**

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## TITLE LVXXXIII—MARITIME

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### Subtitle B—Shipping

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#### SEC. 8313. NON-OPERATING INDIVIDUAL.

(a) **IN GENERAL.**—The Secretary of the department in which the Coast Guard is operating shall not enforce section 8701 of title 46, United States Code, with respect to the following:

(1) A vessel with respect to individuals, other than crew members required by the Certificate of Inspection or to ensure the safe navigation of the vessel and not a member of the steward's department, engaged on board for the sole purpose of carrying out spill response activities, salvage, marine firefighting, or commercial diving business or functions from or on any vessel, including marine firefighters, spill response personnel, salvage personnel, and commercial divers and diving support personnel.

(2) An offshore supply vessel, an industrial vessel (as such term is defined in section 90.10-16 of title 46, Code of Federal Regulations), or other similarly engaged vessel with respect to persons engaged in the business of the ship on board the vessel—

(A) for—

(i) supporting or executing the industrial business or function of the vessel;

(ii) brief periods to conduct surveys or investigations, assess crew competence, conduct vessel trials, provide extraordinary security resources, or similar tasks not traditionally performed by the vessel crew; or

(iii) performing maintenance tasks on equipment under warranty, or on equipment not owned by the vessel owner, or maintenance beyond the capability of the vessel crew to perform; and

(B) not the master or crew members required by the certificate of inspection and not a member of the steward's department.

(b) **SUNSET.**—The prohibition in subsection (a) shall terminate on January 1, **[2025]** 2027.

(c) **REPORT.**—

(1) **IN GENERAL.**—Not later than 180 days after the date of the enactment of this Act, the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report detailing recommendations to ensure that personnel working on a vessel who perform work or operate equipment on such vessel not related to the operation of the vessel itself undergo a background check and the appropriate training necessary to ensure personnel safety and the safety of the vessel's crew.

(2) CONTENTS.—The report required under paragraph (1) shall include, at a minimum, a discussion of—

(A) options and recommendations for ensuring that the individuals covered by subsection (a) are appropriately screened to mitigate security and safety risks, including to detect substance abuse;

(B) communication and collaboration between the Coast Guard, the department in which the Coast Guard is operating, and relevant stakeholders regarding the development of processes and requirements for conducting background checks and ensuring such individuals receive basic safety familiarization and basic safety training approved by the Coast Guard;

(C) any identified legislative changes necessary to implement effective training and screening requirements for individuals covered by subsection (a); and

(D) the timeline and milestones for implementing such requirements.

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**FRANK LOBIONDO COAST GUARD AUTHORIZATION ACT OF 2018**

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

The table of contents of this Act is as follows:

Sec. 1. Short title.

\* \* \* \* \*

**TITLE I—REORGANIZATION OF TITLE 14, UNITED STATES CODE**

\* \* \* \* \*

**TITLE IX—VESSEL INCIDENTAL DISCHARGE ACT**

\* \* \* \* \*

*Sec. 904. Information on type approval certificates.*

\* \* \* \* \*

**TITLE IX—VESSEL INCIDENTAL DISCHARGE ACT**

\* \* \* \* \*

**SEC. 904. INFORMATION ON TYPE APPROVAL CERTIFICATES.**

*The Commandant of the Coast Guard shall, upon request by any State, the District of Columbia, or any territory of the United States, provide all data possessed by the Coast Guard pertaining to challenge water quality characteristics, challenge water biological organism concentrations, post-treatment water quality characteristics, and post-treatment biological organism concentrations data for a ballast water management system with a type approval certificate*

*approved by the Coast Guard pursuant to subpart 162.060 of title 46, Code of Federal Regulations.*

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**FEDERAL WATER POLLUTION CONTROL ACT**

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**TITLE III—STANDARDS AND ENFORCEMENT**

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**OIL AND HAZARDOUS SUBSTANCE LIABILITY**

SEC. 311. (a) For the purpose of this section, the term—

(1) “oil” means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

(2) “discharge” includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping, but excludes (A) discharges in compliance with a permit under section 402 of this Act, (B) discharges resulting from circumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of this Act, and subject to a condition in such permit, (C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of this Act, which are caused by events occurring within the scope of relevant operating or treatment systems, and (D) discharges incidental to mechanical removal authorized by the President under subsection (c) of this section;

(3) “vessel” means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

(4) “public vessel” means a vessel owned or bareboat-chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

(5) “United States” means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(6) “owner or operator” means (A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, and (B) in the case of an onshore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

(7) “person” includes an individual, firm, corporation, association, and a partnership;

(8) “remove” or “removal” refers to containment and removal of the oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary

to prevent, minimize, or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

(9) “contiguous zone” means the entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone;

(10) “onshore facility” means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

(11) “offshore facility” means any facility of any kind located in, on, or under, any of the navigable waters of the United States, any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or a public vessel, and, for the purposes of applying subsections (b), (c), (e), and (o), any foreign offshore unit (as defined in section 1001 of the Oil Pollution Act) or any other facility located seaward of the exclusive economic zone;

(12) “act of God” means an act occasioned by an unanticipated grave natural disaster;

(13) “barrel” means 42 United States gallons at 60 degrees Fahrenheit;

(14) “hazardous substance” means any substance designated pursuant to subsection (b)(2) of this section;

(15) “inland oil barge” means a non-self-propelled vessel carrying oil in bulk as cargo and certificated to operate only in the inland waters of the United States, while operating in such waters;

(16) “inland waters of the United States” means those waters of the United States lying inside the baseline from which the territorial sea is measured and those waters outside such baseline which are a part of the Gulf Intracoastal Waterway;

(17) “otherwise subject to the jurisdiction of the United States” means subject to the jurisdiction of the United States by virtue of United States citizenship, United States vessel documentation or numbering, or as provided for by international agreement to which the United States is a party;

(18) “Area Committee” means an Area Committee established under subsection (j);

(19) “Area Contingency Plan” means an Area Contingency Plan prepared under subsection (j);

(20) “Coast Guard District Response Group” means a Coast Guard District Response Group established under subsection (j);

(21) “Federal On-Scene Coordinator” means a Federal On-Scene Coordinator designated in the National Contingency Plan;

(22) “National Contingency Plan” means the National Contingency Plan prepared and published under subsection (d);

(23) “National Response Unit” means the National Response Unit established under subsection (j);

(24) “worst case discharge” means—

(A) in the case of a vessel, a discharge in adverse weather conditions of its entire cargo; and

- (B) in the case of an offshore facility or onshore facility, the largest foreseeable discharge in adverse weather conditions;
- (25) “removal costs” means—
- (A) the costs of removal of oil or a hazardous substance that are incurred after it is discharged; and
- (B) in any case in which there is a substantial threat of a discharge of oil or a hazardous substance, the costs to prevent, minimize, or mitigate that threat;
- (26) “nontank vessel” means a self-propelled vessel that—
- (A) is at least 400 gross tons as measured under section 14302 of title 46, United States Code, or, for vessels not measured under that section, as measured under section 14502 of that title;
- (B) is not a tank vessel;
- (C) carries oil of any kind as fuel for main propulsion; and
- (D) operates on the navigable waters of the United States, as defined in section 2101(23) of that title;
- (27) the term “best available science” means science that—
- (A) maximizes the quality, objectivity, and integrity of information, including statistical information;
- (B) uses peer-reviewed and publicly available data; and
- (C) clearly documents and communicates risks and uncertainties in the scientific basis for such projects;
- (28) the term “Chairperson” means the Chairperson of the Council;
- (29) the term “coastal political subdivision” means any local political jurisdiction that is immediately below the State level of government, including a county, parish, or borough, with a coastline that is contiguous with any portion of the United States Gulf of Mexico;
- (30) the term “Comprehensive Plan” means the comprehensive plan developed by the Council pursuant to subsection (t);
- (31) the term “Council” means the Gulf Coast Ecosystem Restoration Council established pursuant to subsection (t);
- (32) the term “Deepwater Horizon oil spill” means the blow-out and explosion of the mobile offshore drilling unit *Deepwater Horizon* that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment;
- (33) the term “Gulf Coast region” means—
- (A) in the Gulf Coast States, the coastal zones (as that term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)), except that, in this section, the term “coastal zones” includes land within the coastal zones that is held in trust by, or the use of which is by law subject solely to the discretion of, the Federal Government or officers or agents of the Federal Government)) that border the Gulf of Mexico;
- (B) any adjacent land, water, and watersheds, that are within 25 miles of the coastal zones described in subparagraph (A) of the Gulf Coast States; and
- (C) all Federal waters in the Gulf of Mexico;
- (34) the term “Gulf Coast State” means any of the States of Alabama, Florida, Louisiana, Mississippi, and Texas; and

(35) the term “Trust Fund” means the Gulf Coast Restoration Trust Fund established pursuant to section 1602 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

(b)(1) The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).

(2)(A) The Administrator shall develop, promulgate, and revise as may be appropriate, regulations designating as hazardous substances, other than oil as defined in this section, such elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines or the waters of the contiguous zone or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.

(B) The Administrator shall within 18 months after the date of enactment of this paragraph, conduct a study and report to the Congress on methods, mechanisms, and procedures to create incentives to achieve a higher standard of care in all aspects of the management and movement of hazardous substances on the part of owners, operators, or persons in charge of onshore facilities, offshore facilities, or vessels. The Administrator shall include in such study (1) limits of liability, (2) liability for third party damages, (3) penalties and fees, (4) spill prevention plans, (5) current practices in the insurance and banking industries, and (6) whether the penalty enacted in subclause (bb) of clause (iii) of subparagraph (B) of subsection (b)(2) of section 311 of Public Law 92–500 should be enacted.

(3) The discharge of oil or hazardous substances (i) into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or (ii) in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), in such quantities as may be harmful as determined by the President under paragraph (4) of this subsection, is prohibited, except (A) in the case of such discharges into the waters of the contiguous zone or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Manage-

ment Act of 1976), where permitted under the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and (B) where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine not to be harmful. Any regulations issued under this subsection shall be consistent with maritime safety and with marine and navigation laws and regulations and applicable water quality standards.

(4) The President shall by regulation determine for the purposes of this section those quantities of oil and any hazardous substances the discharge of which may be harmful to the public health or welfare or the environment of the United States, including but not limited to fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

(5) Any person in charge of a vessel or of an onshore facility or an offshore facility shall, as soon as he has knowledge of any discharge of oil or a hazardous substance from such vessel or facility in violation of paragraph (3) of this subsection, immediately notify the appropriate agency of the United States Government of such discharge. The Federal agency shall immediately notify the appropriate State agency of any State which is, or may reasonably be expected to be, affected by the discharge of oil or a hazardous substance. Any such person (A) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(i) of this subsection, or (B) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) of this subsection and who is otherwise subject to the jurisdiction of the United States at the time of the discharge, or (C) in charge of an onshore facility or an offshore facility, who fails to notify immediately such agency of such discharge shall, upon conviction, be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both. Notification received pursuant to this paragraph shall not be used against any such natural person in any criminal case, except a prosecution for perjury or for giving a false statement.

(6) ADMINISTRATIVE PENALTIES.—

(A) VIOLATIONS.—Any owner, operator, or person in charge of any vessel, onshore facility, or offshore facility—

(i) from which oil or a hazardous substance is discharged in violation of paragraph (3), or

(ii) who fails or refuses to comply with any regulation issued under subsection (j) to which that owner, operator, or person in charge is subject,

may be assessed a class I or class II civil penalty by the Secretary of the department in which the Coast Guard is operating, the Secretary of Transportation, or the Administrator.

(B) CLASSES OF PENALTIES.—

(i) CLASS I.—The amount of a class I civil penalty under subparagraph (A) may not exceed \$10,000 per violation, except that the maximum amount of any class I civil penalty under this subparagraph shall not exceed \$25,000. Before assessing a civil penalty under this clause, the Administrator or Secretary, as the case may be, shall give to the person to be assessed

such penalty written notice of the Administrator's or Secretary's proposal to assess the penalty and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed penalty. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

(ii) CLASS II.—The amount of a class II civil penalty under subparagraph (A) may not exceed \$10,000 per day for each day during which the violation continues; except that the maximum amount of any class II civil penalty under this subparagraph shall not exceed \$125,000. Except as otherwise provided in this subsection, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code. The Administrator and Secretary may issue rules for discovery procedures for hearings under this paragraph.

(C) RIGHTS OF INTERESTED PERSONS.—

(i) PUBLIC NOTICE.—Before issuing an order assessing a class II civil penalty under this paragraph the Administrator or Secretary, as the case may be, shall provide public notice of and reasonable opportunity to comment on the proposed issuance of such order.

(ii) PRESENTATION OF EVIDENCE.—Any person who comments on a proposed assessment of a class II civil penalty under this paragraph shall be given notice of any hearing held under this paragraph and of the order assessing such penalty. In any hearing held under this paragraph, such person shall have a reasonable opportunity to be heard and to present evidence.

(iii) RIGHTS OF INTERESTED PERSONS TO A HEARING.—If no hearing is held under subparagraph (B) before issuance of an order assessing a class II civil penalty under this paragraph, any person who commented on the proposed assessment may petition, within 30 days after the issuance of such order, the Administrator or Secretary, as the case may be, to set aside such order and to provide a hearing on the penalty. If the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order, the Administrator or Secretary shall immediately set aside such order and provide a hearing in accordance with subparagraph (B)(ii). If the Administrator or Secretary denies a hearing under this clause, the Administrator or Secretary shall provide to the petitioner, and publish in the Federal Register, notice of and the reasons for such denial.

(D) FINALITY OF ORDER.—An order assessing a class II civil penalty under this paragraph shall become final 30

days after its issuance unless a petition for judicial review is filed under subparagraph (G) or a hearing is requested under subparagraph (C)(iii). If such a hearing is denied, such order shall become final 30 days after such denial.

(E) EFFECT OF ORDER.—Action taken by the Administrator or Secretary, as the case may be, under this paragraph shall not affect or limit the Administrator's or Secretary's authority to enforce any provision of this Act; except that any violation—

(i) with respect to which the Administrator or Secretary has commenced and is diligently prosecuting an action to assess a class II civil penalty under this paragraph, or

(ii) for which the Administrator or Secretary has issued a final order assessing a class II civil penalty not subject to further judicial review and the violator has paid a penalty assessed under this paragraph, shall not be the subject of a civil penalty action under section 309(d), 309(g), or 505 of this Act or under paragraph (7).

(F) EFFECT OF ACTION ON COMPLIANCE.—No action by the Administrator or Secretary under this paragraph shall affect any person's obligation to comply with any section of this Act.

(G) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under this paragraph or who commented on the proposed assessment of such penalty in accordance with subparagraph (C) may obtain review of such assessment—

(i) in the case of assessment of a class I civil penalty, in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred, or

(ii) in the case of assessment of a class II civil penalty, in United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business, by filing a notice of appeal in such court within the 30-day period beginning on the date the civil penalty order is issued and by simultaneously sending a copy of such notice by certified mail to the Administrator or Secretary, as the case may be, and the Attorney General. The Administrator or Secretary shall promptly file in such court a certified copy of the record on which the order was issued. Such court shall not set aside or remand such order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion and shall not impose additional civil penalties for the same violation unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion.

(H) COLLECTION.—If any person fails to pay an assessment of a civil penalty—

(i) after the assessment has become final, or

(ii) after a court in an action brought under subparagraph (G) has entered a final judgment in favor of the Administrator or Secretary, as the case may be, the Administrator or Secretary shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this subparagraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

(I) SUBPOENAS.—The Administrator or Secretary, as the case may be, may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this paragraph. In case of contumacy or refusal to obey a subpoena issued pursuant to this subparagraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(7) CIVIL PENALTY ACTION.—

(A) DISCHARGE, GENERALLY.—Any person who is the owner, operator, or person in charge of any vessel, onshore facility, or offshore facility from which oil or a hazardous substance is discharged in violation of paragraph (3), shall be subject to a civil penalty in an amount up to \$25,000 per day of violation or an amount up to \$1,000 per barrel of oil or unit of reportable quantity of hazardous substances discharged.

(B) FAILURE TO REMOVE OR COMPLY.—Any person described in subparagraph (A) who, without sufficient cause—

(i) fails to properly carry out removal of the discharge under an order of the President pursuant to subsection (c); or

(ii) fails to comply with an order pursuant to subsection (e)(1)(B);

shall be subject to a civil penalty in an amount up to \$25,000 per day of violation or an amount up to 3 times

the costs incurred by the Oil Spill Liability Trust Fund as a result of such failure.

(C) FAILURE TO COMPLY WITH REGULATION.—Any person who fails or refuses to comply with any regulation issued under subsection (j) shall be subject to a civil penalty in an amount up to \$25,000 per day of violation.

(D) GROSS NEGLIGENCE.—In any case in which a violation of paragraph (3) was the result of gross negligence or willful misconduct of a person described in subparagraph (A), the person shall be subject to a civil penalty of not less than \$100,000, and not more than \$3,000 per barrel of oil or unit of reportable quantity of hazardous substance discharged.

(E) JURISDICTION.—An action to impose a civil penalty under this paragraph may be brought in the district court of the United States for the district in which the defendant is located, resides, or is doing business, and such court shall have jurisdiction to assess such penalty.

(F) LIMITATION.—A person is not liable for a civil penalty under this paragraph for a discharge if the person has been assessed a civil penalty under paragraph (6) for the discharge.

(8) DETERMINATION OF AMOUNT.—In determining the amount of a civil penalty under paragraphs (6) and (7), the Administrator, Secretary, or the court, as the case may be, shall consider the seriousness of the violation or violations, the economic benefit to the violator, if any, resulting from the violation, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the nature, extent, and degree of success of any efforts of the violator to minimize or mitigate the effects of the discharge, the economic impact of the penalty on the violator, and any other matters as justice may require.

(9) MITIGATION OF DAMAGE.—In addition to establishing a penalty for the discharge of oil or a hazardous substance, the Administrator or the Secretary of the department in which the Coast Guard is operating may act to mitigate the damage to the public health or welfare caused by such discharge. The cost of such mitigation shall be deemed a cost incurred under subsection (c) of this section for the removal of such substance by the United States Government.

(10) RECOVERY OF REMOVAL COSTS.—Any costs of removal incurred in connection with a discharge excluded by subsection (a)(2)(C) of this section shall be recoverable from the owner or operator of the source of the discharge in an action brought under section 309(b) of this Act.

(11) LIMITATION.—Civil penalties shall not be assessed under both this section and section 309 for the same discharge.

(12) WITHHOLDING CLEARANCE.—If any owner, operator, or person in charge of a vessel is liable for a civil penalty under this subsection, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to a civil penalty under this subsection, the Secretary of the Treasury, upon the request of the Secretary of the department in which the Coast Guard is oper-

ating or the Administrator, shall with respect to such vessel refuse or revoke—

(A) the clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91);

(B) a permit to proceed under section 4367 of the Revised Statutes of the United States (46 U.S.C. App. 313); and

(C) a permit to depart required under section 443 of the Tariff Act of 1930 (19 U.S.C. 1443);

as applicable. Clearance or a permit refused or revoked under this paragraph may be granted upon the filing of a bond or other surety satisfactory to the Secretary of the department in which the Coast Guard is operating or the Administrator.

(c) FEDERAL REMOVAL AUTHORITY.—

(1) GENERAL REMOVAL REQUIREMENT.—(A) The President shall, in accordance with the National Contingency Plan and any appropriate Area Contingency Plan, ensure effective and immediate removal of a discharge, and mitigation or prevention of a substantial threat of a discharge, of oil or a hazardous substance—

(i) into or on the navigable waters;

(ii) on the adjoining shorelines to the navigable waters;

(iii) into or on the waters of the exclusive economic zone;

or

(iv) that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States.

(B) In carrying out this paragraph, the President may—

(i) remove or arrange for the removal of a discharge, and mitigate or prevent a substantial threat of a discharge, at any time;

(ii) direct or monitor all Federal, State, and private actions to remove a discharge; and

(iii) remove and, if necessary, destroy a vessel discharging, or threatening to discharge, by whatever means are available.

(2) DISCHARGE POSING SUBSTANTIAL THREAT TO PUBLIC HEALTH OR WELFARE.—(A) If a discharge, or a substantial threat of a discharge, of oil or a hazardous substance from a vessel, offshore facility, or onshore facility is of such a size or character as to be a substantial threat to the public health or welfare of the United States (including but not limited to fish, shellfish, wildlife, other natural resources, and the public and private beaches and shorelines of the United States), the President shall direct all Federal, State, and private actions to remove the discharge or to mitigate or prevent the threat of the discharge.

(B) In carrying out this paragraph, the President may, without regard to any other provision of law governing contracting procedures or employment of personnel by the Federal Government—

(i) remove or arrange for the removal of the discharge, or mitigate or prevent the substantial threat of the discharge; and

(ii) remove and, if necessary, destroy a vessel discharging, or threatening to discharge, by whatever means are available.

(3) ACTIONS IN ACCORDANCE WITH NATIONAL CONTINGENCY PLAN.—(A) Each Federal agency, State, owner or operator, or other person participating in efforts under this subsection shall act in accordance with the National Contingency Plan or as directed by the President.

(B) An owner or operator participating in efforts under this subsection shall act in accordance with the National Contingency Plan and the applicable response plan required under subsection (j), or as directed by the President, except that the owner or operator may deviate from the applicable response plan if the President or the Federal On-Scene Coordinator determines that deviation from the response plan would provide for a more expeditious or effective response to the spill or mitigation of its environmental effects.

(C) In any case in which the President or the Federal On-Scene Coordinator authorizes a deviation from the salvor as part of a deviation under subparagraph (B) from the applicable response plan required under subsection (j), the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing the deviation and the reasons for such deviation not less than 3 days after such deviation is authorized.

(4) EXEMPTION FROM LIABILITY.—(A) A person is not liable for removal costs or damages which result from actions taken or omitted to be taken in the course of rendering care, assistance, or advice consistent with the National Contingency Plan or as otherwise directed by the President relating to a discharge or a substantial threat of a discharge of oil or a hazardous substance.

(B) Subparagraph (A) does not apply—

(i) to a responsible party;

(ii) to a response under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(iii) with respect to personal injury or wrongful death; or

(iv) if the person is grossly negligent or engages in willful misconduct.

(C) A responsible party is liable for any removal costs and damages that another person is relieved of under subparagraph (A).

(5) OBLIGATION AND LIABILITY OF OWNER OR OPERATOR NOT AFFECTED.—Nothing in this subsection affects—

(A) the obligation of an owner or operator to respond immediately to a discharge, or the threat of a discharge, of oil; or

(B) the liability of a responsible party under the Oil Pollution Act of 1990.

(6) RESPONSIBLE PARTY DEFINED.—For purposes of this subsection, the term “responsible party” has the meaning given that term under section 1001 of the Oil Pollution Act of 1990.

## (d) NATIONAL CONTINGENCY PLAN.—

(1) PREPARATION BY PRESIDENT.—The President shall prepare and publish a National Contingency Plan for removal of oil and hazardous substances pursuant to this section.

(2) CONTENTS.—The National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances, and shall include, but not be limited to, the following:

(A) Assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies and port authorities including, but not limited to, water pollution control and conservation and trusteeship of natural resources (including conservation of fish and wildlife).

(B) Identification, procurement, maintenance, and storage of equipment and supplies.

(C) Establishment or designation of Coast Guard strike teams, consisting of—

(i) personnel who shall be trained, prepared, and available to provide necessary services to carry out the National Contingency Plan;

(ii) adequate oil and hazardous substance pollution control equipment and material; and

(iii) a detailed oil and hazardous substance pollution and prevention plan, including measures to protect fisheries and wildlife.

(D) A system of surveillance and notice designed to safeguard against as well as ensure earliest possible notice of discharges of oil and hazardous substances and imminent threats of such discharges to the appropriate State and Federal agencies.

(E) Establishment of a national center to provide coordination and direction for operations in carrying out the Plan.

(F) Procedures and techniques to be employed in identifying, containing, dispersing, and removing oil and hazardous substances.

(G) A schedule, prepared in cooperation with the States, identifying—

(i) dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used in carrying out the Plan,

(ii) the waters in which such dispersants, other chemicals, and other spill mitigating devices and substances may be used, and

(iii) the quantities of such dispersant, other chemicals, or other spill mitigating device or substance which can be used safely in such waters,

which schedule shall provide in the case of any dispersant, chemical, spill mitigating device or substance, or waters not specifically identified in such schedule that the President, or his delegate, may, on a case-by-case basis, identify the dispersants, other chemicals, and other spill mitigating devices and substances which may be used, the waters in

which they may be used, and the quantities which can be used safely in such waters.

(H) A system whereby the State or States affected by a discharge of oil or hazardous substance may act where necessary to remove such discharge and such State or States may be reimbursed in accordance with the Oil Pollution Act of 1990, in the case of any discharge of oil from a vessel or facility, for the reasonable costs incurred for that removal, from the Oil Spill Liability Trust Fund.

(I) Establishment of criteria and procedures to ensure immediate and effective Federal identification of, and response to, a discharge, or the threat of a discharge, that results in a substantial threat to the public health or welfare of the United States, as required under subsection (c)(2).

(J) Establishment of procedures and standards for removing a worst case discharge of oil, and for mitigating or preventing a substantial threat of such a discharge.

(K) Designation of the Federal official who shall be the Federal On-Scene Coordinator for each area for which an Area Contingency Plan is required to be prepared under subsection (j).

(L) Establishment of procedures for the coordination of activities of—

- (i) Coast Guard strike teams established under subparagraph (C);
- (ii) Federal On-Scene Coordinators designated under subparagraph (K);
- (iii) District Response Groups established under subsection (j); and
- (iv) Area Committees established under subsection (j).

(M) A fish and wildlife response plan, developed in consultation with the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and other interested parties (including State fish and wildlife conservation officials), for the immediate and effective protection, rescue, and rehabilitation of, and the minimization of risk of damage to, fish and wildlife resources and their habitat that are harmed or that may be jeopardized by a discharge.

(3) REVISIONS AND AMENDMENTS.—The President may, from time to time, as the President deems advisable, revise or otherwise amend the National Contingency Plan.

(4) ACTIONS IN ACCORDANCE WITH NATIONAL CONTINGENCY PLAN.—After publication of the National Contingency Plan, the removal of oil and hazardous substances and actions to minimize damage from oil and hazardous substance discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.

(e) CIVIL ENFORCEMENT.—

(1) ORDERS PROTECTING PUBLIC HEALTH.—In addition to any action taken by a State or local government, when the President determines that there may be an imminent and substantial threat to the public health or welfare of the United States,

including fish, shellfish, and wildlife, public and private property, shorelines, beaches, habitat, and other living and non-living natural resources under the jurisdiction or control of the United States, because of an actual or threatened discharge of oil or a hazardous substance from a vessel or facility in violation of subsection (b), the President may—

(A) require the Attorney General to secure any relief from any person, including the owner or operator of the vessel or facility, as may be necessary to abate such endangerment; or

(B) after notice to the affected State, take any other action under this section, including issuing administrative orders, that may be necessary to protect the public health and welfare.

(2) JURISDICTION OF DISTRICT COURTS.—The district courts of the United States shall have jurisdiction to grant any relief under this subsection that the public interest and the equities of the case may require.

(f)(1) Except where an owner or operator can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed, in the case of an inland oil barge \$125 per gross ton of such barge, or \$125,000, whichever is greater, and in the case of any other vessel, \$150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, \$250,000), whichever is greater, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. Such costs shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States for any district within which any vessel may be found. The United States may also bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

(2) Except where an owner or operator of an onshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed \$50,000,000, except that where the United States can show that such discharge

was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such facility in any court of competent jurisdiction to recover such costs. The Administrator is authorized, by regulation, after consultation with the Secretary of Commerce and the Small Business Administration, to establish reasonable and equitable classifications, of those onshore facilities having a total fixed storage capacity of 1,000 barrels or less which he determines because of size, type, and location do not present a substantial risk of the discharge of oil or hazardous substance in violation of subsection (b)(3) of this section, and apply with respect to such classifications differing limits of liability which may be less than the amount contained in this paragraph.

(3) Except where an owner or operator of an offshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed \$50,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such a facility in any court of competent jurisdiction to recover such costs.

(4) The costs of removal of oil or a hazardous substance for which the owner or operator of a vessel or onshore or offshore facility is liable under subsection (f) of this section shall include any costs or expenses incurred by the Federal Government or any State government in the restoration or replacement of natural resources damaged or destroyed as a result of a discharge of oil or a hazardous substance in violation of subsection (b) of this section.

(5) The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for the costs of replacing or restoring such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government, or the State government.

(g) Where the owner or operator of a vessel (other than an inland oil barge) carrying oil or hazardous substances as cargo or an onshore or offshore facility which handles or stores oil or hazardous substances in bulk, from which oil or a hazardous substance is discharged in violation of subsection (b) of this section, alleges that such discharge was caused solely by an act or omission of a third party, such owner or operator shall pay to the United States Government the actual costs incurred under subsection (c) for removal

of such oil or substance and shall be entitled by subrogation to all rights of the United States Government to recover such costs from such third party under this subsection. In any case where an owner or operator of a vessel, of an onshore facility, or of an offshore facility, from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section, proves that such discharge of oil or hazardous substance was caused solely by an act or omission of a third party, or was caused solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government, such third party shall, not withstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for removal of such oil or substance by the United States Government, except where such third party can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of another party without regard to whether such act or omission was or was not negligent, or any combination of the foregoing clauses. If such third party was the owner or operator of a vessel which caused the discharge of oil or a hazardous substance in violation of subsection (b)(3) of this section, the liability of such third party under this subsection shall not exceed, in the case of an inland oil barge \$125 per gross ton of such barge, \$125,000, whichever is greater, and in the case of any other vessel, \$150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, \$250,000), whichever is greater. In any other case the liability of such third party shall not exceed the limitation which would have been applicable to the owner or operator of the vessel or the onshore or offshore facility from which the discharge actually occurred if such owner or operator were liable. If the United States can show that the discharge of oil or a hazardous substance in violation of subsection (b)(3) of this section was the result of willful negligence or willful misconduct within the privity and knowledge of such third party, such third party shall be liable to the United States Government for the full amount of such removal costs. The United States may bring an action against the third party in any court of competent jurisdiction to recover such removal costs.

(h) The liabilities established by this section shall in no way affect any rights which (1) the owner or operator of a vessel or of an onshore facility or an offshore facility may have against any third party whose acts may in any way have caused or contributed to such discharge, or (2) The United States Government may have against any third party whose actions may in any way have caused or contributed to the discharge of oil or hazardous substance.

(i) In any case where an owner or operator of a vessel or an onshore facility or an offshore facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section acts to remove such oil or substance in accordance with regulations promulgated pursuant to this section, such owner or operator shall be entitled to recover the reasonable costs incurred in such removal upon establishing, in a suit which may be brought against the United States Government in the United States Claims Court, that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Govern-

ment, or (D) an act or omission of a third party without regard to whether such act or omission was or was not negligent, or of any combination of the foregoing clauses.

(j) NATIONAL RESPONSE SYSTEM.—

(1) IN GENERAL.—Consistent with the National Contingency Plan required by subsection (c)(2) of this section, as soon as practicable after the effective date of this section, and from time to time thereafter, the President shall issue regulations consistent with maritime safety and with marine and navigation laws (A) establishing methods and procedures for removal of discharged oil and hazardous substances, (B) establishing criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans, (C) establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges, and (D) governing the inspection of vessels carrying cargoes of oil and hazardous substances and the inspection of such cargoes in order to reduce the likelihood of discharges of oil from vessels in violation of this section.

(2) NATIONAL RESPONSE UNIT.—The Secretary of the department in which the Coast Guard is operating shall establish a National Response Unit at Elizabeth City, North Carolina. The Secretary, acting through the National Response Unit—

(A) shall compile and maintain a comprehensive computer list of spill removal resources, personnel, and equipment that is available worldwide and within the areas designated by the President pursuant to paragraph (4), and of information regarding previous spills, including data from universities, research institutions, State governments, and other nations, as appropriate, which shall be disseminated as appropriate to response groups and area committees, and which shall be available to Federal and State agencies and the public;

(B) shall provide technical assistance, equipment, and other resources requested by a Federal On-Scene Coordinator;

(C) shall coordinate use of private and public personnel and equipment to remove a worst case discharge, and to mitigate or prevent a substantial threat of such a discharge, from a vessel, offshore facility, or onshore facility operating in or near an area designated by the President pursuant to paragraph (4);

(D) may provide technical assistance in the preparation of Area Contingency Plans required under paragraph (4);

(E) shall administer Coast Guard strike teams established under the National Contingency Plan;

(F) shall maintain on file all Area Contingency Plans approved by the President under this subsection; and

(G) shall review each of those plans that affects its responsibilities under this subsection.

(3) COAST GUARD DISTRICT RESPONSE GROUPS.—(A) The Secretary of the department in which the Coast Guard is oper-

ating shall establish in each Coast Guard district a Coast Guard District Response Group.

(B) Each Coast Guard District Response Group shall consist of—

- (i) the Coast Guard personnel and equipment, including firefighting equipment, of each port within the district;
- (ii) additional prepositioned equipment; and
- (iii) a district response advisory staff.

(C) Coast Guard district response groups—

- (i) shall provide technical assistance, equipment, and other resources when required by a Federal On-Scene Coordinator;
- (ii) shall maintain all Coast Guard response equipment within its district;
- (iii) may provide technical assistance in the preparation of Area Contingency Plans required under paragraph (4); and
- (iv) shall review each of those plans that affect its area of geographic responsibility.

(4) AREA COMMITTEES AND AREA CONTINGENCY PLANS.—(A) There is established for each area designated by the President an Area Committee comprised of members appointed by the President from qualified—

- (i) personnel of Federal, State, and local agencies; and
- (ii) members of federally recognized Indian tribes, where applicable.

(B) Each Area Committee, under the direction of the Federal On-Scene Coordinator for its area, shall—

- (i) prepare for its area the Area Contingency Plan required under subparagraph (C);
- (ii) work with State, local, and tribal officials to enhance the contingency planning of those officials and to assure preplanning of joint response efforts, including appropriate procedures for mechanical recovery, dispersal, shoreline cleanup, protection of sensitive environmental areas, and protection, rescue, and rehabilitation of fisheries and wildlife, including advance planning with respect to the closing and reopening of fishing areas following a discharge; and
- (iii) work with State, local, and tribal officials to expedite decisions for the use of dispersants and other mitigating substances and devices.

(C) Each Area Committee shall prepare and submit to the President for approval an Area Contingency Plan for its area. The Area Contingency Plan shall—

- (i) when implemented in conjunction with the National Contingency Plan, be adequate to remove a worst case discharge, and to mitigate or prevent a substantial threat of such a discharge, from a vessel, offshore facility, or on-shore facility operating in or near the area;
- (ii) describe the area covered by the plan, including the areas of special economic or environmental importance that might be damaged by a discharge;
- (iii) describe in detail the responsibilities of an owner or operator and of Federal, State, and local agencies in re-

moving a discharge, and in mitigating or preventing a substantial threat of a discharge;

(iv) list the equipment (including firefighting equipment), dispersants or other mitigating substances and devices, and personnel available to an owner or operator, Federal, State, and local agencies, and tribal governments, to ensure an effective and immediate removal of a discharge, and to ensure mitigation or prevention of a substantial threat of a discharge;

(v) compile a list of local scientists, both inside and outside Federal Government service, with expertise in the environmental effects of spills of the types of oil typically transported in the area, who may be contacted to provide information or, where appropriate, participate in meetings of the scientific support team convened in response to a spill, and describe the procedures to be followed for obtaining an expedited decision regarding the use of dispersants;

(vi) describe in detail how the plan is integrated into other Area Contingency Plans and vessel, offshore facility, and onshore facility response plans approved under this subsection, and into operating procedures of the National Response Unit;

(vii) include a framework for advance planning and decisionmaking with respect to the closing and reopening of fishing areas following a discharge, including protocols and standards for the closing and reopening of fishing areas;

(viii) include any other information the President requires; and

(ix) be updated periodically by the Area Committee.

(D) The President shall—

(i) review and approve Area Contingency Plans under this paragraph; and

(ii) periodically review Area Contingency Plans so approved.

(5) TANK VESSEL, NONTANK VESSEL, AND FACILITY RESPONSE PLANS.—(A)(i) The President shall issue regulations which require an owner or operator of a tank vessel or facility described in subparagraph (C) to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance.

(ii) The President shall also issue regulations which require an owner or operator of a nontank vessel to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil.

(B) The Secretary of the Department in which the Coast Guard is operating may issue regulations which require an owner or operator of a tank vessel, a nontank vessel, or a facility described in subparagraph (C) that transfers noxious liquid substances in bulk to or from a vessel to prepare and submit to the Secretary a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of a noxious liquid substance that is not designated as a hazardous substance or regulated as oil

in any other law or regulation. For purposes of this paragraph, the term “noxious liquid substance” has the same meaning when that term is used in the MARPOL Protocol described in section 2(a)(3) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)).

(C) The tank vessels, nontank vessels, and facilities referred to in subparagraphs (A) and (B) are the following:

- (i) A tank vessel, as defined under section 2101 of title 46, United States Code.
- (ii) A nontank vessel.
- (iii) An offshore facility.
- (iv) An onshore facility that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging into or on the navigable waters, adjoining shorelines, or the exclusive economic zone.

(D) A response plan required under this paragraph shall—

- (i) be consistent with the requirements of the National Contingency Plan and Area Contingency Plans;
- (ii) identify the qualified individual having full authority to implement removal actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment pursuant to clause (iii);
- (iii) identify, and ensure by contract or other means approved by the President the availability of, private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge;
- (iv) describe the training, equipment testing, periodic unannounced drills, and response actions of persons on the vessel or at the facility, to be carried out under the plan to ensure the safety of the vessel or facility and to mitigate or prevent the discharge, or the substantial threat of a discharge;
- (v) be updated periodically; and
- (vi) be resubmitted for approval of each significant change.

(E) With respect to any response plan submitted under this paragraph for an onshore facility that, because of its location, could reasonably be expected to cause significant and substantial harm to the environment by discharging into or on the navigable waters or adjoining shorelines or the exclusive economic zone, and with respect to each response plan submitted under this paragraph for a tank vessel, nontank vessel, or offshore facility, the President shall—

- (i) promptly review such response plan;
- (ii) require amendments to any plan that does not meet the requirements of this paragraph;
- (iii) approve any plan that meets the requirements of this paragraph;
- (iv) review each plan periodically thereafter; and
- (v) in the case of a plan for a nontank vessel, consider any applicable State-mandated response plan in effect on

the date of the enactment of the Coast Guard and Maritime Transportation Act of 2004 and ensure consistency to the extent practicable.

(F) A tank vessel, nontank vessel, offshore facility, or onshore facility required to prepare a response plan under this subsection may not handle, store, or transport oil unless—

(i) in the case of a tank vessel, nontank vessel, offshore facility, or onshore facility for which a response plan is reviewed by the President under subparagraph (E), the plan has been approved by the President; and

(ii) the vessel or facility is operating in compliance with the plan.

(G) Notwithstanding subparagraph (E), the President may authorize a tank vessel, nontank vessel, offshore facility, or onshore facility to operate without a response plan approved under this paragraph, until not later than 2 years after the date of the submission to the President of a plan for the tank vessel, nontank vessel, or facility, if the owner or operator certifies that the owner or operator has ensured by contract or other means approved by the President the availability of private personnel and equipment necessary to respond, to the maximum extent practicable, to a worst case discharge or a substantial threat of such a discharge.

(H) The owner or operator of a tank vessel, nontank vessel, offshore facility, or onshore facility may not claim as a defense to liability under title I of the Oil Pollution Act of 1990 that the owner or operator was acting in accordance with an approved response plan.

(I) The Secretary shall maintain, in the Vessel Identification System established under chapter 125 of title 46, United States Code, the dates of approval and review of a response plan under this paragraph for each tank vessel and nontank vessel that is a vessel of the United States.

[(6) EQUIPMENT REQUIREMENTS AND INSPECTION.—The President may require—

[(A) periodic inspection of containment booms, skimmers, vessels, and other major equipment used to remove discharges; and

[(B) vessels operating on navigable waters and carrying oil or a hazardous substance in bulk as cargo, and nontank vessels carrying oil of any kind as fuel for main propulsion, to carry appropriate removal equipment that employs the best technology economically feasible and that is compatible with the safe operation of the vessel.]

(6) *EQUIPMENT REQUIREMENTS, VERIFICATION, AND INSPECTION.—The President may require—*

*(A) periodic inspection of containment booms, skimmers, vessels, and other major equipment used to remove discharges;*

*(B) periodic inspection of vessels, salvage and marine firefighting equipment, and other major equipment used to respond to vessel casualties and prevent discharges;*

*(C) periodic verification of capabilities to appropriately, and in a timely manner, respond to a worst case discharge, or a substantial threat of a discharge, including—*

- (i) drills, with or without prior notice;
- (ii) review of contracts and relevant third-party agreements;
- (iii) testing of equipment;
- (iv) review of training; and
- (v) other evaluations of response capabilities, as determined appropriate by the President; and

(D) vessels operating on navigable waters and carrying oil or a hazardous substance in bulk as cargo, and nontank vessels carrying oil of any kind as fuel for main propulsion, to carry appropriate removal equipment that employs the best technology economically feasible and that is compatible with the safe operation of the vessel.

(7) AREA DRILLS.—The President shall periodically conduct drills of removal capability, without prior notice, in areas for which Area Contingency Plans are required under this subsection and under relevant tank vessel, nontank vessel, and facility response plans. The drills may include participation by Federal, State, and local agencies, the owners and operators of vessels and facilities in the area, and private industry. The President may publish annual reports on these drills, including assessments of the effectiveness of the plans and a list of amendments made to improve plans.

(8) UNITED STATES GOVERNMENT NOT LIABLE.—The United States Government is not liable for any damages arising from its actions or omissions relating to any response plan required by this section.

(9) WESTERN ALASKA OIL SPILL PLANNING CRITERIA PROGRAM.—

(A) DEFINITIONS.—In this paragraph:

(i) ALTERNATIVE PLANNING CRITERIA.—The term “alternative planning criteria” means criteria submitted under section 155.1065 or 155.5067 of title 33, Code of Federal Regulations (as in effect on the date of enactment of this paragraph), for vessel response plans.

(ii) PRINCE WILLIAM SOUND CAPTAIN OF THE PORT ZONE.—The term “Prince William Sound Captain of the Port Zone” means the area described in section 3.85–15(b) of title 33, Code of Federal Regulations (or successor regulations).

(iii) SECRETARY.—The term “Secretary” means the Secretary of the department in which the Coast Guard is operating.

(iv) VESSEL RESPONSE PLAN.—The term “vessel response plan” means a plan required to be submitted by the owner or operator of a tank vessel or a nontank vessel under regulations issued by the President under paragraph (5).

(v) WESTERN ALASKA CAPTAIN OF THE PORT ZONE.—The term “Western Alaska Captain of the Port Zone” means the area described in section 3.85–15(a) of title 33, Code of Federal Regulations (as in effect on the date of enactment of this paragraph).

(B) REQUIREMENT.—Except as provided in subparagraph (I), for any part of the area of responsibility of the Western

Alaska Captain of the Port Zone or the Prince William Sound Captain of the Port Zone for which the Secretary has determined that the national planning criteria established pursuant to this subsection are inappropriate for a vessel operating in such area, a vessel response plan with respect to a discharge of oil for such a vessel shall comply with the Western Alaska oil spill planning criteria established under subparagraph (D)(i).

(C) RELATION TO NATIONAL PLANNING CRITERIA.—The Western Alaska oil spill planning criteria established under subparagraph (D)(i) shall, with respect to a discharge of oil from a vessel described in subparagraph (B), apply in lieu of any alternative planning criteria accepted for vessels operating, prior to the date on which the Western Alaska oil spill planning criteria are established, in any part of the area of responsibility of the Western Alaska Captain of the Port Zone or the Prince William Sound Captain of the Port Zone for which the Secretary has determined that the national planning criteria established pursuant to this subsection are inappropriate for a vessel operating in such area.

(D) ESTABLISHMENT OF WESTERN ALASKA OIL SPILL PLANNING CRITERIA.—

(i) IN GENERAL.—The President, acting through the Commandant, in consultation with the Western Alaska Oil Spill Criteria Program Manager selected under section 323 of title 14, United States Code, shall establish—

(I) Western Alaska oil spill planning criteria for a worst case discharge of oil, and a substantial threat of such a discharge, within any part of the area of responsibility of the Western Alaska Captain of the Port Zone or Prince William Sound Captain of the Port Zone for which the Secretary has determined that the national planning criteria established pursuant to this subsection are inappropriate for a vessel operating in such area; and

(II) standardized submission, review, approval, and compliance verification processes for the Western Alaska oil spill planning criteria established under this clause, including the quantity and frequency of drills and on-site verifications of vessel response plans approved pursuant to such planning criteria.

(ii) DEVELOPMENT OF SUBREGIONS.—

(I) DEVELOPMENT.—After establishing the Western Alaska oil spill planning criteria under clause (i), and if necessary to adequately reflect the needs and capabilities of various locations within the Western Alaska Captain of the Port Zone, the President, acting through the Commandant, and in consultation with the Western Alaska Oil Spill Criteria Program Manager selected under section 323 of title 14, United States Code, may develop subregions for which planning criteria may differ

from planning criteria for other subregions in the Western Alaska Captain of the Port Zone.

(II) LIMITATION.—Any planning criteria for a subregion developed under this clause may not be less stringent than the Western Alaska oil spill planning criteria established under clause (i).

(iii) ASSESSMENT.—

(I) IN GENERAL.—Prior to developing a subregion, the President, acting through the Commandant, shall conduct an assessment on any potential impacts to the entire Western Alaska Captain of the Port Zone to include quantity and availability of response resources in the proposed subregion and in surrounding areas and any changes or impacts to surrounding areas resulting in the development of a subregion with different standards.

(II) CONSULTATION.—In conducting an assessment under this clause, the President, acting through the Commandant, shall consult with State and local governments, Tribes (as defined in section 323 of title 14, United States Code), the owners and operators that would operate under the proposed subregions, oil spill removal organizations, Alaska Native organizations, and environmental nongovernmental organizations, and shall take into account any experience with the prior use of subregions within the State of Alaska.

(III) SUBMISSION.—The President, acting through the Commandant, shall submit the results of an assessment conducted under this clause to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(E) INCLUSIONS.—

(i) REQUIREMENTS.—The Western Alaska oil spill planning criteria established under subparagraph (D)(i) shall include planning criteria for the following:

(I) Mechanical oil spill response resources that are required to be located within any part of the area of responsibility of the Western Alaska Captain of the Port Zone or the Prince William Sound Captain of the Port Zone for which the Secretary has determined that the national planning criteria established pursuant to this subsection are inappropriate for a vessel operating in such area.

(II) Response times for mobilization of oil spill response resources and arrival on the scene of a worst case discharge of oil, or substantial threat of such a discharge, occurring within such part of such area.

(III) Pre-identified vessels for oil spill response that are capable of operating in the ocean environment.

(IV) Ensuring the availability of at least 1 oil spill removal organization that is classified by the Coast Guard and that—

(aa) is capable of responding in all operating environments in such part of such area;

(bb) controls oil spill response resources of dedicated and nondedicated resources within such part of such area, through ownership, contracts, agreements, or other means approved by the President, sufficient—

(AA) to mobilize and sustain a response to a worst case discharge of oil; and

(BB) to contain, recover, and temporarily store discharged oil;

(cc) has pre-positioned oil spill response resources in strategic locations throughout such part of such area in a manner that ensures the ability to support response personnel, marine operations, air cargo, or other related logistics infrastructure;

(dd) has temporary storage capability using both dedicated and non-dedicated assets located within such part of such area;

(ee) has non-mechanical oil spill response resources capable of responding to a discharge of persistent oil and a discharge of nonpersistent oil, whether the discharged oil was carried by a vessel as fuel or cargo; and

(ff) has wildlife response resources for primary, secondary, and tertiary responses to support carcass collection, sampling, deterrence, rescue, and rehabilitation of birds, sea turtles, marine mammals, fishery resources, and other wildlife.

(V) With respect to tank barges carrying non-persistent oil in bulk as cargo, oil spill response resources that are required to be carried on board.

(VI) Specifying a minimum length of time that approval of a vessel response plan under this paragraph is valid.

(VII) Managing wildlife protection and rehabilitation, including identified wildlife protection and rehabilitation resources in that area.

(ii) ADDITIONAL CONSIDERATIONS.—The Western Alaska oil spill planning criteria established under subparagraph (D)(i) may include planning criteria for the following:

(I) Vessel routing measures consistent with international routing measure deviation protocols.

(II) Maintenance of real-time continuous vessel tracking, monitoring, and engagement protocols with the ability to detect and address vessel operation anomalies.

(F) REQUIREMENT FOR APPROVAL.—The President may approve a vessel response plan for a vessel under this

paragraph only if the owner or operator of the vessel demonstrates the availability of the oil spill response resources required to be included in the vessel response plan under the Western Alaska oil spill planning criteria established under subparagraph (D)(i).

(G) PERIODIC AUDITS.—The Secretary shall conduct periodic audits to ensure compliance of vessel response plans and oil spill removal organizations within the Western Alaska Captain of the Port Zone and the Prince William Sound Captain of the Port Zone with the Western Alaska oil spill planning criteria established under subparagraph (D)(i).

(H) REVIEW OF DETERMINATION.—Not less frequently than once every 5 years, the Secretary shall review each determination of the Secretary under subparagraph (B) that the national planning criteria established pursuant to this subsection are inappropriate for a vessel operating in the area of responsibility of the Western Alaska Captain of the Port Zone and the Prince William Sound Captain of the Port Zone.

(I) VESSELS IN COOK INLET.—Unless otherwise authorized by the Secretary, a vessel may only operate in Cook Inlet, Alaska, under a vessel response plan approved under paragraph (5) that meets the requirements of the national planning criteria established pursuant to this subsection.

(J) SAVINGS PROVISIONS.—Nothing in this paragraph affects—

(i) the requirements under this subsection applicable to vessel response plans for vessels operating within the area of responsibility of the Western Alaska Captain of the Port Zone, within Cook Inlet, Alaska;

(ii) the requirements under this subsection applicable to vessel response plans for vessels operating within the area of responsibility of the Prince William Sound Captain of the Port Zone that are subject to section 5005 of the Oil Pollution Act of 1990 (33 U.S.C. 2735); or

(iii) the authority of a Federal On-Scene Coordinator to use any available resources when responding to an oil spill.

(l) The President is authorized to delegate the administration of this section to the heads of those Federal departments, agencies, and instrumentalities which he determines to be appropriate. Each such department, agency, and instrumentality, in order to avoid duplication of effort, shall, whenever appropriate, utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities.

(m) ADMINISTRATIVE PROVISIONS.—

(1) FOR VESSELS.—Anyone authorized by the President to enforce the provisions of this section with respect to any vessel may, except as to public vessels—

(A) board and inspect any vessel upon the navigable waters of the United States or the waters of the contiguous zone,

(B) with or without a warrant, arrest any person who in the presence or view of the authorized person violates the provisions of this section or any regulation issued thereunder, and

(C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

(2) FOR FACILITIES.—

(A) RECORDKEEPING.—Whenever required to carry out the purposes of this section, the Administrator, the Secretary of Transportation, or the Secretary of the Department in which the Coast Guard is operating shall require the owner or operator of a facility to which this section applies to establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment and methods, and provide such other information as the Administrator, the Secretary of Transportation, or Secretary, as the case may be, may require to carry out the objectives of this section.

(B) ENTRY AND INSPECTION.—Whenever required to carry out the purposes of this section, the Administrator, the Secretary of Transportation, or the Secretary of the Department in which the Coast Guard is operating or an authorized representative of the Administrator, the Secretary of Transportation, or Secretary, upon presentation of appropriate credentials, may—

(i) enter and inspect any facility to which this section applies, including any facility at which any records are required to be maintained under subparagraph (A); and

(ii) at reasonable times, have access to and copy any records, take samples, and inspect any monitoring equipment or methods required under subparagraph (A).

(C) ARRESTS AND EXECUTION OF WARRANTS.—Anyone authorized by the Administrator or the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section with respect to any facility may—

(i) with or without a warrant, arrest any person who violates the provisions of this section or any regulation issued thereunder in the presence or view of the person so authorized; and

(ii) execute any warrant or process issued by an officer or court of competent jurisdiction.

(D) PUBLIC ACCESS.—Any records, reports, or information obtained under this paragraph shall be subject to the same public access and disclosure requirements which are applicable to records, reports, and information obtained pursuant to section 308.

(n) The several district courts of the United States are invested with jurisdiction for any actions, other than actions pursuant to subsection (i)(1), arising under this section. In the case of Guam and the Trust Territory of the Pacific Islands, such actions may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Vir-

gin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the United States District Court for the District of the Canal Zone.

(o)(1) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel, or of any owner or operator of any onshore facility or offshore facility to any person or agency under any provision of law for damages to any publicly owned or privately owned property resulting from a discharge of any oil or hazardous substance or from the removal of any such oil or hazardous substance.

(2) Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substance into any waters within such State, or with respect to any removal activities related to such discharge.

(3) Nothing in this section shall be construed as affecting or modifying any other existing authority of any Federal department, agency, or instrumentality, relative to onshore or offshore facilities under this Act or any other provision of law, or to affect any State or local law not in conflict with this section.

(q) The President is authorized to establish, with respect to any class or category of onshore or offshore facilities, a maximum limit of liability under subsections (f)(2) and (3) of this section of less than \$50,000,000, but not less than, \$8,000,000.

(r) Nothing in this section shall be construed to impose, or authorize the imposition of, any limitation on liability under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974.

(s) The Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509) shall be available to carry out subsections (b), (c), (d), (j), and (l) as those subsections apply to discharges, and substantial threats of discharges, of oil. Any amounts received by the United States under this section shall be deposited in the Oil Spill Liability Trust Fund except as provided in subsection (t).

(t) GULF COAST RESTORATION AND RECOVERY.—

(1) STATE ALLOCATION AND EXPENDITURES.—

(A) IN GENERAL.—Of the total amounts made available in any fiscal year from the Trust Fund, 35 percent shall be available, in accordance with the requirements of this section, to the Gulf Coast States in equal shares for expenditure for ecological and economic restoration of the Gulf Coast region in accordance with this subsection.

(B) USE OF FUNDS.—

(i) ELIGIBLE ACTIVITIES IN THE GULF COAST REGION.—Subject to clause (iii), amounts provided to the Gulf Coast States under this subsection may only be used to carry out 1 or more of the following activities in the Gulf Coast region:

(I) Restoration and protection of the natural resources, ecosystems, fisheries, marine and wildlife

habitats, beaches, and coastal wetlands of the Gulf Coast region.

(II) Mitigation of damage to fish, wildlife, and natural resources.

(III) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan, including fisheries monitoring.

(IV) Workforce development and job creation.

(V) Improvements to or on State parks located in coastal areas affected by the Deepwater Horizon oil spill.

(VI) Infrastructure projects benefitting the economy or ecological resources, including port infrastructure.

(VII) Coastal flood protection and related infrastructure.

(VIII) Planning assistance.

(IX) Administrative costs of complying with this subsection.

(ii) ACTIVITIES TO PROMOTE TOURISM AND SEAFOOD IN THE GULF COAST REGION.—Amounts provided to the Gulf Coast States under this subsection may be used to carry out 1 or more of the following activities:

(I) Promotion of tourism in the Gulf Coast Region, including recreational fishing.

(II) Promotion of the consumption of seafood harvested from the Gulf Coast Region.

(iii) LIMITATION.—

(I) IN GENERAL.—Of the amounts received by a Gulf Coast State under this subsection, not more than 3 percent may be used for administrative costs eligible under clause (i)(IX).

(II) CLAIMS FOR COMPENSATION.—Activities funded under this subsection may not be included in any claim for compensation paid out by the Oil Spill Liability Trust Fund after the date of enactment of this subsection.

(C) COASTAL POLITICAL SUBDIVISIONS.—

(i) DISTRIBUTION.—In the case of a State where the coastal zone includes the entire State—

(I) 75 percent of funding shall be provided directly to the 8 disproportionately affected counties impacted by the Deepwater Horizon oil spill; and

(II) 25 percent shall be provided directly to non-disproportionately impacted counties within the State.

(ii) NONDISPROPORTIONATELY IMPACTED COUNTIES.—The total amounts made available to coastal political subdivisions in the State of Florida under clause (i)(II) shall be distributed according to the following weighted formula:

(I) 34 percent based on the weighted average of the population of the county.

(II) 33 percent based on the weighted average of the county per capita sales tax collections estimated for fiscal year 2012.

(III) 33 percent based on the inverse proportion of the weighted average distance from the Deepwater Horizon oil rig to each of the nearest and farthest points of the shoreline.

(D) LOUISIANA.—

(i) IN GENERAL.—Of the total amounts made available to the State of Louisiana under this paragraph:

(I) 70 percent shall be provided directly to the State in accordance with this subsection.

(II) 30 percent shall be provided directly to parishes in the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the State of Louisiana according to the following weighted formula:

(aa) 40 percent based on the weighted average of miles of the parish shoreline oiled.

(bb) 40 percent based on the weighted average of the population of the parish.

(cc) 20 percent based on the weighted average of the land mass of the parish.

(ii) CONDITIONS.—

(I) LAND USE PLAN.—As a condition of receiving amounts allocated under this paragraph, the chief executive of the eligible parish shall certify to the Governor of the State that the parish has completed a comprehensive land use plan.

(II) OTHER CONDITIONS.—A coastal political subdivision receiving funding under this paragraph shall meet all of the conditions in subparagraph (E).

(E) CONDITIONS.—As a condition of receiving amounts from the Trust Fund, a Gulf Coast State, including the entities described in subparagraph (F), or a coastal political subdivision shall—

(i) agree to meet such conditions, including audit requirements, as the Secretary of the Treasury determines necessary to ensure that amounts disbursed from the Trust Fund will be used in accordance with this subsection;

(ii) certify in such form and in such manner as the Secretary of the Treasury determines necessary that the project or program for which the Gulf Coast State or coastal political subdivision is requesting amounts—

(I) is designed to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, or economy of the Gulf Coast;

(II) carries out 1 or more of the activities described in clauses (i) and (ii) of subparagraph (B);

(III) was selected based on meaningful input from the public, including broad-based participa-

tion from individuals, businesses, and nonprofit organizations; and

(IV) in the case of a natural resource protection or restoration project, is based on the best available science;

(iii) certify that the project or program and the awarding of a contract for the expenditure of amounts received under this paragraph are consistent with the standard procurement rules and regulations governing a comparable project or program in that State, including all applicable competitive bidding and audit requirements; and

(iv) develop and submit a multiyear implementation plan for the use of such amounts, which may include milestones, projected completion of each activity, and a mechanism to evaluate the success of each activity in helping to restore and protect the Gulf Coast region impacted by the Deepwater Horizon oil spill.

(F) APPROVAL BY STATE ENTITY, TASK FORCE, OR AGENCY.—The following Gulf Coast State entities, task forces, or agencies shall carry out the duties of a Gulf Coast State pursuant to this paragraph:

(i) ALABAMA.—

(I) IN GENERAL.—In the State of Alabama, the Alabama Gulf Coast Recovery Council, which shall be comprised of only the following:

(aa) The Governor of Alabama, who shall also serve as Chairperson and preside over the meetings of the Alabama Gulf Coast Recovery Council.

(bb) The Director of the Alabama State Port Authority, who shall also serve as Vice Chairperson and preside over the meetings of the Alabama Gulf Coast Recovery Council in the absence of the Chairperson.

(cc) The Chairman of the Baldwin County Commission.

(dd) The President of the Mobile County Commission.

(ee) The Mayor of the city of Bayou La Batre.

(ff) The Mayor of the town of Dauphin Island.

(gg) The Mayor of the city of Fairhope.

(hh) The Mayor of the city of Gulf Shores.

(ii) The Mayor of the city of Mobile.

(jj) The Mayor of the city of Orange Beach.

(II) VOTE.—Each member of the Alabama Gulf Coast Recovery Council shall be entitled to 1 vote.

(III) MAJORITY VOTE.—All decisions of the Alabama Gulf Coast Recovery Council shall be made by majority vote.

(IV) LIMITATION ON ADMINISTRATIVE EXPENSES.—Administrative duties for the Alabama Gulf Coast Recovery Council may only be per-

formed by public officials and employees that are subject to the ethics laws of the State of Alabama.

(ii) LOUISIANA.—In the State of Louisiana, the Coastal Protection and Restoration Authority of Louisiana.

(iii) MISSISSIPPI.—In the State of Mississippi, the Mississippi Department of Environmental Quality.

(iv) TEXAS.—In the State of Texas, the Office of the Governor or an appointee of the Office of the Governor.

(G) COMPLIANCE WITH ELIGIBLE ACTIVITIES.—If the Secretary of the Treasury determines that an expenditure by a Gulf Coast State or coastal political subdivision of amounts made available under this subsection does not meet one of the activities described in clauses (i) and (ii) of subparagraph (B), the Secretary shall make no additional amounts from the Trust Fund available to that Gulf Coast State or coastal political subdivision until such time as an amount equal to the amount expended for the unauthorized use—

(i) has been deposited by the Gulf Coast State or coastal political subdivision in the Trust Fund; or

(ii) has been authorized by the Secretary of the Treasury for expenditure by the Gulf Coast State or coastal political subdivision for a project or program that meets the requirements of this subsection.

(H) COMPLIANCE WITH CONDITIONS.—If the Secretary of the Treasury determines that a Gulf Coast State or coastal political subdivision does not meet the requirements of this paragraph, including the conditions of subparagraph (E), where applicable, the Secretary of the Treasury shall make no amounts from the Trust Fund available to that Gulf Coast State or coastal political subdivision until all conditions of this paragraph are met.

(I) PUBLIC INPUT.—In meeting any condition of this paragraph, a Gulf Coast State may use an appropriate procedure for public consultation in that Gulf Coast State, including consulting with one or more established task forces or other entities, to develop recommendations for proposed projects and programs that would restore and protect the natural resources, ecosystems, fisheries, marine and wild-life habitats, beaches, coastal wetlands, and economy of the Gulf Coast.

(J) PREVIOUSLY APPROVED PROJECTS AND PROGRAMS.—A Gulf Coast State or coastal political subdivision shall be considered to have met the conditions of subparagraph (E) for a specific project or program if, before the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012—

(i) the Gulf Coast State or coastal political subdivision has established conditions for carrying out projects and programs that are substantively the same as the conditions described in subparagraph (E); and

(ii) the applicable project or program carries out 1 or more of the activities described in clauses (i) and (ii) of subparagraph (B).

(K) LOCAL PREFERENCE.—In awarding contracts to carry out a project or program under this paragraph, a Gulf Coast State or coastal political subdivision may give a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in the State of project execution.

(L) UNUSED FUNDS.—Funds allocated to a State or coastal political subdivision under this paragraph shall remain in the Trust Fund until such time as the State or coastal political subdivision develops and submits a plan identifying uses for those funds in accordance with subparagraph (E)(iv).

(M) JUDICIAL REVIEW.—If the Secretary of the Treasury determines that a Gulf Coast State or coastal political subdivision does not meet the requirements of this paragraph, including the conditions of subparagraph (E), the Gulf Coast State or coastal political subdivision may obtain expedited judicial review within 90 days after that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking the review.

(N) COST-SHARING.—

(i) IN GENERAL.—A Gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available under this paragraph to that Gulf Coast State or coastal political subdivision to satisfy the non-Federal share of the cost of any project or program authorized by Federal law that is an eligible activity described in clauses (i) and (ii) of subparagraph (B).

(ii) EFFECT ON OTHER FUNDS.—The use of funds made available from the Trust Fund to satisfy the non-Federal share of the cost of a project or program that meets the requirements of clause (i) shall not affect the priority in which other Federal funds are allocated or awarded.

(2) COUNCIL ESTABLISHMENT AND ALLOCATION.—

(A) IN GENERAL.—Of the total amount made available in any fiscal year from the Trust Fund, 30 percent shall be disbursed to the Council to carry out the Comprehensive Plan.

(B) COUNCIL EXPENDITURES.—

(i) IN GENERAL.—In accordance with this paragraph, the Council shall expend funds made available from the Trust Fund to undertake projects and programs, using the best available science, that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.

(ii) ALLOCATION AND EXPENDITURE PROCEDURES.—The Secretary of the Treasury shall develop such conditions, including audit requirements, as the Secretary

of the Treasury determines necessary to ensure that amounts disbursed from the Trust Fund to the Council to implement the Comprehensive Plan will be used in accordance with this paragraph.

(iii) ADMINISTRATIVE EXPENSES.—Of the amounts received by the Council under this paragraph, not more than 3 percent may be used for administrative expenses, including staff.

(C) GULF COAST ECOSYSTEM RESTORATION COUNCIL.—

(i) ESTABLISHMENT.—There is established as an independent entity in the Federal Government a council to be known as the “Gulf Coast Ecosystem Restoration Council”.

(ii) MEMBERSHIP.—The Council shall consist of the following members, or in the case of a Federal agency, a designee at the level of the Assistant Secretary or the equivalent:

(I) The Secretary of the Interior.

(II) The Secretary of the Army.

(III) The Secretary of Commerce.

(IV) The Administrator of the Environmental Protection Agency.

(V) The Secretary of Agriculture.

(VI) The head of the department in which the Coast Guard is operating.

(VII) The Governor of the State of Alabama.

(VIII) The Governor of the State of Florida.

(IX) The Governor of the State of Louisiana.

(X) The Governor of the State of Mississippi.

(XI) The Governor of the State of Texas.

(iii) ALTERNATE.—A Governor appointed to the Council by the President may designate an alternate to represent the Governor on the Council and vote on behalf of the Governor.

(iv) CHAIRPERSON.—From among the Federal agency members of the Council, the representatives of States on the Council shall select, and the President shall appoint, 1 Federal member to serve as Chairperson of the Council.

(v) PRESIDENTIAL APPOINTMENT.—All Council members shall be appointed by the President.

(vi) COUNCIL ACTIONS.—

(I) IN GENERAL.—The following actions by the Council shall require the affirmative vote of the Chairperson and a majority of the State members to be effective:

(aa) Approval of a Comprehensive Plan and future revisions to a Comprehensive Plan.

(bb) Approval of State plans pursuant to paragraph (3)(B)(iv).

(cc) Approval of reports to Congress pursuant to clause (vii)(VII).

(dd) Approval of transfers pursuant to subparagraph (E)(ii)(I).

(ee) Other significant actions determined by the Council.

(II) QUORUM.—A majority of State members shall be required to be present for the Council to take any significant action.

(III) AFFIRMATIVE VOTE REQUIREMENT CONSIDERED MET.—For approval of State plans pursuant to paragraph (3)(B)(iv), the certification by a State member of the Council that the plan satisfies all requirements of clauses (i) and (ii) of paragraph (3)(B), when joined by an affirmative vote of the Federal Chairperson of the Council, shall be considered to satisfy the requirements for affirmative votes under subclause (I).

(IV) PUBLIC TRANSPARENCY.—Appropriate actions of the Council, including significant actions and associated deliberations, shall be made available to the public via electronic means prior to any vote.

(vii) DUTIES OF COUNCIL.—The Council shall—

(I) develop the Comprehensive Plan and future revisions to the Comprehensive Plan;

(II) identify as soon as practicable the projects that—

(aa) have been authorized prior to the date of enactment of this subsection but not yet commenced; and

(bb) if implemented quickly, would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, barrier islands, dunes, and coastal wetlands of the Gulf Coast region;

(III) establish such other 1 or more advisory committees as may be necessary to assist the Council, including a scientific advisory committee and a committee to advise the Council on public policy issues;

(IV) collect and consider scientific and other research associated with restoration of the Gulf Coast ecosystem, including research, observation, and monitoring carried out pursuant to sections 1604 and 1605 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012;

(V) develop standard terms to include in contracts for projects and programs awarded pursuant to the Comprehensive Plan that provide a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in a Gulf Coast State;

(VI) prepare an integrated financial plan and recommendations for coordinated budget requests for the amounts proposed to be expended by the Federal agencies represented on the Council for

projects and programs in the Gulf Coast States;  
and

(VII) submit to Congress an annual report that—

(aa) summarizes the policies, strategies, plans, and activities for addressing the restoration and protection of the Gulf Coast region;

(bb) describes the projects and programs being implemented to restore and protect the Gulf Coast region, including—

(AA) a list of each project and program;

(BB) an identification of the funding provided to projects and programs identified in subitem (AA);

(CC) an identification of each recipient for funding identified in subitem (BB); and

(DD) a description of the length of time and funding needed to complete the objectives of each project and program identified in subitem (AA);

(cc) makes such recommendations to Congress for modifications of existing laws as the Council determines necessary to implement the Comprehensive Plan;

(dd) reports on the progress on implementation of each project or program—

(AA) after 3 years of ongoing activity of the project or program, if applicable; and

(BB) on completion of the project or program;

(ee) includes the information required to be submitted under section 1605(c)(4) of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012; and

(ff) submits the reports required under item (dd) to—

(AA) the Committee on Science, Space, and Technology, the Committee on Natural Resources, the Committee on Transportation and Infrastructure, and the Committee on Appropriations of the House of Representatives; and

(BB) the Committee on Environment and Public Works, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, and the Committee on Appropriations of the Senate.

(viii) APPLICATION OF CHAPTER 10 OF TITLE 5, UNITED STATES CODE.—The Council, or any other advisory committee established under this subparagraph, shall

not be considered an advisory committee under chapter 10 of title 5, United States Code.

(ix) SUNSET.—The authority for the Council, and any other advisory committee established under this subparagraph, shall terminate on the date all funds in the Trust Fund have been expended.

(D) COMPREHENSIVE PLAN.—

(i) PROPOSED PLAN.—

(I) IN GENERAL.—Not later than 180 days after the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012, the Chairperson, on behalf of the Council and after appropriate public input, review, and comment, shall publish a proposed plan to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region.

(II) INCLUSIONS.—The proposed plan described in subclause (I) shall include and incorporate the findings and information prepared by the President's Gulf Coast Restoration Task Force.

(ii) PUBLICATION.—

(I) INITIAL PLAN.—Not later than 1 year after the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 and after notice and opportunity for public comment, the Chairperson, on behalf of the Council and after approval by the Council, shall publish in the Federal Register the initial Comprehensive Plan to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region.

(II) COOPERATION WITH GULF COAST RESTORATION TASK FORCE.—The Council shall develop the initial Comprehensive Plan in close coordination with the President's Gulf Coast Restoration Task Force.

(III) CONSIDERATIONS.—In developing the initial Comprehensive Plan and subsequent updates, the Council shall consider all relevant findings, reports, or research prepared or funded under section 1604 or 1605 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

(IV) CONTENTS.—The initial Comprehensive Plan shall include—

(aa) such provisions as are necessary to fully incorporate in the Comprehensive Plan the strategy, projects, and programs recommended by the President's Gulf Coast Restoration Task Force;

(bb) a list of any project or program authorized prior to the date of enactment of this subsection but not yet commenced, the completion of which would further the purposes and goals of this subsection and of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012;

(cc) a description of the manner in which amounts from the Trust Fund projected to be made available to the Council for the succeeding 10 years will be allocated; and

(dd) subject to available funding in accordance with clause (iii), a prioritized list of specific projects and programs to be funded and carried out during the 3-year period immediately following the date of publication of the initial Comprehensive Plan, including a table that illustrates the distribution of projects and programs by the Gulf Coast State.

(V) PLAN UPDATES.—The Council shall update—

(aa) the Comprehensive Plan every 5 years in a manner comparable to the manner established in this subparagraph for each 5-year period for which amounts are expected to be made available to the Gulf Coast States from the Trust Fund; and

(bb) the 3-year list of projects and programs described in subclause (IV)(dd) annually.

(iii) RESTORATION PRIORITIES.—Except for projects and programs described in clause (ii)(IV)(bb), in selecting projects and programs to include on the 3-year list described in clause (ii)(IV)(dd), based on the best available science, the Council shall give highest priority to projects that address 1 or more of the following criteria:

(I) Projects that are projected to make the greatest contribution to restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region, without regard to geographic location within the Gulf Coast region.

(II) Large-scale projects and programs that are projected to substantially contribute to restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

(III) Projects contained in existing Gulf Coast State comprehensive plans for the restoration and protection of natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region.

(IV) Projects that restore long-term resiliency of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal

wetlands most impacted by the Deepwater Horizon oil spill.

(E) IMPLEMENTATION.—

(i) IN GENERAL.—The Council, acting through the Federal agencies represented on the Council and Gulf Coast States, shall expend funds made available from the Trust Fund to carry out projects and programs adopted in the Comprehensive Plan.

(ii) ADMINISTRATIVE RESPONSIBILITY.—

(I) IN GENERAL.—Primary authority and responsibility for each project and program included in the Comprehensive Plan shall be assigned by the Council to a Gulf Coast State represented on the Council or a Federal agency.

(II) TRANSFER OF AMOUNTS.—Amounts necessary to carry out each project or program included in the Comprehensive Plan shall be transferred by the Secretary of the Treasury from the Trust Fund to that Federal agency or Gulf Coast State as the project or program is implemented, subject to such conditions as the Secretary of the Treasury, in consultation with the Secretary of the Interior and the Secretary of Commerce, established pursuant to section 1602 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

(III) LIMITATION ON TRANSFERS.—

(aa) GRANTS TO NONGOVERNMENTAL ENTITIES.—In the case of funds transferred to a Federal or State agency under subclause (II), the agency shall not make 1 or more grants or cooperative agreements to a nongovernmental entity if the total amount provided to the entity would equal or exceed 10 percent of the total amount provided to the agency for that particular project or program, unless the 1 or more grants have been reported in accordance with item (bb).

(bb) REPORTING OF GRANTEES.—At least 30 days prior to making a grant or entering into a cooperative agreement described in item (aa), the name of each grantee, including the amount and purpose of each grant or cooperative agreement, shall be published in the Federal Register and delivered to the congressional committees listed in subparagraph (C)(vii)(VII)(ff).

(cc) ANNUAL REPORTING OF GRANTEES.—Annually, the name of each grantee, including the amount and purposes of each grant or cooperative agreement, shall be published in the Federal Register and delivered to Congress as part of the report submitted pursuant to subparagraph (C)(vii)(VII).

(IV) PROJECT AND PROGRAM LIMITATION.—The Council, a Federal agency, or a State may not carry out a project or program funded under this paragraph outside of the Gulf Coast region.

(F) COORDINATION.—The Council and the Federal members of the Council may develop memoranda of understanding establishing integrated funding and implementation plans among the member agencies and authorities.

(3) OIL SPILL RESTORATION IMPACT ALLOCATION.—

(A) IN GENERAL.—

(i) DISBURSEMENT.—Of the total amount made available from the Trust Fund, 30 percent shall be disbursed pursuant to the formula in clause (ii) to the Gulf Coast States on the approval of the plan described in subparagraph (B)(i).

(ii) FORMULA.—Subject to subparagraph (B), for each Gulf Coast State, the amount disbursed under this paragraph shall be based on a formula established by the Council by regulation that is based on a weighted average of the following criteria:

(I) 40 percent based on the proportionate number of miles of shoreline in each Gulf Coast State that experienced oiling on or before April 10, 2011, compared to the total number of miles of shoreline that experienced oiling as a result of the Deepwater Horizon oil spill.

(II) 40 percent based on the inverse proportion of the average distance from the mobile offshore drilling unit *Deepwater Horizon* at the time of the explosion to the nearest and farthest point of the shoreline that experienced oiling of each Gulf Coast State.

(III) 20 percent based on the average population in the 2010 decennial census of coastal counties bordering the Gulf of Mexico within each Gulf Coast State.

(iii) MINIMUM ALLOCATION.—The amount disbursed to a Gulf Coast State for each fiscal year under clause (ii) shall be at least 5 percent of the total amounts made available under this paragraph.

(B) DISBURSEMENT OF FUNDS.—

(i) IN GENERAL.—The Council shall disburse amounts to the respective Gulf Coast States in accordance with the formula developed under subparagraph (A) for projects, programs, and activities that will improve the ecosystems or economy of the Gulf Coast region, subject to the condition that each Gulf Coast State submits a plan for the expenditure of amounts disbursed under this paragraph that meets the following criteria:

(I) All projects, programs, and activities included in the plan are eligible activities pursuant to clauses (i) and (ii) of paragraph (1)(B).

(II) The projects, programs, and activities included in the plan contribute to the overall economic and ecological recovery of the Gulf Coast.

(III) The plan takes into consideration the Comprehensive Plan and is consistent with the goals and objectives of the Plan, as described in paragraph (2)(B)(i).

(ii) FUNDING.—

(I) IN GENERAL.—Except as provided in subclause (II), the plan described in clause (i) may use not more than 25 percent of the funding made available for infrastructure projects eligible under subclauses (VI) and (VII) of paragraph (1)(B)(i).

(II) EXCEPTION.—The plan described in clause (i) may propose to use more than 25 percent of the funding made available for infrastructure projects eligible under subclauses (VI) and (VII) of paragraph (1)(B)(i) if the plan certifies that—

(aa) ecosystem restoration needs in the State will be addressed by the projects in the proposed plan; and

(bb) additional investment in infrastructure is required to mitigate the impacts of the Deepwater Horizon Oil Spill to the ecosystem or economy.

(iii) DEVELOPMENT.—The plan described in clause (i) shall be developed by—

(I) in the State of Alabama, the Alabama Gulf Coast Recovery Council established under paragraph (1)(F)(i);

(II) in the State of Florida, a consortia of local political subdivisions that includes at a minimum 1 representative of each affected county;

(III) in the State of Louisiana, the Coastal Protection and Restoration Authority of Louisiana;

(IV) in the State of Mississippi, the Office of the Governor or an appointee of the Office of the Governor; and

(V) in the State of Texas, the Office of the Governor or an appointee of the Office of the Governor.

(iv) APPROVAL.—Not later than 60 days after the date on which a plan is submitted under clause (i), the Council shall approve or disapprove the plan based on the conditions of clause (i).

(C) DISAPPROVAL.—If the Council disapproves a plan pursuant to subparagraph (B)(iv), the Council shall—

(i) provide the reasons for disapproval in writing; and

(ii) consult with the State to address any identified deficiencies with the State plan.

(D) FAILURE TO SUBMIT ADEQUATE PLAN.—If a State fails to submit an adequate plan under this paragraph, any funds made available under this paragraph shall remain

in the Trust Fund until such date as a plan is submitted and approved pursuant to this paragraph.

(E) JUDICIAL REVIEW.—If the Council fails to approve or take action within 60 days on a plan, as described in subparagraph (B)(iv), the State may obtain expedited judicial review within 90 days of that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking the review.

(F) COST-SHARING.—

(i) IN GENERAL.—A Gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available to that Gulf Coast State or coastal political subdivision under this paragraph to satisfy the non-Federal share of any project or program that—

(I) is authorized by other Federal law; and

(II) is an eligible activity described in clause (i) or (ii) of paragraph (1)(B).

(ii) EFFECT ON OTHER FUNDS.—The use of funds made available from the Trust Fund under this paragraph to satisfy the non-Federal share of the cost of a project or program described in clause (i) shall not affect the priority in which other Federal funds are allocated or awarded.

(4) AUTHORIZATION OF INTEREST TRANSFERS.—Of the total amount made available for any fiscal year from the Trust Fund that is equal to the interest earned by the Trust Fund and proceeds from investments made by the Trust Fund in the preceding fiscal year—

(A) 50 percent shall be divided equally between—

(i) the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology program authorized in section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012; and

(ii) the centers of excellence research grants authorized in section 1605 of that Act; and

(B) 50 percent shall be made available to the Gulf Coast Ecosystem Restoration Council to carry out the Comprehensive Plan pursuant to paragraph (2).

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**OIL POLLUTION ACT OF 1990**

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**TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION**

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**SEC. 1017. LITIGATION, JURISDICTION, AND VENUE.**

(a) REVIEW OF REGULATIONS.—Review of any regulation promulgated under this Act may be had upon application by any inter-

ested person only in the Circuit Court of Appeals of the United States for the District of Columbia. Any such application shall be made within 90 days from the date of promulgation of such regulations. Any matter with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or to obtain damages or recovery of response costs.

(b) JURISDICTION.—Except as provided in subsections (a) and (c), the United States district courts shall have exclusive original jurisdiction over all controversies arising under this Act, without regard to the citizenship of the parties or the amount in controversy. Venue shall lie in any district in which the discharge or injury or damages occurred, or in which the defendant resides, may be found, has its principal office, or has appointed an agent for service of process. For the purposes of this section, the Fund shall reside in the District of Columbia.

(c) STATE COURT JURISDICTION.—A State trial court of competent jurisdiction over claims for removal costs or damages, as defined under this Act, may consider claims under this Act or State law and any final judgment of such court (when no longer subject to ordinary forms of review) shall be recognized, valid, and enforceable for all purposes of this Act.

(d) ASSESSMENT AND COLLECTION OF TAX.—The provisions of subsections (a), (b), and (c) shall not apply to any controversy or other matter resulting from the assessment or collection of any tax, or to the review of any regulation promulgated under the Internal Revenue Code of 1986.

(e) SAVINGS PROVISION.—Nothing in this title shall apply to any cause of action or right of recovery arising from any incident which occurred prior to the date of enactment of this title. Such claims shall be adjudicated pursuant to the law applicable on the date of the incident.

(f) PERIOD OF LIMITATIONS.—

(1) DAMAGES.—Except as provided in paragraphs (3) and (4), an action for damages under this Act shall be barred unless the action is brought within 3 years after—

(A) the date on which the loss and the connection of the loss with the discharge in question are reasonably discoverable with the exercise of due care, or

(B) in the case of natural resource damages under section 1002(b)(2)(A), the date of completion of the natural resources damage assessment under section 1006(c).

(2) REMOVAL COSTS.—An action for recovery of removal costs referred to in section 1002(b)(1) must be commenced within 3 years after completion of the removal action. In any such action described in this subsection, the court shall enter a declaratory judgment on liability for removal costs or damages that will be binding on any subsequent action or actions to recover further removal costs or damages. Except as otherwise provided in this paragraph, an action may be commenced under this title for recovery of removal costs at any time after such costs have been incurred.

(3) CONTRIBUTION.—No action for contribution for any removal costs or damages may be commenced more than 3 years after—

(A) the date of judgment in any action under this Act for recovery of such costs or damages, or

(B) the date of entry of a judicially approved settlement with respect to such costs or damages.

(4) SUBROGATION.—No action based on rights subrogated pursuant to this Act by reason of payment of a claim may be commenced under this Act more than 3 years after the date of payment of such claim.

(5) COMMENCEMENT.—The time limitations contained herein shall not begin to run—

(A) against a minor until the earlier of the date when such minor reaches 18 years of age or the date on which a legal representative is duly appointed for such minor, or

(B) against an incompetent person until the earlier of the date on which such incompetent's incompetency ends or the date on which a legal representative is duly appointed for such incompetent.

(g) *TIMING OF REVIEW.*—*Before the date of completion of a removal action, no person may bring an action under this Act, section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), or chapter 7 of title 5, United States Code, challenging any decision relating to such removal action that is made by an on-scene coordinator appointed under the National Contingency Plan.*

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