

COAST GUARD AUTHORIZATION ACT OF 2017

JUNE 26, 2017.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 2518]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 2518) to authorize appropriations for the Coast Guard for fiscal years 2018 and 2019, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

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

(a) **SHORT TITLE.**—This Act may be cited as the “Coast Guard Authorization Act of 2017”.

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

Sec. 1. Short title; table of contents.

**TITLE I—AUTHORIZATIONS**

Sec. 101. Authorizations of appropriations.

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

**TITLE II—COAST GUARD**

Sec. 201. Training; public safety personnel.

Sec. 202. Commissioned service retirement.

Sec. 203. Officer promotion zones.

Sec. 204. Cross reference.

Sec. 205. Repeal.

Sec. 206. Unmanned aircraft system.

Sec. 207. Coast Guard health-care professionals; licensure portability.

Sec. 208. Incentive contracts for Coast Guard yard and industrial establishments.

Sec. 209. Maintaining cutters in class.

Sec. 210. Congressional affairs; Director.

Sec. 211. Contracting for major acquisitions programs.

Sec. 212. National Security Cutter.

Sec. 213. Radar refresher training.

Sec. 214. Repeal.

Sec. 215. Extension of authority.

Sec. 216. Authorization of amounts for Fast Response Cutters.

Sec. 217. Authorization of amounts for ice trials of icebreaker vessels.

Sec. 218. Shoreside infrastructure.

**TITLE III—PORTS AND WATERWAYS SAFETY ACT**

Sec. 301. Codification of Ports and Waterways Safety Act.

Sec. 302. Conforming amendments.

Sec. 303. Transitional and savings provisions.

Sec. 304. Rule of construction.

Sec. 305. Advisory Committee: Repeal.

**TITLE IV—MARITIME TRANSPORTATION SAFETY**

Sec. 401. Clarification of logbook entries.

Sec. 402. Technical corrections: licenses, certifications of registry, and merchant mariner documents.

Sec. 403. Numbering for undocumented barges.

Sec. 404. Drawbridge deviation exemption.

Sec. 405. Deadline for compliance with alternate safety compliance programs.

Sec. 406. Authorization for marine debris program.

Sec. 407. Alternative distress signals.

Sec. 408. Atlantic Coast Port Access Route Study recommendations.

Sec. 409. Documentation of recreational vessels.

Sec. 410. Certificates of documentation for recreational vessels.

Sec. 411. Backup global positioning system.

Sec. 412. Waters deemed not navigable waters of the United States for certain purposes.

Sec. 413. Uninspected passenger vessels in St. Louis County, Minnesota.

Sec. 414. Engine cut-off switch requirements.

Sec. 415. Analysis of commercial fishing vessel classification requirements.

**TITLE V—MISCELLANEOUS**

Sec. 501. Repeal.

Sec. 502. Reimbursements for non-Federal construction costs of certain aids to navigation.

Sec. 503. Corrections to provisions enacted by Coast Guard Authorization Acts.

Sec. 504. Ship Shoal Lighthouse transfer: Repeal.

Sec. 505. Coast Guard maritime domain awareness.

Sec. 506. Towing safety management system fees.

Sec. 507. Oil spill disbursements auditing and report.

Sec. 508. Land exchange, Ayakulik Island, Alaska.

Sec. 509. Vessel response plans in the Arctic.

Sec. 510. Assessment of public comments on additional anchorages on the Hudson River.

Sec. 511. Public safety answering points and maritime search and rescue coordination.

Sec. 512. Documentation of “America’s Finest”.

## **TITLE I—AUTHORIZATIONS**

**SEC. 101. AUTHORIZATIONS OF APPROPRIATIONS.**

Section 2702 of title 14, United States Code, is amended:

(1) in the matter preceding paragraph (1), by striking “fiscal years 2016 and 2017” and inserting “fiscal years 2018 and 2019”;

(2) in paragraph (1), by striking subparagraphs (A) and (B) and inserting the following:

“(A) \$7,263,698,328 for fiscal year 2018; and

“(B) \$7,452,554,484 for fiscal year 2019.”;

(3) in paragraph (2), by striking subparagraphs (A) and (B) and inserting the following:

- “(A) \$1,945,000,000 for fiscal year 2018; and
- “(B) \$1,945,000,000 for fiscal year 2019.”;
- (4) in paragraph (3), by striking subparagraphs (A) and (B) and inserting the following:
  - “(A) \$134,237,000 for fiscal year 2018; and
  - “(B) \$134,237,000 for fiscal year 2019.”;
- (5) in paragraph (4), by striking subparagraphs (A) and (B) and inserting the following:
  - “(A) \$16,701,000 for fiscal year 2018; and
  - “(B) \$16,701,000 for fiscal year 2019.”;
- (6) in paragraph (5), by striking subparagraphs (A) and (B) and inserting the following:
  - “(A) \$37,263,294 for fiscal year 2018; and
  - “(B) \$38,232,140 for fiscal year 2019.”.

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

Section 2704 of title 14, United States Code, is amended—

- (1) in subsection (a), by striking “for each of fiscal years 2016 and 2017” and inserting “for fiscal year 2018 and an end-of-year strength for such personnel of 44,500 for fiscal year 2019”; and
- (2) in subsection (b), by striking “fiscal years 2016 and 2017” and inserting “fiscal years 2018 and 2019”.

## TITLE II—COAST GUARD

**SEC. 201. TRAINING; PUBLIC SAFETY PERSONNEL.**

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

**“§ 155. Training; public safety personnel**

“(a) IN GENERAL.—The Commandant may, on a reimbursable or a non-reimbursable basis, make training available to public safety personnel whenever the Commandant determines that—

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

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

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

“(b) DEFINITION.—For the purposes of this section, the term ‘public safety personnel’ includes any Federal, State (or political subdivision thereof), territorial, or tribal law enforcement officer, firefighter, or emergency response provider.

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

“(d) STATUS OF TRAINED PERSONNEL; LIMITATION ON LIABILITY.—

“(1) STATUS.—Any public safety personnel to whom training is made available under this section who is not otherwise a Federal employee shall not, because of that training, be considered a Federal employee for any purpose (including the purposes of chapter 81 of title 5 (relating to compensation for injury)) and sections 2671 through 2680 of title 28 (relating to tort claims).

“(2) LIMITATION ON LIABILITY.—The United States shall not be liable for actions taken by such personnel in the course of training made available under this section.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 7 of such title is amended by inserting at the end the following:

“155. Training; public safety personnel.”.

**SEC. 202. COMMISSIONED SERVICE RETIREMENT.**

For Coast Guard officers who retire in fiscal year 2017 or 2018, the President may reduce the period of active commissioned service required under section 291 of title 14, United States Code, to a period of not less than eight years.

**SEC. 203. OFFICER PROMOTION ZONES.**

Section 256(a) of title 14, United States Code, is amended by striking “six-tenths.” and inserting “one-half.”.

**SEC. 204. CROSS REFERENCE.**

Section 373(a) of title 14, United States Code, is amended by inserting “designated under section 371” after “cadet”.

**SEC. 205. REPEAL.**

Section 482 of title 14, United States Code, and the item relating to that section in the analysis for chapter 13 of that title, are repealed.

**SEC. 206. UNMANNED AIRCRAFT SYSTEM.**

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

**“§ 61. Unmanned aircraft system**

“(a) IN GENERAL.—Subject to the availability of appropriations and to subsection (b), the Secretary of the department in which the Coast Guard is operating shall establish a land-based unmanned aircraft system program under the control of the Commandant of the Coast Guard.

“(b) LIMITATIONS.—

“(1) IN GENERAL.—During any fiscal year for which funds are appropriated for the design or construction of the Offshore Patrol Cutter, the Commandant—

“(A) may not award a contract for design of an unmanned aircraft system for use by the Coast Guard; and

“(B) may acquire an unmanned aircraft system only if such a system—  
“(i) has been part of a program of record, procured by, or used by, the Department of Defense or the Department of Homeland Security, or a component thereof, before the date on which the Commandant acquires the system; and

“(ii) is acquired by the Commandant through an agreement with such a department or component, unless the unmanned aircraft system can be obtained at less cost through independent contract action.

“(2) LIMITATIONS ON APPLICATION.—

“(A) SMALL UNMANNED AIRCRAFT.—Paragraph (1)(B) does not apply to small unmanned aircraft.

“(B) PREVIOUSLY FUNDED SYSTEMS.—Subsection (b) does not apply to the design or acquisition of an unmanned aircraft system for which funds for research, development, test, and evaluation have been received from the Department of Defense or the Department of Homeland Security.

“(c) DEFINITIONS.—In this section each of the terms ‘small unmanned aircraft’ and ‘unmanned aircraft system’ has the meaning that term has in section 331 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note).”.

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

“61. Unmanned aircraft system.”.

(c) CONFORMING AMENDMENT.—Subsection (c) of section 564 of title 14, United States Code, is repealed.

**SEC. 207. COAST GUARD HEALTH-CARE PROFESSIONALS; LICENSURE PORTABILITY.**

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

**“§ 104. Coast Guard health-care professionals; licensure portability**

“(a) Notwithstanding any law regarding the licensure of health-care providers, a health-care professional described in subsection (b) may practice the health profession or professions of the health-care professional at any location in any State, the District of Columbia, or a Commonwealth, territory, or possession of the United States, regardless of where such health-care professional or the patient are located, if the practice is within the scope of the authorized Federal duties of such health-care professional.

“(b) A health-care professional described in this subsection is an individual—

“(1) who is—

“(A) a member of the Coast Guard;

“(B) a civilian employee of the Coast Guard;

“(C) a member of the Public Health Service who is assigned to the Coast Guard;

“(D) a personal services contractor under section 1091 of title 10; or

“(E) any other health-care professional credentialed and privileged at a Federal health-care institution or location specially designated by the Secretary; and

“(2) who—

“(A) has a current license to practice medicine, osteopathic medicine, dentistry, or another health profession; and

“(B) is performing authorized duties for the Coast Guard.

“(c) In this section each of the terms ‘license’ and ‘health-care professional’ has the meaning that term has in section 1094(e) of title 10.”.

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

“104. Coast Guard health-care professionals; licensure portability.”.

**SEC. 208. INCENTIVE CONTRACTS FOR COAST GUARD YARD AND INDUSTRIAL ESTABLISHMENTS.**

Section 648 of title 14, United States Code, is amended—

(1) by inserting before the text the following: “(a) IN GENERAL.—”;

(2) in subsection (a), as designated by the amendment made by paragraph (1) of this section, by striking the period at the end of the last sentence and inserting “or in accordance with subsection (b).”; and

(3) by adding at the end the following:

“(b) INCENTIVE CONTRACTS.—

“(1) The parties to an order for industrial work to be performed by the Coast Guard Yard or a Coast Guard industrial establishment designated under subsection (a) may enter into an order or a cost-plus-incentive-fee order in accordance with this subsection.

“(2) If such parties enter into such an order or a cost-plus-incentive-fee order, an agreed-upon amount of any adjustment described in subsection (a) may be distributed as an incentive to the wage-grade industrial employees who complete the order.

“(3) Before entering into such an order or cost-plus-incentive-fee order such parties must agree that the wage-grade employees of the Coast Guard Yard or Coast Guard industrial establishment will take action to improve the delivery schedule or technical performance agreed to in the order for industrial work to which such parties initially agreed.

“(4) Notwithstanding any other provision of law, if the industrial workforce of the Coast Guard Yard or such Coast Guard industrial establishment satisfies the performance target established in such an order or cost-plus-incentive-fee order—

“(A) the adjustment to be made pursuant to this subsection shall be reduced by such agreed-upon amount and distributed to such wage-grade industrial employees; and

“(B) the remainder of the adjustment shall be credited to the appropriation for such order current at that time.”.

**SEC. 209. MAINTAINING CUTTERS IN CLASS.**

Section 573(c)(3)(A) of title 14, United States Code, is amended—

(1) by striking “(A) IN GENERAL.—”;

(2) by inserting “and shall maintain such cutter in class” before the period at the end.

**SEC. 210. CONGRESSIONAL AFFAIRS; DIRECTOR.**

(a) IN GENERAL.—Chapter 3 of title 14, United States Code, as amended by section 206 of this Act, is further amended by adding at the end the following:

**“§ 62. Congressional affairs; director**

“The Commandant shall appoint a Director of Congressional Affairs from among officers of the Coast Guard who are in a grade above captain.”.

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

“62. Congressional Affairs; Director.”.

**SEC. 211. CONTRACTING FOR MAJOR ACQUISITIONS PROGRAMS.**

(a) IN GENERAL.—Subchapter II of chapter 15 of title 14, United States Code, is amended by adding at the end the following:

**“§ 580. Contracting for major acquisitions programs**

“(a) IN GENERAL.—The Commandant of the Coast Guard may enter into contracts for major acquisition programs.

“(b) AUTHORIZED METHODS.—Such contracts—

“(1) may be block buy contracts;

“(2) may be incrementally funded;

“(3) may include combined purchases, also known as economic order quantity purchases, of—

“(A) materials and components; and

“(B) long lead time materials; and

“(4) may be multiyear contracts that comply with section 2306b of title 10.

“(c) SUBJECT TO APPROPRIATIONS.—Any contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of amounts specifically provided in advance for that purpose in subsequent appropriations Acts.”.

(b) CLERICAL AMENDMENT.—The analysis at the beginning of such chapter is amended by adding at the end of the items relating to such subchapter the following:

“580. Contracting for major acquisitions programs.”.

(c) CONFORMING AMENDMENTS.—The following provisions are repealed:

(1) Section 223 of Public Law 113–281 (14 U.S.C. 577 note), and the item relating to that section in the table of contents in section 2 of such Act.

(2) Section 221(a) of Public Law 112–213 (14 U.S.C. 573 note).

(3) Section 207(a) of Public Law 114–120 (14 U.S.C. 87 note).

#### SEC. 212. NATIONAL SECURITY CUTTER.

(a) STANDARD METHOD FOR TRACKING.—The Commandant of the Coast Guard may not certify an eighth National Security Cutter as Ready for Operations before the date on which the Commandant provides to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

(1) a notification of a new standard method for tracking operational employment of Coast Guard major cutters that does not include time during which such a cutter is away from its homeport for maintenance or repair; and

(2) a report analyzing cost and performance for different approaches to achieving varied levels of operational employment using the standard method required by paragraph (1) that, at a minimum—

(A) compares over a 30-year period the average annualized baseline cost and performances for a certified National Security Cutter that operated for 185 days away from homeport or an equivalent alternative measure of operational tempo—

(i) against the cost of a 15 percent increase in days away from homeport or an equivalent alternative measure of operational tempo for a National Security Cutter; and

(ii) against the cost of the acquisition and operation of an additional National Security Cutter; and

(B) examines the optimal level of operational employment of National Security Cutters to balance National Security Cutter cost and mission performance.

(b) CONFORMING AMENDMENTS.—

(1) Section 221(b) of the Coast Guard and Maritime Transportation Act of 2012 (14 U.S.C. 573 note) is repealed.

(2) Section 204(c)(1) of the Coast Guard Authorization Act of 2016 (130 Stat. 35) is repealed.

#### SEC. 213. RADAR REFRESHER TRAINING.

Section 11.480(F) of title 46, Code of Federal Regulations, as in effect immediately before the enactment of this Act, shall have no force or effect.

#### SEC. 214. REPEAL.

Section 676a(a) of title 14, United States Code, is amended—

(1) by striking paragraph (2);

(2) by striking “(1) IN GENERAL.—”;

(3) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively; and

(4) in paragraph (2), as so redesignated, by striking “subparagraph (A)” and inserting “paragraph (1)”.

#### SEC. 215. EXTENSION OF AUTHORITY.

Section 404 of the Coast Guard Authorization Act of 2010 (Public Law 111–281; 124 Stat. 2950) is amended—

(1) in subsection (a), in the text preceding paragraph (1), by striking “sections 3304, 5333, and 5753” and inserting “section 3304”; and

(2) in subsection (b), by striking “2017.” and inserting “2021.”.

#### SEC. 216. AUTHORIZATION OF AMOUNTS FOR FAST RESPONSE CUTTERS.

(a) IN GENERAL.—Of the amounts authorized for each fiscal year 2018 and 2019 under section 2702(2) of title 14, United States Code, as amended by this Act,

\$165,000,000 is authorized for the acquisition of three Fast Response Cutters in each such fiscal year.

(b) TREATMENT OF ACQUIRED CUTTERS.—Any cutters acquired under subsection (a) shall be in addition to the 58 cutters approved under the existing acquisition baseline.

**SEC. 217. AUTHORIZATION OF AMOUNTS FOR ICE TRIALS OF ICEBREAKER VESSELS.**

(a) IN GENERAL.—Of the amounts authorized for fiscal year 2018 under paragraphs (1) and (5) of section 2702 of title 14, United States Code, as amended by this Act, up to \$3,000,000 is authorized for the Commandant of the Coast Guard to carry out ice trials of icebreaker vessels documented under section 12111 of title 46, United States Code.

(b) ASSESSMENTS.—Ice trials referred to in subsection (a) shall—

(1) assess the ability of an icebreaker vessel to carry out the missions of the Coast Guard enumerated in section 2 of title 14, United States Code; or

(2) conduct operational tests to produce information that could be used in the design and acquisition of icebreaker vessels by the Coast Guard to carry out such missions.

**SEC. 218. SHORESIDE INFRASTRUCTURE.**

Of the amounts authorized under section 2702(2) of title 14, United States Code, as amended by this Act, for each of fiscal years 2018 and 2019 there is authorized to be appropriated \$165,000,000 to the Secretary of the department in which the Coast Guard is operating to fund the acquisition, construction, rebuilding or improvement of Coast Guard shoreside infrastructure and facilities necessary to support Coast Guard operations and readiness.

## **TITLE III—PORTS AND WATERWAYS SAFETY ACT**

**SEC. 301. CODIFICATION OF PORTS AND WATERWAYS SAFETY ACT.**

(a) CODIFICATION.—Subtitle VII of title 46, United States Code, is amended by inserting before chapter 701 the following:

### **“CHAPTER 700—PORTS AND WATERWAYS SAFETY**

#### **“SUBCHAPTER A—VESSEL OPERATIONS**

“Sec.

“70001. Vessel traffic services.

“70002. Special powers.

“70003. Port access routes.

“70004. Considerations by Secretary.

“70005. International agreements.

#### **“SUBCHAPTER B—PORTS AND WATERWAYS SAFETY**

“70011. Waterfront safety.

“70012. Navigational hazards.

“70013. Requirement to notify Coast Guard of release of objects into the navigable waters of the United States.

#### **“SUBCHAPTER C—CONDITION FOR ENTRY INTO PORTS IN THE UNITED STATES**

“70021. Conditions for entry to ports in the United States.

#### **“SUBCHAPTER D—DEFINITIONS, REGULATIONS, ENFORCEMENT, INVESTIGATORY POWERS, APPLICABILITY**

“70031. Definitions.

“70032. Saint Lawrence Seaway.

“70033. Limitation on application to foreign vessels.

“70034. Regulations.

“70035. Investigatory powers.

“70036. Enforcement.

#### **“SUBCHAPTER A—VESSEL OPERATIONS**

#### **“§ 70001. Vessel traffic services**

“(a) Subject to the requirements of section 70004, the Secretary—

“(1) in any port or place under the jurisdiction of the United States, in the navigable waters of the United States, or in any area covered by an international agreement negotiated pursuant to section 70005, may construct, operate, maintain, improve, or expand vessel traffic services, that consist of measures for controlling or supervising vessel traffic or for protecting navigation and the marine environment and that may include one or more of reporting and operating requirements, surveillance and communications systems, routing systems, and fairways;

“(2) shall require appropriate vessels that operate in an area of a vessel traffic service to utilize or comply with that service;

“(3)(A) may require vessels to install and use specified navigation equipment, communications equipment, electronic relative motion analyzer equipment, or any electronic or other device necessary to comply with a vessel traffic service or that is necessary in the interests of vessel safety.

“(B) Notwithstanding subparagraph (A), the Secretary shall not require fishing vessels under 300 gross tons as measured under section 14502, or an alternate tonnage measured under section 14302 as prescribed by the Secretary under section 14104, or recreational vessels 65 feet or less to possess or use the equipment or devices required by this subsection solely under the authority of this chapter;

“(4) may control vessel traffic in areas subject to the jurisdiction of the United States that the Secretary determines to be hazardous, or under conditions of reduced visibility, adverse weather, vessel congestion, or other hazardous circumstances, by—

“(A) specifying times of entry, movement, or departure;

“(B) establishing vessel traffic routing schemes;

“(C) establishing vessel size, speed, or draft limitations and vessel operating conditions; and

“(D) restricting operation, in any hazardous area or under hazardous conditions, to vessels that have particular operating characteristics or capabilities that the Secretary considers necessary for safe operation under the circumstances;

“(5) may require the receipt of prearrival messages from any vessel, destined for a port or place subject to the jurisdiction of the United States, in sufficient time to permit advance vessel traffic planning before port entry, which shall include any information that is not already a matter of record and that the Secretary determines necessary for the control of the vessel and the safety of the port or the marine environment; and

“(6) may prohibit the use on vessels of electronic or other devices that interfere with communication and navigation equipment, except that such authority shall not apply to electronic or other devices certified to transmit in the maritime services by the Federal Communications Commission and used within the frequency bands 157.1875–157.4375 MHz and 161.7875–162.0375 MHz.

“(b) COOPERATIVE AGREEMENTS.—

“(1) IN GENERAL.—The Secretary may enter into cooperative agreements with public or private agencies, authorities, associations, institutions, corporations, organizations, or other persons to carry out the functions under subsection (a)(1).

“(2) LIMITATION.—

“(A) A nongovernmental entity may not under this subsection carry out an inherently governmental function.

“(B) As used in this paragraph, the term ‘inherently governmental function’ means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of judgment in making a decision for the Government.

“(c) LIMITATION OF LIABILITY FOR COAST GUARD VESSEL TRAFFIC SERVICE PILOTS AND NON-FEDERAL VESSEL TRAFFIC SERVICE OPERATORS.—

“(1) COAST GUARD VESSEL TRAFFIC SERVICE PILOTS.—Any pilot, acting in the course and scope of his or her duties while at a Coast Guard Vessel Traffic Service, who provides information, advice, or communication assistance while under the supervision of a Coast Guard officer, member, or employee shall not be liable for damages caused by or related to such assistance unless the acts or omissions of such pilot constitute gross negligence or willful misconduct.

“(2) NON-FEDERAL VESSEL TRAFFIC SERVICE OPERATORS.—An entity operating a non-Federal vessel traffic information service or advisory service pursuant to a duly executed written agreement with the Coast Guard, and any pilot acting on behalf of such entity, is not liable for damages caused by or related to information, advice, or communication assistance provided by such entity or pilot while so operating or acting unless the acts or omissions of such entity or pilot constitute gross negligence or willful misconduct.

#### “§ 70002. Special powers

“The Secretary may order any vessel, in a port or place subject to the jurisdiction of the United States or in the navigable waters of the United States, to operate or anchor in a manner the Secretary directs if—



“(1) the Secretary has reasonable cause to believe such vessel does not comply with any regulation issued under this chapter or any other applicable law or treaty;

“(2) the Secretary determines such vessel does not satisfy the conditions for port entry set forth in section 70021 of this title; or

“(3) by reason of weather, visibility, sea conditions, port congestion, other hazardous circumstances, or the condition of such vessel, the Secretary is satisfied such direction is justified in the interest of safety.

**“§ 70003. Port access routes**

“(a) **AUTHORITY TO DESIGNATE.**—Except as provided in subsection (b) and subject to the requirements of subsection (c), in order to provide safe access routes for the movement of vessel traffic proceeding to or from ports or places subject to the jurisdiction of the United States, the Secretary shall designate necessary fairways and traffic separation schemes for vessels operating in the territorial sea of the United States and in high seas approaches, outside the territorial sea, to such ports or places. Such a designation shall recognize, within the designated area, the paramount right of navigation over all other uses.

“(b) **LIMITATION.**—

“(1) **IN GENERAL.**—No designation may be made by the Secretary under this section if—

“(A) the Secretary determines such a designation, as implemented, would deprive any person of the effective exercise of a right granted by a lease or permit executed or issued under other applicable provisions of law; and

“(B) such right has become vested before the time of publication of the notice required by paragraph (1) of subsection (c).

“(2) **CONSULTATION REQUIRED.**—The Secretary shall make the determination under paragraph (1)(A) after consultation with the head of the agency responsible for executing the lease or issuing the permit.

“(c) **CONSIDERATION OF OTHER USES.**—Before making a designation under subsection (a), and in accordance with the requirements of section 70004, the Secretary shall—

“(1) undertake a study of the potential traffic density and the need for safe access routes for vessels in any area for which fairways or traffic separation schemes are proposed or that may otherwise be considered and publish notice of such undertaking in the Federal Register;

“(2) in consultation with the Secretary of State, the Secretary of the Interior, the Secretary of Commerce, the Secretary of the Army, and the Governors of affected States, as their responsibilities may require, take into account all other uses of the area under consideration, including, as appropriate, the exploration for, or exploitation of, oil, gas, or other mineral resources, the construction or operation of deepwater ports or other structures on or above the seabed or subsoil of the submerged lands or the Outer Continental Shelf of the United States, the establishment or operation of marine or estuarine sanctuaries, and activities involving recreational or commercial fishing; and

“(3) to the extent practicable, reconcile the need for safe access routes with the needs of all other reasonable uses of the area involved.

“(d) **STUDY.**—In carrying out the Secretary’s responsibilities under subsection (c), the Secretary shall—

“(1) proceed expeditiously to complete any study undertaken; and

“(2) after completion of such a study, promptly—

“(A) issue a notice of proposed rulemaking for the designation contemplated; or

“(B) publish in the Federal Register a notice that no designation is contemplated as a result of the study and the reason for such determination.

“(e) **IMPLEMENTATION OF DESIGNATION.**—In connection with a designation made under this section, the Secretary—

“(1) shall issue reasonable rules and regulations governing the use of such designated areas, including rules and regulations regarding the applicability of rules 9 and 10 of the International Regulations for Preventing Collisions at Sea, 1972, relating to narrow channels and traffic separation schemes, respectively, in waters where such regulations apply;

“(2) to the extent that the Secretary finds reasonable and necessary to effectuate the purposes of the designation, make the use of designated fairways and traffic separation schemes mandatory for specific types and sizes of vessels, foreign and domestic, operating in the territorial sea of the United States and for specific types and sizes of vessels of the United States operating on the high seas beyond the territorial sea of the United States;

“(3) may, from time to time, as necessary, adjust the location or limits of designated fairways or traffic separation schemes in order to accommodate the needs of other uses that cannot be reasonably accommodated otherwise, except that such an adjustment may not, in the judgment of the Secretary, unacceptably adversely affect the purpose for which the existing designation was made and the need for which continues; and

“(4) shall, through appropriate channels—

“(A) notify cognizant international organizations of any designation, or adjustment thereof; and

“(B) take action to seek the cooperation of foreign States in making it mandatory for vessels under their control to use, to the same extent as required by the Secretary for vessels of the United States, any fairway or traffic separation scheme designated under this section in any area of the high seas.

#### **“§ 70004. Considerations by Secretary**

“In carrying out the duties of the Secretary under sections 70001, 70002, and 70003, the Secretary shall—

“(1) take into account all relevant factors concerning navigation and vessel safety, protection of the marine environment, and the safety and security of United States ports and waterways, including—

“(A) the scope and degree of the risk or hazard involved;

“(B) vessel traffic characteristics and trends, including traffic volume, the sizes and types of vessels involved, potential interference with the flow of commercial traffic, the presence of any unusual cargoes, and other similar factors;

“(C) port and waterway configurations and variations in local conditions of geography, climate, and other similar factors;

“(D) the need for granting exemptions for the installation and use of equipment or devices for use with vessel traffic services for certain classes of small vessels, such as self-propelled fishing vessels and recreational vessels;

“(E) the proximity of fishing grounds, oil and gas drilling and production operations, or any other potential or actual conflicting activity;

“(F) environmental factors;

“(G) economic impact and effects;

“(H) existing vessel traffic services; and

“(I) local practices and customs, including voluntary arrangements and agreements within the maritime community; and

“(2) at the earliest possible time, consult with and receive and consider the views of representatives of the maritime community, ports and harbor authorities or associations, environmental groups, and other persons who may be affected by the proposed actions.

#### **“§ 70005. International agreements**

“(a) TRANSMITTAL OF REGULATIONS.—The Secretary shall transmit, via the Secretary of State, to appropriate international bodies or forums, any regulations issued under this subchapter, for consideration as international standards.

“(b) AGREEMENTS.—The President is authorized and encouraged to—

“(1) enter into negotiations and conclude and execute agreements with neighboring nations, to establish compatible vessel standards and vessel traffic services, and to establish, operate, and maintain international vessel traffic services, in areas and under circumstances of mutual concern; and

“(2) enter into negotiations, through appropriate international bodies, and conclude and execute agreements to establish vessel traffic services in appropriate areas of the high seas.

“(c) OPERATIONS.—The Secretary, pursuant to any agreement negotiated under subsection (b) that is binding upon the United States in accordance with constitutional requirements, may—

“(1) require vessels operating in an area of a vessel traffic service to utilize or to comply with the vessel traffic service, including the carrying or installation of equipment and devices as necessary for the use of the service; and

“(2) waive, by order or regulation, the application of any United States law or regulation concerning the design, construction, operation, equipment, personnel qualifications, and manning standards for vessels operating in waters over which the United States exercises jurisdiction if such vessel is not en route to or from a United States port or place, and if vessels en route to or from a United States port or place are accorded equivalent waivers of laws and regulations of the neighboring nation, when operating in waters over which that nation exercises jurisdiction.

“(d) SHIP REPORTING SYSTEMS.—The Secretary, in cooperation with the International Maritime Organization, may implement and enforce two mandatory ship reporting systems, consistent with international law, with respect to vessels subject to such reporting systems entering the following areas of the Atlantic Ocean:

“(1) Cape Cod Bay, Massachusetts Bay, and Great South Channel (in the area generally bounded by a line starting from a point on Cape Ann, Massachusetts at 42 deg. 39’ N., 70 deg. 37’ W; then northeast to 42 deg. 45’ N., 70 deg. 13’ W; then southeast to 42 deg. 10’ N., 68 deg. 31’ W, then south to 41 deg. 00’ N., 68 deg. 31’ W; then west to 41 deg. 00’ N., 69 deg. 17’ W; then northeast to 42 deg. 05’ N., 70 deg. 02’ W, then west to 42 deg. 04’ N., 70 deg. 10’ W; and then along the Massachusetts shoreline of Cape Cod Bay and Massachusetts Bay back to the point on Cape Ann at 42 deg. 39’ N., 70 deg. 37’ W).

“(2) In the coastal waters of the Southeastern United States within about 25 nm along a 90 nm stretch of the Atlantic seaboard (in an area generally extending from the shoreline east to longitude 80 deg. 51.6’ W with the southern and northern boundary at latitudes 30 deg. 00’ N., 31 deg. 27’ N., respectively).

#### “SUBCHAPTER B—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; and

“(2) protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss.

“(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.

“(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.

##### “§ 70012. Navigational hazards

“(a) REPORTING PROCEDURE.—The Secretary shall establish a program to encourage fishermen and other vessel operators to report potential or existing navigational hazards involving pipelines to the Secretary through Coast Guard field offices.

“(b) SECRETARY’S RESPONSE.—

“(1) NOTIFICATION BY THE OPERATOR OF A PIPELINE.—Upon notification by the operator of a pipeline of a hazard to navigation with respect to that pipeline, the Secretary shall immediately notify Coast Guard headquarters, the Pipeline and Hazardous Materials Safety Administration, other affected Federal and State agencies, and vessel owners and operators in the pipeline’s vicinity.

“(2) NOTIFICATION BY OTHER PERSONS.—Upon notification by any other person of a hazard or potential hazard to navigation with respect to a pipeline, the Secretary shall promptly determine whether a hazard exists, and if so shall immediately notify Coast Guard headquarters, the Pipeline and Hazardous Materials Safety Administration, other affected Federal and State agencies, vessel owners and operators in the pipeline’s vicinity, and the owner and operator of the pipeline.

“(c) PIPELINE DEFINED.—For purposes of this section, the term ‘pipeline’ has the meaning given the term ‘pipeline facility’ in section 60101(a)(18) of title 49.

##### “§ 70013. Requirement to notify Coast Guard of release of objects into the navigable waters of the United States

“(a) REQUIREMENT.—As soon as a person has knowledge of any release from a vessel or facility into the navigable waters of the United States of any object that creates an obstruction prohibited under section 10 of the Act of March 3, 1899, popu-

larly known as the Rivers and Harbors Appropriations Act of 1899 (33 U.S.C. 403), such person shall notify the Secretary and the Secretary of the Army of such release.

“(b) RESTRICTION ON USE OF NOTIFICATION.—Any notification provided by an individual in accordance with subsection (a) may not be used against such individual in any criminal case, except a prosecution for perjury or for giving a false statement.

“SUBCHAPTER C—CONDITION FOR ENTRY INTO PORTS IN THE UNITED STATES

“§ 70021. Conditions for entry to ports in the United States

“(a) IN GENERAL.—No vessel that is subject to chapter 37 shall operate in the navigable waters of the United States or transfer cargo or residue in any port or place under the jurisdiction of the United States, if such vessel—

“(1) has a history of accidents, pollution incidents, or serious repair problems that, as determined by the Secretary, creates reason to believe that such vessel may be unsafe or may create a threat to the marine environment;

“(2) fails to comply with any applicable regulation issued under this chapter, chapter 37, or any other applicable law or treaty;

“(3) discharges oil or hazardous material in violation of any law of the United States or in a manner or quantities inconsistent with any treaty to which the United States is a party;

“(4) does not comply with any applicable vessel traffic service requirements;

“(5) is manned by one or more officers who are licensed by a certifying State that the Secretary has determined, pursuant to section 9101 of title 46, does not have standards for licensing and certification of seafarers that are comparable to or more stringent than United States standards or international standards that are accepted by the United States;

“(6) is not manned in compliance with manning levels as determined by the Secretary to be necessary to insure the safe navigation of the vessel; or

“(7) while underway, does not have at least one licensed deck officer on the navigation bridge who is capable of clearly understanding English.

“(b) EXCEPTIONS.—

“(1) IN GENERAL.—The Secretary may allow provisional entry of a vessel that is not in compliance with subsection (a), if the owner or operator of such vessel proves, to the satisfaction of the Secretary, that such vessel is not unsafe or a threat to the marine environment, and if such entry is necessary for the safety of the vessel or persons aboard.

“(2) PROVISIONS NOT APPLICABLE.—Paragraphs (1), (2), (3), and (4) of subsection (a) of this section shall not apply to a vessel allowed provisional entry under paragraph (1) if the owner or operator of such vessel proves, to the satisfaction of the Secretary, that such vessel is no longer unsafe or a threat to the marine environment, and is no longer in violation of any applicable law, treaty, regulation or condition, as appropriate.

“SUBCHAPTER D—DEFINITIONS, REGULATIONS, ENFORCEMENT, INVESTIGATORY POWERS, APPLICABILITY

“§ 70031. Definitions

“As used in this chapter, unless the context otherwise requires:

“(1) The term ‘marine environment’ means—

“(A) the navigable waters of the United States and the land and resources therein and thereunder;

“(B) the waters and fishery resources of any 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 thereof, and the waters superjacent thereto; and

“(D) the recreational, economic, and scenic values of such waters and resources.

“(2) The term ‘Secretary’ means the Secretary of the department in which the Coast Guard is operating, except that such term means the Secretary of Transportation with respect to the application of this chapter to the Saint Lawrence Seaway.

“(3) The term ‘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.

“§ 70032. Saint Lawrence Seaway

“The authority granted to the Secretary under sections 70001, 70002, 70003, 7004, and 70011 may not be delegated with respect to the Saint Lawrence Seaway to any

agency other than the Saint Lawrence Seaway Development Corporation. Any other authority granted the Secretary under this chapter shall be delegated by the Secretary to the Saint Lawrence Seaway Development Corporation to the extent the Secretary determines such delegation is necessary for the proper operation of the Saint Lawrence Seaway.

**“§ 70033. Limitation on application to foreign vessels**

“Except pursuant to international treaty, convention, or agreement, to which the United States is a party, this chapter shall not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in—

- “(1) innocent passage through the territorial sea of the United States; or
- “(2) transit through the navigable waters of the United States that form a part of an international strait.

**“§ 70034. Regulations**

“(a) IN GENERAL.—In accordance with section 553 of title 5, the Secretary shall issue, and may from time to time amend or repeal, regulations necessary to implement this chapter.

“(b) CONSULTATION.—In the exercise of the regulatory authority under this chapter, the Secretary shall consult with, and receive and consider the views of all interested persons, including—

- “(1) interested Federal departments and agencies;
- “(2) officials of State and local governments;
- “(3) representatives of the maritime community;
- “(4) representatives of port and harbor authorities or associations;
- “(5) representatives of environmental groups;
- “(6) any other interested persons who are knowledgeable or experienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment; and
- “(7) advisory committees consisting of all interested segments of the public when the establishment of such committees is considered necessary because the issues involved are highly complex or controversial.

**“§ 70035. Investigatory powers**

“(a) SECRETARY.—The Secretary may investigate any incident, accident, or act involving the loss or destruction of, or damage to, any structure subject to this chapter, or that affects or may affect the safety or environmental quality of the ports, harbors, or navigable waters of the United States.

“(b) POWERS.—In an investigation under this section, the Secretary may issue subpoenas to require the attendance of witnesses and the production of documents or other evidence relating to such incident, accident, or act. If any person refuses to obey a subpoena, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance with the subpoena. Any district court of the United States may, in the case of refusal to obey a subpoena, issue an order requiring compliance with the subpoena, and failure to obey the order may be punished by the court as contempt. Witnesses may be paid fees for travel and attendance at rates not exceeding those allowed in a district court of the United States.

**“§ 70036. Enforcement**

“(a) CIVIL PENALTY.—

“(1) IN GENERAL.—Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this chapter or a regulation issued under this chapter shall be liable to the United States for a civil penalty, not to exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, or the Secretary’s designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

“(2) COMPROMISE, MODIFICATION, OR REMISSION.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

“(3) FAILURE TO PAY PENALTY.—If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

“(b) CRIMINAL PENALTY.—

“(1) CLASS D FELONY.—Any person who willfully and knowingly violates this chapter or any regulation issued hereunder commits a class D felony.

“(2) CLASS C FELONY.—Any person who, in the willful and knowing violation of this chapter or of any regulation issued under this chapter, uses a dangerous weapon, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this chapter or the regulations issued under this chapter, commits a class C felony.

“(c) IN REM LIABILITY.—Any vessel that is used in violation of this chapter, or any regulations issued under this chapter, shall be liable in rem for any civil penalty assessed pursuant to subsection (a) and may be proceeded against in the United States district court for any district in which such vessel may be found.

“(d) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this chapter or of regulations issued under this chapter, for cause shown.

“(e) DENIAL OF ENTRY.—Except as provided in section 70021, the Secretary may, subject to recognized principles of international law, deny entry by any vessel that is not in compliance with this chapter or the regulations issued under this chapter—

“(1) into the navigable waters of the United States; or

“(2) to any port or place under the jurisdiction of the United States.

“(f) WITHHOLDING OF CLEARANCE.—

“(1) IN GENERAL.—If any owner, operator, or individual in charge of a vessel is liable for a penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or individual in charge may be subject to a penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 60105 of title 46.

“(2) GRANTING CLEARANCE REFUSED OR REVOKED.—Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.”.

(b) CLERICAL AMENDMENT.—The analysis at the beginning of such subtitle is amended by inserting before the item relating to chapter 701 the following:

“700. Ports and Waterways Safety .....70001.”.

#### SEC. 302. CONFORMING AMENDMENTS.

(a) ELECTRONIC CHARTS.—

(1) TRANSFER OF PROVISION.—Section 4A of the Ports and Waterways Safety Act (33 U.S.C. 1223a)—

(A) is redesignated as section 3105 of title 46, United States Code, and transferred to appear after section 3104 of that title; and

(B) is amended by striking subsection (b) and inserting the following:

“(b) LIMITATION ON APPLICATION.—Except pursuant to an international treaty, convention, or agreement, to which the United States is a party, this section shall not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in—

“(1) innocent passage through the territorial sea of the United States; or

“(2) transit through the navigable waters of the United States that form a part of an international strait.”.

(2) CLERICAL AMENDMENT.—The analysis at the beginning of chapter 31 of such title is amended by adding at the end the following:

“3105. Electronic charts.”.

(b) PORT, HARBOR, AND COASTAL FACILITY SECURITY.—

(1) TRANSFER OF PROVISIONS.—So much of section 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226) as precedes subsection (c) of that section is redesignated as section 70102a of title 46, United States Code, and transferred so as to appear after section 70102 of that title.

(2) DEFINITIONS, ADMINISTRATION, AND ENFORCEMENT.—Section 70102a of title 46, United States Code, as amended by paragraph (1) of this subsection, is amended by adding at the end the following:

“(c) DEFINITIONS, ADMINISTRATION, AND ENFORCEMENT.—This section shall be treated as part of chapter 700 for purposes of sections 70031, 70032, 70034, 70035, and 70036.”.

(3) CLERICAL AMENDMENT.—The analysis at the beginning of chapter 701 of such title is amended by inserting after the item relating to section 70102 the following:

“70102a. Port, harbor, and coastal facility security.”.

(c) NONDISCLOSURE OF PORT SECURITY PLANS.—Subsection (c) of section 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226), as so designated before the application of subsection (b)(1) of this section—

- (1) is redesignated as subsection (f) of section 70103 of title 46, United States Code, and transferred so as to appear after subsection (e) of such section; and
- (2) is amended by striking “this Act” and inserting “this chapter”.
- (d) REPEAL.—Section 2307 of title 46, United States Code, and the item relating to that section in the analysis at the beginning of chapter 23 of that title, are repealed.
- (e) REPEAL.—The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.), as amended by this Act, is repealed.

**SEC. 303. TRANSITIONAL AND SAVINGS PROVISIONS.**

- (a) DEFINITIONS.—In this section:
  - (1) SOURCE PROVISION.—The term “source provision” means a provision of law that is replaced by a title 46 provision under this title.
  - (2) TITLE 46 PROVISION.—The term “title 46 provision” means a provision of title 46, United States Code, that is enacted by section 302.
- (b) CUTOFF DATE.—The title 46 provisions replace certain provisions of law enacted before the date of the enactment of this Act. If a law enacted after that date amends or repeals a source provision, that law is deemed to amend or repeal, as the case may be, the corresponding title 46 provision. If a law enacted after that date is otherwise inconsistent with a title 46 provision or a provision of this title, that law supersedes the title 46 provision or provision of this title to the extent of the inconsistency.
- (c) ORIGINAL DATE OF ENACTMENT UNCHANGED.—For purposes of determining whether one provision of law supersedes another based on enactment later in time, a title 46 provision is deemed to have been enacted on the date of enactment of the source provision that the title 46 provision replaces.
- (d) REFERENCES TO TITLE 46 PROVISIONS.—A reference to a title 46 provision, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding source provision.
- (e) REFERENCES TO SOURCE PROVISIONS.—A reference to a source provision, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding title 46 provision.
- (f) REGULATIONS, ORDERS, AND OTHER ADMINISTRATIVE ACTIONS.—A regulation, order, or other administrative action in effect under a source provision continues in effect under the corresponding title 46 provision.
- (g) ACTIONS TAKEN AND OFFENSES COMMITTED.—An action taken or an offense committed under a source provision is deemed to have been taken or committed under the corresponding title 46 provision.

**SEC. 304. RULE OF CONSTRUCTION.**

This title, including the amendments made by this title, is intended only to reorganize title 14, United States Code, and may not be construed to alter—

- (1) the effect of a provision of title 14, United States Code, including any authority or requirement therein;
- (2) a department or agency interpretation with respect to title 14, United States Code; or
- (3) a judicial interpretation with respect to title 14, United States Code.

**SEC. 305. ADVISORY COMMITTEE: REPEAL.**

Section 18 of the Coast Guard Authorization Act of 1991 (Public Law 102–241; 105 Stat. 2213) is repealed.

## **TITLE IV—MARITIME TRANSPORTATION SAFETY**

**SEC. 401. CLARIFICATION OF LOGBOOK ENTRIES.**

- (a) IN GENERAL.—Section 11304 of title 46, United States Code, is amended—
  - (1) in subsection (a), by striking “an official” and inserting “a”; and
  - (2) in subsection (b), by amending paragraph (3) to read as follows:
    - “(3) Each illness of, and injury to, a seaman of the vessel, the nature of the illness or injury, and the medical treatment provided for the injury or illness.”.
- (b) TECHNICAL AMENDMENT.—Section 11304(b) is amended by striking “log book” and inserting “logbook”.

**SEC. 402. TECHNICAL CORRECTIONS: LICENSES, CERTIFICATIONS OF REGISTRY, AND MERCHANT MARINER DOCUMENTS.**

Title 46, United States Code, is amended—

- (1) in section 7106(b), by striking “merchant mariner’s document,” and inserting “license,”;

- (2) in section 7107(b), by striking “merchant mariner’s document,” and inserting “certificate of registry”;
- (3) in section 7507(b)(1), by striking “licenses or certificates of registry” and inserting “merchant mariner documents”; and
- (4) in section 7507(b)(2) by striking “merchant mariner’s document.” and inserting “license or certificate of registry.”.

**SEC. 403. NUMBERING FOR UNDOCUMENTED BARGES.**

Section 12301(b) of title 46, United States Code, is amended—

- (1) by striking “shall” and inserting “may”; and
- (2) by inserting “of” after “barge”.

**SEC. 404. DRAWBRIDGE DEVIATION EXEMPTION.**

Section 5 of the Act entitled “An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved August 18, 1894 (33 U.S.C. 499), is amended by adding at the end the following new subsection:

“(d) EXEMPTION.—

“(1) IN GENERAL.—A change to a schedule that governs the opening of a drawbridge that will be in effect for less than 6 months shall not be subject to the rule making requirements of section 553 of title 5, United States Code.

“(2) ALTERNATE REQUIREMENTS.—

“(A) DUTIES OF SECRETARY.—The Secretary of the department in which the Coast Guard is operating shall provide notice of each such change through—

- “(i) a local notice to mariners;
- “(ii) a Coast Guard broadcast notice to mariners; or
- “(iii) another method of notice that the Secretary considers appropriate.

“(B) OWNER AND OPERATOR DUTIES.—With respect to any drawbridge other than a railroad drawbridge, the owner or operator of such drawbridge shall provide notice of such a change to—

- “(i) the general public, through publication in a newspaper of general circulation;
- “(ii) the Department of Transportation or other public agency with administrative jurisdiction over the roadway that abuts the approach to such bridge; and
- “(iii) the law enforcement organization with jurisdiction over the roadway that abuts the approach to such bridge.”.

**SEC. 405. DEADLINE FOR COMPLIANCE WITH ALTERNATE SAFETY COMPLIANCE PROGRAMS.**

(a) DEADLINE.—Section 4503(d) of title 46, United States Code, is amended by striking so much as precedes paragraph (3) and inserting the following:

“(d)(1) The Secretary, in cooperation with the commercial fishing industry, may prescribe an alternative safety compliance program that shall apply in lieu of requirements under section 4502(b), for any category of fishing vessels, fish processing vessels, or fish tender vessels that are—

- “(A) at least 50 feet overall in length;
- “(B) built before July 1, 2013; and
- “(C) 25 years of age or older.

“(2) An alternative safety compliance program prescribed under paragraph (1) shall apply to a vessel—

“(A) except as provided in subparagraph (B), after the later of January 1, 2020, or the end of the 3-year period beginning on the date on which the Secretary prescribes the program; and

“(B) in the case of a vessel that undergoes a major conversion completed after the later of July 1, 2013, or the date the Secretary establishes standards for the alternate safety compliance program, upon the completion of such conversion.”.

(b) CONFORMING AMENDMENT.—Section 4502(b) of title 46, United States Code, is amended by inserting “and subject to section 4503(d),” after “In addition to the requirements of subsection (a) of this section,”.

**SEC. 406. AUTHORIZATION FOR MARINE DEBRIS PROGRAM.**

The Marine Debris Research, Prevention, and Reduction Act is amended—

(1) in section 9 (33 U.S.C. 1958)—

- (A) by striking the em-dash and all that follows through “(1)”; and
- (B) by striking “; and” and all that follows through the end of the section and inserting a period; and

(2) by adding at the end the following:



**“SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

“Of the amounts authorized for each fiscal year under section 2702(1) of title 14, United States Code, up to \$2,000,000 are authorized for the Commandant to carry out section 4 of this Act, of which not more than 10 percent may be used for administrative costs.”.

**SEC. 407. ALTERNATIVE DISTRESS SIGNALS.**

(a) **PERFORMANCE STANDARD.**—Not later than one year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall issue a rule that establishes a performance standard for distress signals, including for maritime visual distress signals, that may be used as an alternative to the distress signals required by section 175.110 of title 33, Code of Federal Regulations..

(b) **AUTHORIZATION OF USE.**—Not later than 180 days after the date of the issuance of a rule under subsection (a), the Secretary shall issue a rule amending part 175 of title 33, Code of Federal Regulations, to authorize use of distress signals in accordance with such performance standard.

**SEC. 408. ATLANTIC COAST PORT ACCESS ROUTE STUDY RECOMMENDATIONS.**

Not later than 30 days after the date of the enactment of the Act, the Commandant of the Coast Guard shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of action taken to carry out the recommendations contained in the final report issued by the Atlantic Coast Port Access Route Study (ACPARS) workgroup for which notice of availability was published March 14, 2016 (81 Fed. Reg. 13307).

**SEC. 409. DOCUMENTATION OF RECREATIONAL VESSELS.**

Coast Guard personnel performing nonrecreational vessel documentation functions under subchapter II of chapter 121 of title 46, United States Code, may perform recreational vessel documentation under section 12114 of such title in any fiscal year in which—

- (1) funds available for Coast Guard operating expenses may not be used for expenses incurred for recreational vessel documentation;
- (2) fees collected from owners of yachts and credited to such use are insufficient to pay expenses of recreational vessel documentation; and
- (3) there is a backlog of applications for recreational vessel documentation.

**SEC. 410. CERTIFICATES OF DOCUMENTATION FOR RECREATIONAL VESSELS.**

Section 12114 of title 46, United States Code, is amended by adding at the end the following:

“(d) **EFFECTIVE PERIOD.**—A recreational endorsement for a vessel—

“(1) except as provided in paragraph (3), shall be effective for 5 years;

“(2) shall require the owner of the vessel to notify the Coast Guard of each change in the information on which the issuance of the certificate of documentation is based that occurs before the expiration of the certificate under this subsection, by not later than 30 days after such change; and

“(3) shall terminate upon the expiration of such 30-day period if the owner has not notified the Coast Guard of such change before the end of such period.

“(e) **STATE AND LOCAL AUTHORITY TO REMOVE ABANDONED AND DERELICT VESSELS.**—Nothing in this section shall be construed to limit the authority of a State or local authority from taking action to remove an abandoned or derelict vessel.

“(f) **AUTHORITY.**—

“(1) **REQUIREMENT.**—The Secretary shall assess and collect a fee for the issuance or renewal of a recreational endorsement, that is equivalent to the fee established for the issuance or renewal, respectively, of a fishery endorsement pursuant to section 2110.

“(2) **TREATMENT.**—Fees collected under this subsection—

“(A) shall be credited to the account from which the costs of such issuance or renewal were paid; and

“(B) may remain available until expended.”.

**SEC. 411. BACKUP GLOBAL POSITIONING SYSTEM.**

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

**“CHAPTER 807—POSITION, NAVIGATION, AND TIMING**

“Sec.

“80701. Land-based complementary and backup positioning, navigation, and timing system.

**“§ 80701. Land-based complementary and backup positioning, navigation, and timing system**

“(a) eLORAN.—Subject to the availability of appropriations, the Secretary shall provide for the establishment, sustainment, and operation of a reliable land-based enhanced LORAN, or eLORAN, positioning, navigation, and timing system.

“(b) PURPOSE.—The purpose of the system established under subsection (a) is to provide a complement to, and backup for, the Global Positioning System (in this section referred to as ‘GPS’) to ensure the availability of uncorrupted and nondegraded positioning, navigation, and timing signals for military and civilian users in the event that GPS signals are corrupted, degraded, unreliable, or otherwise unavailable.

“(c) REQUIREMENTS.—The system established under subsection (a) shall—

“(1) be wireless;

“(2) be terrestrial;

“(3) provide wide-area coverage;

“(4) transmit a precise, high-power 100 kilohertz signal and meet the one microsecond accuracy requirement specified in the Federal Radio Navigation Plan;

“(5) be synchronized with coordinated universal time;

“(6) be resilient and extremely difficult to disrupt or degrade;

“(7) be able to penetrate underground and inside buildings;

“(8) be capable of deployment to remote locations;

“(9) take full advantage of the infrastructure of the existing, unused Coast Guard long-range navigation system (commonly known as ‘LORAN-C’), and subject to the concurrence and agreement of other agencies, unused facilities associated with the Ground Wave Emergency Network and Nationwide Differential GPS systems;

“(10) utilize and leverage the capabilities of the entity for development, building, and operation of the system;

“(11) function in an interoperable and complementary manner with other similar positioning, navigation, and timing systems;

“(12) be made available by the Secretary for use by other Federal agencies for public purposes at no cost; and

“(13) incorporate such other requirements determined necessary by the Secretary with respect to such agencies.

“(d) REQUEST FOR PROPOSALS.—

“(1) IN GENERAL.—Under authority granted by section 93(a)(25) of title 14, United States Code, and not later than three months after the date of enactment of this section, the Secretary shall publish a request for proposals by non-Federal persons for the development, building, and operation of the system described in subsection (c).

“(2) ELEMENTS.—Proposals submitted under this subsection shall include, at a minimum—

“(A) an eLORAN system architecture; and

“(B) a timetable for the delivery of—

“(i) a nationwide backup timing signal not later than two years after the last date on which proposals are accepted under the request published under paragraph (1); and

“(ii) a nationwide position and navigation signal not later than three years after such date.

“(e) SELECTION.—Using competitive procedures similar to those authorized under section 2667 of title 10, the Secretary may select a proposal from proposals received in response to the request for proposals under subsection (d).

“(f) AGREEMENT.—

“(1) IN GENERAL.—The Secretary may enter into a cooperative agreement (as that term is used in section 6305 of title 31) with an entity upon such terms as the Secretary determines will carry out the purpose of the system under subsection (b).

“(2) CONTENT.—An agreement under this subsection shall—

“(A) require the Secretary to provide the entity—

“(i) access to existing infrastructure and facilities described in subsection (c)(9) and provided as Government-furnished property (as that term is defined in section 45.101 of the Federal Acquisition Regulation, as in effect on the date of the enactment of the Coast Guard Authorization Act of 2017), for a minimum of 20 years;

“(ii) full use of the necessary electromagnetic spectrum wavelength associated with the LORAN-C system for use by the system required under subsection (a) and provided as such Government-furnished property; and

- “(iii) approval for the reconstruction of towers that are part of the infrastructure described in subsection (c)(9);
  - “(B) specify that all necessary capital expenditures be made by the entity;
  - “(C) set performance standards for the signals transmitted by the system;
  - “(D) require the Secretary to monitor and ensure the signals transmitted by the system conform to the performance standards of the agreement and are safe for use;
  - “(E) set the terms under which the Secretary has access to such signals;
  - “(F) subject to any national security requirements established by the Secretary of Defense and so long as activities described in clauses (i) and (ii) of subsection (B) do not interfere with the primary purpose of providing positioning, navigation, and timing services, allow the entity to—
    - “(i) market, promote, and sell eLORAN positioning, navigation, and timing services to commercial and noncommercial third parties; and
    - “(ii) generate revenue from such sale to non-Federal third parties of communications and other related services that result from the use of Government facilities and spectrum provided under this paragraph;
  - “(G) require the entity pay to the United States a portion of revenue received by the entity under subparagraph (F);
  - “(H) require the entity to assume all financial risk for the completion and operational capability of the eLORAN system and may require a performance bond from the entity to guarantee that risk;
  - “(I) require the entity to assist international organizations and foreign governments on issues related to eLORAN and similar systems; and
  - “(J) include such other terms and conditions as the Secretary determines to be necessary to carry out the purposes of this section.
- “(3) REVENUE SHARING REQUIREMENT.—
- “(A) IN GENERAL.—The requirement under paragraph (2)(G) shall require the entity to pay to the United States an equitable share of the revenue generated by the entity under paragraph (2)(F), in the fiscal year following the fiscal year in which such revenue is generated.
  - “(B) AMOUNT.—The amount of such payments shall take into account—
    - “(i) the capital investment by the entity to build the system and annual costs incurred by the entity to operate and maintain the system; and
    - “(ii) the capital and operating expenses incurred by the entity to upgrade the eLORAN system and related systems over the effective period of the agreement.
- “(4) EFFECTIVE DATE OF RISK REQUIREMENT.—The requirement in paragraph (2)(H) shall be contingent upon, and take effect upon, the Secretary determining that the requirements under paragraph (2)(A) have been fulfilled.
- “(g) CERCLA NOT AFFECTED.—This section shall not be construed to limit the application of or otherwise affect section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)) for Federal Government facilities described in subsection (c)(9).
- “(h) BIENNIAL REPORT TO CONGRESS.—Not later than one year after the date on which an agreement with an entity is entered into under subsection (f), and biennially thereafter, 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—
- “(1) a report on the performance and progress of the entity in fulfilling its obligations under the agreement to build, operate and maintain the system established under subsection (a); and
  - “(2) an accounting of finances, expenses, and revenue associated with such performance, including payments made to the Secretary under section (f)(3).
- “(i) DEFINITIONS.—In this section:
- “(1) The term ‘entity’ means a non-Federal entity whose proposal is selected under subsection (e).
  - “(2) The term ‘Secretary’ means the Secretary of Transportation, acting through the Commandant of the Coast Guard.”.
- (b) CLERICAL AMENDMENT.—The analysis for subtitle VIII of title 46, United States Code, is amended by adding after the item relating to chapter 805 the following:
- “807. Position, navigation, and timing .....80701.”.
- (c) IMPLEMENTATION PLAN.—Not later than 180 days after the date of the enactment of this Act, the Secretary, as that term is defined in the amendments made by this section, 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 plan to ensure that the system required under such amendments is fully operational by not later than 3 years after such date of enactment.

**SEC. 412. WATERS DEEMED NOT NAVIGABLE WATERS OF THE UNITED STATES FOR CERTAIN PURPOSES.**

For purposes of the application of subtitle II of title 46, United States Code, to the Volunteer (Hull Number CCA4108), the Illinois and Michigan Canal is deemed to not be navigable waters of the United States.

**SEC. 413. UNINSPECTED PASSENGER VESSELS IN ST. LOUIS COUNTY, MINNESOTA.**

Section 4105 of title 46, United States Code, is amended—

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

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

“(c) In applying this title with respect to an uninspected vessel of less than 25 feet overall in length that carries passengers on Crane Lake or waters contiguous to such lake in St. Louis County, Minnesota, the Secretary shall substitute ‘12 passengers’ for ‘6 passengers’ each place it appears in section 2101(42).”.

**SEC. 414. ENGINE CUT-OFF SWITCH REQUIREMENTS.**

(a) **INSTALLATION REQUIREMENT.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall issue a regulation amending part 183 of title 33, Code of Federal Regulations, that requires associated equipment manufacturers, distributors, and dealers installing propulsion machinery and associated starting controls on a recreational vessel less than 26 feet overall in length and capable of developing at least 115 pounds of static thrust or 3 horsepower to install an engine cut-off switch in compliance with American Boat and Yacht Standard A-33.

(2) **EFFECTIVE DATE.**—The regulation shall take effect at the end of the 1-year period beginning on the date of the issuance of such regulation.

(b) **DEFINITIONS.**—Not later than 1 year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall issue a regulation amending part 175 and part 183 of title 33, Code of Federal Regulations, that—

(1) defines the term “engine cut-off switch” for purposes of that part to mean a mechanical or electronic device that is connected to propulsion machinery of a recreational vessel less than 26 feet overall in length that will stop propulsion if—

(A) the switch is not properly connected to the propulsion machinery; or

(B) the switch components are—

(i) submerged in water; or

(ii) separated from the propulsion machinery by a predetermined distance; and

(2) defines the term “engine cut-off switch link” for purposes of that part to mean equipment that—

(A) is attached to as recreational vessel operator; and

(B) activates the engine cut-off switch.

(c) **EDUCATION ON CUT-OFF SWITCHES.**—The Commandant of the Coast Guard, through the National Boating Safety Advisory Council established under section 13110 of title 46, United States Code, may initiate a boating safety program on the use and benefits of cut-off switches for recreational vessels.

**SEC. 415. ANALYSIS OF COMMERCIAL FISHING VESSEL CLASSIFICATION REQUIREMENTS.**

(a) **ANALYSIS.**—Not later than 180 days after the date of the enactment of this Act, the Commandant of the Coast Guard shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the status of the implementation of the survey and classification requirements referred to in section 4503 of title 46, United States Code.

(b) **CONTENTS.**—The analysis required under subsection (a) shall include information on—

(1) the average costs to vessel owners to comply with such section; and

(2) the impact such section is having on commercial fishing vessel safety.

## TITLE V—MISCELLANEOUS

### SEC. 501. REPEAL.

Subsection (h) of section 888 of the Homeland Security Act of 2002 (6 U.S.C. 468) is repealed.

### SEC. 502. REIMBURSEMENTS FOR NON-FEDERAL CONSTRUCTION COSTS OF CERTAIN AIDS TO NAVIGATION.

(a) **IN GENERAL.**—Subject to the availability of amounts specifically provided in advance in subsequent appropriations Acts and in accordance with this section, the Commandant of the Coast Guard may reimburse a non-Federal entity for costs incurred by the entity for a covered project.

(b) **CONDITIONS.**—The Commandant may not provide reimbursement under subsection (a) with respect to a covered project unless—

(1) the need for the project is a result of the completion of construction with respect to a federally authorized navigation channel;

(2) the Commandant determines, through an appropriate navigation safety analysis, that the project is necessary to ensure safe marine transportation;

(3) the Commandant approves the design of the project to ensure that it meets all applicable Coast Guard aids-to-navigation standards and requirements;

(4) the non-Federal entity agrees to transfer the project upon completion to the Coast Guard for operation and maintenance by the Coast Guard as a Federal aid to navigation;

(5) the non-Federal entity carries out the project in accordance with the same laws and regulations that would apply to the Coast Guard if the Coast Guard carried out the project, including obtaining all permits required for the project under Federal and State law; and

(6) the Commandant determines that the project satisfies such additional requirements as may be established by the Commandant.

(c) **LIMITATIONS.**—Reimbursements under subsection (a) may not exceed the following:

(1) For a single covered project, \$5,000,000.

(2) For all covered projects in a single fiscal year, \$5,000,000.

(d) **EXPIRATION.**—The authority granted under this section shall expire on the date that is 4 years after the date of enactment of this section.

(e) **COVERED PROJECT DEFINED.**—In this section, the term “covered project” means a project carried out by a non-Federal entity to construct and establish an aid to navigation that facilitates safe and efficient marine transportation on a Federal navigation project authorized by title I of the Water Resources Development Act of 2007 (Public Law 110–114).

### SEC. 503. CORRECTIONS TO PROVISIONS ENACTED BY COAST GUARD AUTHORIZATION ACTS.

Section 604(b) of the Howard Coble Coast Guard and Maritime Transportation Act of 2014 (Public Law 113–281; 128 Stat. 3061) is amended by inserting “and fishery endorsement” after “endorsement”.

### SEC. 504. SHIP SHOAL LIGHTHOUSE TRANSFER: REPEAL.

Effective January 1, 2021, section 27 of the Coast Guard Authorization Act of 1991 (Public Law 102–241; 105 Stat. 2218) is repealed.

### SEC. 505. COAST GUARD MARITIME DOMAIN AWARENESS.

(a) **IN GENERAL.**—The Secretary of the department in which the Coast Guard is operating shall seek to enter into an arrangement with the National Academy of Sciences not later than 60 days after the date of the enactment of this Act under which the Academy shall prepare an assessment of available unmanned, autonomous, or remotely controlled maritime domain awareness technologies for use by the Coast Guard.

(b) **ASSESSMENT.**—The assessment shall—

(1) describe the potential limitations of current and emerging unmanned technologies used in the maritime domain for—

(A) ocean observation;

(B) vessel monitoring and identification;

(C) weather observation;

(D) to the extent practicable for consideration by the Academy, intelligence gathering, surveillance, and reconnaissance; and

(E) communications;

(2) examine how technologies described in paragraph (1) can help prioritize Federal investment by examining;

- (A) affordability, including acquisition, operations, and maintenance;
- (B) reliability;
- (C) versatility;
- (D) efficiency; and
- (E) estimated service life and persistence of effort; and
- (3) analyze whether the use of new and emerging maritime domain awareness technologies can be used to—
  - (A) carry out Coast Guard missions at lower costs;
  - (B) expand the scope and range of Coast Guard maritime domain awareness;
  - (C) allow the Coast Guard to more efficiently and effectively allocate Coast Guard vessels, aircraft, and personnel; and
  - (D) identify adjustments that would be necessary in Coast Guard policies, procedures, and protocols to incorporate unmanned technologies to enhance efficiency.

(c) **REPORT TO CONGRESS.**—Not later than 1 year after entering into an agreement with the Secretary under subsection (a), National Academy of Science shall submit the assessment prepared under this section to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

(d) **USE OF INFORMATION.**—In formulating costs pursuant to subsection (b), the National Academy of Sciences may utilize information from other Coast Guard reports, assessments, or analyses regarding existing Coast Guard manpower requirements or other reports, assessments, or analyses for the acquisition of unmanned, autonomous, or remotely controlled technologies by the Federal Government.

#### **SEC. 506. TOWING SAFETY MANAGEMENT SYSTEM FEES.**

(a) **REVIEW.**—The Commandant of the Coast Guard shall—

- (1) review and compare the costs to the Government of—
  - (A) towing vessel inspections performed by the Coast Guard; and
  - (B) such inspections performed by a third party; and

(2) based on such review and comparison, determine whether the costs to the Government of such inspections performed by a third party are different than the costs to the Government of such inspections performed by the Coast Guard.

(b) **REVISION OF FEES.**—If the Commandant determines under subsection (a) that the costs to the Government of such inspections performed by a third party are different than the costs to the Government of such inspections performed by the Coast Guard, then the Commandant shall revise the fee assessed by the Coast Guard for such inspections as necessary to conform to the requirements under section 9701 of title 31, United States Code, that such fee be based on the cost to the Government of such inspections and accurately reflect such costs.

#### **SEC. 507. OIL SPILL DISBURSEMENTS AUDITING AND REPORT.**

Section 1012 of the Oil Pollution Act of 1990 (33 U.S.C. 2712) is amended—

(1) by repealing subsection (g);

(2) in subsection (l)(1), by striking “Within one year after the date of enactment of the Coast Guard Authorization Act of 2010, and annually thereafter,” and inserting “Each year, on the date on which the President submits to Congress a budget under section 1105 of title 31, United States Code,”; and

(3) by amending subsection (l)(2) to read as follows:

“(2) **CONTENTS.**—The report shall include—

“(A) a list of each incident that—

“(i) occurred in the preceding fiscal year; and

“(ii) resulted in disbursements from the Fund, for removal costs and damages, totaling \$500,000 or more;

“(B) a list of each incident that—

“(i) occurred in the fiscal year preceding the preceding fiscal year; and

“(ii) resulted in disbursements from the Fund, for removal costs and damages, totaling \$500,000 or more; and

“(C) an accounting of any amounts reimbursed to the Fund in the preceding fiscal year that were recovered from a responsible party for an incident that resulted in disbursements from the Fund, for removal costs and damages, totaling \$500,000 or more.”.

#### **SEC. 508. LAND EXCHANGE, AYAKULIK ISLAND, ALASKA.**

(a) **LAND EXCHANGE.**—If the owner of Ayakulik Island, Alaska, offers to exchange the Island for the Tract—

- (1) within 30 days after receiving such offer, the Secretary shall provide notice of the offer to the Commandant;

(2) within 30 days after receiving the notice under paragraph (1), the Commandant shall develop and transmit to the Secretary proposed operational restrictions on commercial activity conducted on the Tract, including the right of the Commandant to—

(A) order the immediate termination, for a period of up to 72 hours, of any activity occurring on or from the Tract that violates or threatens to violate one or more of such restrictions; or

(B) commence a civil action for appropriate relief, including a permanent or temporary injunction enjoining the activity that violates or threatens to violate such restrictions; and

(3) within 30 days after receiving the proposed operational restrictions from the Commandant, the Secretary shall transmit such restrictions to the owner of Ayakulik Island; and

(4) within 30 days after transmitting the proposed operational restrictions to the owner of Ayakulik Island, and if the owner agrees to such restrictions, the Secretary shall convey all right, title and interest of the United States in and to the Tract to the owner, subject to an easement granted to the Commandant to enforce such restrictions, in exchange for all right, title and interest of such owner in and to Ayakulik Island.

(b) BOUNDARY REVISIONS.—The Secretary may make technical and conforming revisions to the boundaries of the Tract before the date of the exchange.

(c) PUBLIC LAND ORDER.—Effective on the date of an exchange under subsection (a), Public Land Order 5550 shall have no force or effect with respect to submerged lands that are part of the Tract.

(d) FAILURE TO TIMELY RESPOND TO NOTICE.—If the Commandant does not transmit proposed operational restrictions to the Secretary within 30 days after receiving the notice under subsection (a)(1), the Secretary shall, by not later than 60 days after transmitting such notice, convey all right, title, and interest of the United States in and to the Tract to the owner of Ayakulik Island in exchange for all right, title, and interest of such owner in and to Ayakulik Island.

(e) CERCLA NOT AFFECTED.—This section and an exchange under this section shall not be construed to limit the application of or otherwise affect section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

(f) DEFINITIONS.—In this section:

(1) COMMANDANT.—The term “Commandant” means the Secretary of the department in which the Coast Guard is operating, acting through the Commandant of the Coast Guard.

(2) SECRETARY.—The term “Secretary” means the Secretary of the Interior.

(3) TRACT.—The term “Tract” means the land (including submerged land) depicted as “PROPOSED PROPERTY EXCHANGE AREA” on the survey titled “PROPOSED PROPERTY EXCHANGE PARCEL” and dated 3/22/17.

#### SEC. 509. VESSEL RESPONSE PLANS IN THE ARCTIC.

(a) AMENDMENTS TO THE OIL POLLUTION ACT OF 1990.—

(1) IN GENERAL.—Title V of the Oil Pollution Act of 1990 (33 U.S.C. 2731 et seq.) is amended by adding at the end the following:

##### “SEC. 5009. VESSEL RESPONSE PLANS IN THE ARCTIC.

“The Secretary of the department in which the Coast Guard is operating may not approve a vessel response plan under section 311(j)(5) of the Federal Water Pollution Control Act for a vessel operating in any area covered by the Captain of the Port Zone, as established by the Secretary, that includes the Arctic (as defined in section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111)), unless the Secretary verifies that—

“(1) all equipment required to be available for response under the plan has been tested and proven capable of operating in the environment in which it is intended to be operated, as determined by the Secretary; and

“(2) the oil spill removal organization identified in the vessel response plan under section 311(j)(5) of the Federal Water Pollution Control Act—

“(A) has records of training for equipment operators; and

“(B) conducts a full equipment deployment exercise in the area covered by the vessel response plan at least once every 3 years, except that the Secretary may waive a required full equipment deployment exercise, upon request of the organization, if the organization implemented the vessel response plan (including the deployment of equipment and operators) during the preceding 3 years in response to a discharge or substantial threat of a discharge of oil.”.

(2) CLERICAL AMENDMENT.—The table of contents in section 2 of the Oil Pollution Act of 1990 is amended by inserting after the item relating to section 5007 the following:

“Sec. 5008. North Pacific Marine Research Institute.  
“Sec. 5009. Vessel response plans in the Arctic.”.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the oil spill prevention and response capabilities available for the area covered by the Captain of the Port Zone, as established by the Secretary, that includes the Arctic (as defined in section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111)). The report shall include—

(1) a description of equipment and assets available for response under the vessel response plans approved for vessels operating in the area covered by such Captain of the Port Zone;

(2) a description of the locations of such equipment and assets, including an estimate of the time necessary to deploy such equipment and assets;

(3) a determination regarding how effectively such equipment and assets are distributed throughout such Captain of the Port Zone;

(4) a determination regarding whether the ability to deploy such equipment and assets is taken into account when measuring the equipment and assets available;

(5) a validation of the port assessment visit process and a verification of the response resource inventory; and

(6) a description of the resources needed by the Coast Guard to conduct port assessments, exercises, response plan review, and spill responses in such Captain of the Port Zone.

**SEC. 510. ASSESSMENT OF PUBLIC COMMENTS ON ADDITIONAL ANCHORAGES ON THE HUDSON RIVER.**

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Commandant of the Coast Guard shall—

(1) assess the public comments received by the Coast Guard on proposals to establish additional anchorages on the Hudson River between Yonkers, New York, and Kingston, New York; and

(2) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on such assessment, including—

(A) a detailed summary of concerns raised in such comments about the economic, safety, and environmental impacts of such additional anchorages on the communities bordering the Hudson River between Yonkers, New York, and Kingston, New York, including impacts of such anchorage grounds to sites listed on the National Priorities List under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.) and areas designated as critical habitat of species listed as endangered species under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(B) the response of the Coast Guard to such concerns.

(b) RESTRICTION.—The Commandant may not establish any of the anchorages described in subsection (a) before the end of the 180-day period beginning on the date of the submission of the report under subsection (a)(2).

**SEC. 511. PUBLIC SAFETY ANSWERING POINTS AND MARITIME SEARCH AND RESCUE COORDINATION.**

Not later than 180 days after the date of the enactment of this Act—

(1) the Secretary of the department in which the Coast Guard is operating acting through the Commandant of the Coast Guard shall review Coast Guard policies and procedures for public safety answering points and search-and-rescue coordination with State and local law enforcement entities in order to—

(A) further minimize the possibility of maritime 911 calls being improperly routed; and

(B) assure the Coast Guard is able to effectively carry out the Coast Guard's maritime search and rescue mission; and

(2) the Commandant shall formulate a national maritime public safety answering points policy and submit a report to the Congress on that subject.

**SEC. 512. DOCUMENTATION OF “AMERICA’S FINEST”.**

Notwithstanding sections 12112 and 12113 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a cer-



tificate of documentation with a coastwise and a fishery endorsement for the vessel AMERICA'S FINEST (United States official number 1276760).

#### PURPOSE OF LEGISLATION

H.R. 2518, the *Coast Guard Authorization Act of 2017*, authorizes funding for the Coast Guard for fiscal years 2018 and 2019 at levels sufficient to maintain operational readiness and timelines for major system acquisition programs, and includes reforms to Coast Guard authorities and regulations governing certain maritime industries.

#### BACKGROUND AND NEED FOR LEGISLATION

##### *Coast Guard*

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

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

As one of the five Armed Services, the Coast Guard also maintains defense readiness and may be called upon to operate as a specialized service in the Navy upon the declaration of war or when the President directs. The Coast Guard is composed of approximately 40,000 military personnel, 6,400 reservists, and 8,400 civilian employees. The Coast Guard or its predecessors have defended the Nation in every war since 1790.

In fiscal year 2015, the Coast Guard responded to over 16,000 search and rescue cases saving over 3,500 lives. Additionally, the Coast Guard conducted over 8,600 security boardings of vessels entering American ports, screened over 131,000 commercial vessels entering American ports for potential security threats, maintained over 47,000 aids to navigation, and detained 503 smugglers carrying 107 metric tons of cocaine.

H.R. 2518, the *Coast Guard Authorization Act of 2017*, authorizes funding for the Coast Guard for the next two fiscal years at levels necessary to carry out these missions, while helping to replace and modernize the Coast Guard's aging assets in a cost-effective manner, enhance oversight, and reduce administrative inefficiencies to save taxpayer dollars.

Pursuant to section 101 of the *Coast Guard Authorization Act of 2016* (P.L. 114–120), the activities of the Coast Guard are authorized through fiscal year 2017 at \$9 billion. H.R. 2518 authorizes \$9.4 and \$9.6 billion in discretionary funds for the Coast Guard for fiscal years 2018 and 2019, respectively. Authorized increases in funding are necessary, among other reasons, to address shortfalls

in prior years appropriations due to mandatory non-defense budget cuts imposed under the Budget Control Act.

*Investment in Coast Guard capabilities*

The Committee has long held concerns about the adequacy of capital investment in Coast Guard assets and infrastructure and has held numerous hearings to review the status and efficiency of acquisition programs. Enforcing federal laws in, under, over the high seas and waters subject to the jurisdiction of the United States is a complicated task requiring a workforce that is highly trained in many diverse areas ranging from marine and aviation operations to marine safety. It also requires a substantial number of physical assets from offshore cutters and aircraft, to buoys and shore-side facilities such as piers and airfields. Estimates of what is required in annual Coast Guard capital investment range from \$1.5 billion to more than \$2.0 billion depending on whether the goal is to maintain existing capability, to achieve capabilities closer to those set up in the 2005 Mission Need Statement (MNS), or to fulfill approved acquisition programs of record. These costs are expected to increase with the acquisition of at least one new heavy ice breaker, and possibly, up to six new icebreakers as specified in the Coast Guard's 2010 High Latitude Region Mission Analysis. While acquisition costs have kept increasing, successive administration budget requests have fallen short of even meeting the Service's minimum operational and acquisition needs, and appropriations have only been able to make up a fraction of the shortfall. In fiscal year 2018, the Administration requests \$1.2 billion for the Coast Guard's Acquisition, Construction, and Improvement (AC&I) account. This represents a cut of over \$700 million, or a 37 percent cut from fiscal year 2017 enacted appropriation.

H.R. 2518 authorizes the Coast Guard's AC&I account at \$1.945 billion for each of the fiscal years 2018 and 2019, approximately \$700 million more than the Administration's fiscal year 2018 request. The Committee believes long-term funding at this level will allow the Coast Guard to maintain current mission capability. However, the Committee acknowledges that even at the level of capital funding proposed in this authorization, certain Coast Guard missions simply will not be done, or will be undertaken at a sub-optimal operations tempo. The Committee looks forward to continuing to work with the Coast Guard to determine how the Service might better align missions and assets under current budget constraints, and identify those missions which potentially may be handled through cooperation with other entities.

*Maritime transportation*

The maritime sector of our national transportation system is essential to our economy and vital to our national security. The Maritime industry in the United States currently employs more than 250,000 Americans providing nearly \$4.5 trillion of economic activity annually. There are more than 40,000 commercial vessels currently flying the American flag. The vast majority of these vessels are engaged in domestic coastwise commerce protected under the Jones Act, moving over 106 million passengers and \$400 billion worth of goods between ports in the United States on an annual basis. Each year, maritime industry accounts for over \$100 billion

in economic output. Additionally, maritime industry provides an indispensable industrial and technology base necessary to support both military and commercial shipbuilding.

H.R. 2518 also addresses matters affecting maritime transportation. The bill promotes transit lane safety through authorizing funding for Coast Guard marine debris activities, implementation of the Atlantic Coast Port Access Study report, and removes red tape and promotes improved maritime commerce by allowing payment for construction of certain aids-to-navigation constructed by non-federal entities. The bill also promotes common sense regulations by updating public notice requirements for bridge work, requires the Coast Guard to match its fees with the cost of administering its inspection programs, and makes technical corrections to certain references for merchant mariner documents, licenses and certifications of registry.

#### HEARINGS

The Subcommittee on Coast Guard and Maritime Transportation held a hearing on March 31, 2017, on the authorization of Coast Guard and maritime transportation programs. Testimony was heard from the Coast Guard, the Federal Maritime Commission and the Maritime Administration. Topics discussed included funding for the Service, the Commission and Administration, the status of Coast Guard acquisition programs, and maritime transportation issues relating to the Service and each agency.

The Subcommittee on Coast Guard and Maritime Transportation held a hearing on May 3, 2017, on maritime transportation regulatory issues. Testimony was heard from the Coast Guard, the American Salvage Association, and the National Response Corporation regarding oil spill and salvage and marine firefighting response requirements and how each response activity is being implemented nationwide.

#### LEGISLATIVE HISTORY AND CONSIDERATION

On May 18, 2017, H.R. 2518 was introduced by Congressman Duncan Hunter (R-CA) and cosponsored by Congressman John Garamendi (D-CA), Congressman Bill Shuster (R-PA) and Congressman Peter DeFazio (D-OR).

On May 24, 2017, the Committee on Transportation and Infrastructure met in open session to consider H.R. 2518. Mr. Hunter offered a manager's amendment that: authorizes appropriations for, respectively, construction of six additional Fast Response Cutters beyond the approved program of record, icebreaker sea trials, and to address the backlog in shore-side infrastructure. The manager's amendment also makes some technical changes; transfers provisions from title 33, United States Code, to title 46, United States Code; and, authorizes the use of cooperative agreements between the Coast Guard and non-federal entities to develop a backup for the Global Positioning System. Additionally, the amendment modifies an Oil Spill Liability Trust Fund annual audit requirement; authorizes a land exchange and a vessel response plan verification process, both in Alaska; and requires a report on the establishment of new anchorages in the Hudson River. Congressman Rick Larsen (D-WA) offered an amendment to provide a certificate of docu-

mentation, with coastwise and fishery endorsements, to a catcher processor vessel being built in Washington State. Congresswoman Frederica S. Wilson (D-FL) offered an amendment regarding access to American courts for non-citizen employees on cruise vessels and withdrew it. The Committee ordered the bill, as amended, reported favorably to the House by voice vote with a quorum present.

#### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires each committee report to include the total number of votes cast for and against on each record vote on a motion to report and on any amendment offered to the measure or matter, and the names of those members voting for and against. There were no recorded votes taken in connection with consideration of H.R. 2518. A motion to order H.R. 2518, as amended, reported favorably to the House was agreed to by voice vote with a quorum present.

#### COMMITTEE OVERSIGHT FINDINGS

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

#### 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. 2518 from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, June 23, 2017.*

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 2518, the Coast Guard Authorization Act of 2017.

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

Sincerely,

MARK P. HADLEY  
(For Keith Hall, Director).

Enclosure.

*H.R. 2518—Coast Guard Authorization Act of 2017*

Summary: H.R. 2518 would authorize appropriations totaling \$19.0 billion over the 2018–2019 period for ongoing activities of the Coast Guard (USCG). Assuming appropriation of the specified amounts, CBO estimates that implementing the legislation would cost \$18.3 billion over the 2018–2022 period.

The bill also would authorize the Secretary of Homeland Security to enter into a cooperative agreement with a nonfederal entity to establish, sustain, and operate a system to provide positioning, navigation, and timing (PNT) services as a backup and complement to the existing Global Positioning System (GPS). CBO estimates that enacting that provision would increase net direct spending by \$121 million over the 2018–2027 period. Enacting the bill also would affect revenues, but CBO estimates that those changes would be insignificant.

Because enacting the bill would affect direct spending and revenues, pay-as-you-go procedures apply. CBO estimates that enacting H.R. 2518 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2028.

H.R. 2518 would impose intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). CBO estimates that the cost of the mandates would fall below the annual thresholds established in UMRA (\$78 million for intergovernmental mandates and \$156 million for private-sector mandates, respectively, in 2017, adjusted annually for inflation).

Estimated cost to the Federal government: The estimated budgetary effect of H.R. 2518 is shown in the following table. The costs of this legislation fall within budget functions 400 (transportation), 300 (natural resources and environment), and 950 (undistributed offsetting receipts).

TABLE 1.—ESTIMATED BUDGETARY EFFECTS OF H.R. 2518

	By fiscal year, in millions of dollars—						
	2017	2018	2019	2020	2021	2022	2017–2022
INCREASES IN SPENDING SUBJECT TO APPROPRIATION							
Authorization Level .....	0	9,397	9,587	0	0	0	18,984
Estimated Outlays .....	0	5,956	7,790	2,526	1,312	715	18,299
INCREASES IN DIRECT SPENDING <sup>a</sup>							
Estimated Budget Authority .....	0	200	0	0	—5	—4	191
Estimated Outlays .....	0	20	40	60	45	26	191

<sup>a</sup> CBO estimates that enacting H.R. 2518 would increase net direct spending by \$121 million over the 2017–2027 period.

Basis of estimate: For this estimate, CBO assumes that H.R. 2518 will be enacted late in 2017, 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. 2518 would authorize appropriations totaling \$9.4 billion in 2018 and \$9.6 billion in 2019 for ongoing activities of the Coast Guard. The Congress provided about \$8 billion for the agency in 2017. That amounts authorized to be appropriated under the bill include:

- \$14.7 billion for operating expenses;
- \$3.9 billion for capital spending to acquire and maintain mission-related vessels, aircraft, facilities, and infrastructure;
- \$268 million for training reservists;
- \$75 million for research programs; and
- \$34 million for activities related to enforcing compliance with environmental regulations.

Based on historical spending patterns for those activities, CBO estimates that implementing those provisions would cost \$18.3 billion over the 2018–2022 period and an additional \$0.7 billion after 2022.

In addition, CBO estimates that provisions of H.R. 2518 that would authorize the federal government to establish a new PNT system could affect other discretionary spending by federal agencies that might use it. For example, establishing such a system could affect agencies activities and costs related to other systems that provide signaling services. However, because the timing and magnitude of such impacts is highly uncertain, CBO has not included any such effects in this estimate.

#### *Direct spending and revenues*

Enacting the bill would increase net costs for developing a PNT system, decrease offsetting receipts from future auctions of the rights to use parts of the electromagnetic spectrum, and make other changes that would have insignificant effects on direct spending and revenues.

TABLE 2.—ESTIMATED CHANGES IN DIRECT SPENDING UNDER H.R. 2518

	By fiscal year, in millions of dollars—											2017– 2027
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017– 2027
CHANGES IN DIRECT SPENDING												
Capital Spending for PNT System:												
Estimated Budget Authority .....	0	200	0	0	0	0	0	0	0	0	0	200
Estimated Outlays .....	0	20	40	60	50	30	0	0	0	0	0	200
Receipts from Revenue-Sharing Agreements:												
Estimated Budget Authority .....	0	0	0	0	–5	–5	–10	–10	–15	–15	–20	–80
Estimated Outlays .....	0	0	0	0	–5	–5	–10	–10	–15	–15	–20	–80
Forgone Receipts from Spectrum Auctions:												
Estimated Budget Authority .....	0	0	0	0	0	1	0	0	0	0	0	1
Estimated Outlays .....	0	0	0	0	0	1	0	0	0	0	0	1
Total Changes:												
Estimated Budget Authority .....	0	200	0	0	–5	–4	–10	–10	–15	–15	–20	121
Estimated Outlays .....	0	20	40	60	45	26	–10	–10	–15	–15	–20	121

Capital spending for PNT system. The federal government owns and operates the GPS, a satellite-based system that provides PNT signals to devices equipped with GPS receivers. The system currently provides continuous “Standard Positioning Services” to all users worldwide free of any direct user charges. It also provides “Precise Positioning Services” to the U.S. military, federal agencies, and certain foreign governments. Entities throughout the public and private sectors rely heavily on GPS services for their daily operations and continuous PNT services are widely viewed as necessary for safeguarding critical infrastructure in the United States. Under current law, the federal government is investigating opportunities to develop technological capabilities to ensure the continuity of PNT services in the event of disruptions to GPS services.

H.R. 2518 would authorize the Secretary of Homeland Security, in consultation with other federal agencies, to enter into a competitively awarded agreement with a nonfederal entity to establish and operate a land-based backup PNT system using technology known as eLORAN (enhanced long-range aids to navigation). The bill would specify some requirements for the proposed system, including that it use the existing infrastructure of the Coast Guard’s LORAN-C system and provide services to federal agencies for public purposes. (LORAN-C provided radio navigation services throughout the 48 continental states, their coastal areas, and parts of Alaska until the Coast Guard terminated the signal in 2010.)

The terms of any cooperative agreement entered into pursuant to the bill—including details related to system specifications—are uncertain and ultimately would be determined by the Secretary, but H.R. 2518 outlines several key requirements that would have to be included. In particular, under such an agreement, the nonfederal entity would incur the upfront capital expenditures necessary to establish the system, and would have full access to (and the authority to improve) existing LORAN-C infrastructure (and the associated electromagnetic spectrum) for a minimum of 20 years. Subject to national security requirements and other conditions, the entity could market and sell PNT services to nonfederal parties, with the requirement that it share a portion of the revenue from such sales with the federal government.

*Budgetary treatment.* H.R. 2518 specifies that the private entity chosen to develop the proposed PNT system would incur all capital expenses related to establishing it—effectively acting as an agent of the government. Typically in such situations, the entity borrows money in private capital markets to finance the project on behalf of a federal program as long as private financiers are confident that they will be repaid—through some form of long-term federal commitment. Under H.R. 2518, the government would commit to making federally owned infrastructure and spectrum resources available to the developer on a long-term basis. In addition, based on an analysis of information from federal agencies and industry experts, CBO expects the federal government would provide financial support for the program—for example, through a long-term agreement to purchase PNT services. Under the bill, the government would effectively assume the technological and financial risk of the project. Therefore, CBO considers the authority in H.R. 2518 to be the equivalent of a federal acquisition carried out by a non-federal entity. CBO considers such arrangements to be third-party



financing and treats the costs of those transactions as mandatory direct spending.

In CBO's view, the full cost of such long-term commitments that obligate the government to make payments in future years should be recorded in the budget upfront. Estimated outlays would be spread over the period of time when capital spending for the eLORAN system would occur, reflecting the expectation that federal commitments would support the acquisition of an asset that would be developed in accordance with federal specifications to suit federal purposes.

*Estimated federal costs.* Because eLORAN is a relatively mature technology, the capital costs of equipment and associated support systems are reasonably well known. However, the cost of establishing a PNT system under H.R. 2518 is uncertain and would depend significantly on the system requirements specified by the federal government, the types of services provided, and the footprint of the service area. Based on information from federal agencies involved in the effort to explore potential PNT services, CBO estimates that capital costs could range from tens of millions to hundreds of millions of dollars. For example, we expect that the capital costs of establishing a system to provide backup timing services within the lower 48 states would be relatively modest because sufficient operational infrastructure probably still exists to support such a system. Expanding the system's capabilities to provide positioning and navigation services could increase costs substantially, depending on the degree of accuracy required for such services. On the upper end, CBO expects that the costs to make necessary investments in decommissioned LORAN-C assets and deploy equipment to provide accurate and reliable positioning and navigation services throughout all 50 states could total between \$400 million and \$500 million.

For this estimate, CBO assumes the capital costs of the PNT system established under the bill would total about \$200 million—an amount that CBO expects would support a system capable of providing timing services throughout the lower 48 states as well as some positioning and navigation services. (Costs could be greater depending on the degree of accuracy that the federal government requires for positioning and navigation services.) We expect that capital spending to deploy that system would occur gradually, over about five years.

*Receipts from revenue sharing agreements.* CBO also expects that the proposed eLORAN system would be a marketable asset that could generate significant income from private subscribers, particularly firms in the telecommunications, financial, energy, and transportation sectors. H.R. 2518 would specify that the cooperative agreement between the federal government and the eLORAN developer require the developer to share a portion of any proceeds it receives from commercial subscriptions for PNT services. CBO treats the federal share of such proceeds as offsetting receipts (which are treated as reductions in direct spending). The timing and magnitude of such receipts is uncertain and would depend on private firms' interest in subscribing to PNT services. Their interest, in turn, would depend on a variety of business-related factors, including perceptions of their need for backup PNT services and the cost of equipping devices to receive signals from eLORAN.

The bill would require that the revenue-sharing agreement consider the private entity's spending for capital investments and operating expenses. For this estimate, CBO expects that the federal share of receipts would be relatively modest over the 10-year period covered by this estimate because the eLORAN developer would likely retain a greater share of revenues to recover its costs of financing the system. Taking into account the magnitude of income from subscriptions that would be needed to cover CBO's estimate of the developer's capital and operating expenses, CBO estimates that receipts to the federal government would total \$80 million over the 2018–2027 period. That estimate reflects the expectation that the federal government's share of receipts would average between 5 percent and 10 percent annually.

Forgone receipts from spectrum auctions. Under current law, the radio frequencies previously used for the federally owned LORAN-C system may be re-assigned for use by other federal systems, allocated for public use, or made available for commercial use through auctions conducted by the Federal Communications Commission (FCC). H.R. 2518 would transfer the rights to use that spectrum to the developers of the new network at no cost. CBO estimates that forgoing receipts from an auction of commercial licenses would reduce offsetting receipts by about \$1 million over the 2018–2022 period. That estimate reflects trends in the value of licenses for similar frequencies and the uncertainty surrounding the probability that the spectrum will be auctioned for commercial use before the FCC's auction authority expires in 2022.

Other provisions. CBO expects that enacting other provisions of H.R. 2518 would affect direct spending and revenues. However, based on an analysis of information from the affected agencies about the anticipated effects of such provisions, CBO estimates that any such changes, on net, would be insignificant. Those provisions would:

- Increase civil penalties (which are recorded as revenues) for violations of regulations related to the use of cut-off switches for engines used on recreational vessels;
- Permit the President to allow certain commissioned officers of the Coast Guard to retire after fewer years of active service;
- Modify fees related to certificates of documentation for recreational vessels and authorize the agency to adjust fees charged for inspections of certain towing vessels; and
- Establish civil and criminal penalties for violations of laws and regulations related to the safety of U.S. ports and waterways.

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

CBO ESTIMATE OF PAY-AS-YOU-GO EFFECTS FOR H.R. 2518 AS ORDERED REPORTED BY THE  
HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE ON MAY 24, 2017

	By fiscal year, in millions of dollars—															
	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2017–2022	2017–2027			
NET INCREASE IN THE DEFICIT																
Statutory Pay-As-You-Go Impact .....	0	20	40	60	45	26	— 10	— 10	— 15	— 15	— 20	191	121			

Increase in long-term direct spending and deficits: CBO estimates that enacting H.R. 2518 would not increase net direct spending or on-budget deficits by more than \$5 billion in any of the four consecutive 10-year periods beginning in 2028.

Intergovernmental and private-sector impact: H.R. 2518 would impose intergovernmental and private-sector mandates as defined in UMRA. CBO estimates that the cost of the mandates would fall below the annual thresholds established in UMRA (\$78 million for intergovernmental mandates and \$156 million for private-sector mandates, respectively in 2017, adjusted annually for inflation).

*Mandates that apply to both public and private entities*

Increasing the end strength of the Coast Guard. Section 102 would increase the costs of complying with existing intergovernmental and private-sector mandates by increasing the number of Coast Guard personnel on active-duty in 2019 relative to currently authorized levels. Those additional personnel would be eligible for existing protections under the Servicemembers Civil Relief Act (SCRA).

SCRA allows servicemembers to maintain a single state of residence for purposes of paying state and local personal income taxes and to request deferrals for certain state and local fees. CBO estimates that the additional cost of those mandates on state and local governments would be small.

SCRA also requires creditors to charge no more than 6 percent interest on loans that servicemembers acquired before they began active-duty service, and it allows courts to temporarily stay certain civil proceedings, such as evictions, foreclosures, and repossessions. The act also precludes creditors from using a servicemember's personal assets to satisfy the member's trade or business liability while he or she is in military service. The number of active-duty servicemembers covered by SCRA would increase by 1,500. Servicemembers' utilization of the various provisions of the SCRA depends on a number of uncertain factors, including how often and how long they are deployed. However, because the increase in the number of active-duty servicemembers covered by SCRA would be so small, on balance CBO expects that the incremental cost of compliance for entities in the private sector also would be small.

Requirements on drawbridge operators. The bill would impose an intergovernmental and private-sector mandate on drawbridge owners or operators by requiring those entities to notify the public of a temporary change to the operation of the drawbridge lasting six months or less. CBO estimates that the cost of complying with those reporting requirements would be small.

*Mandates that apply to public entities only*

The bill would preempt state and local laws by allowing health-care professionals to practice in states other than where they are licensed if they are members, employees, or contractors of the USCG performing authorized duties. Although the preemption would limit the application of state and local laws, it would impose no duty on state or local governments that would result in additional spending or a loss of revenues.

*Other effects on public entities*

The bill would benefit entities, such as state agencies and local maritime authorities, by authorizing the federal government to reimburse those entities for the costs of constructing maritime navigation aids through federally authorized navigation channels. The bill also would authorize the USCG to provide training to state, local, or tribal emergency response personnel, on a reimbursable or non-reimbursable basis, whenever the USCG determines that USCG staff cannot participate in scheduled trainings. Any costs incurred by public entities under training agreements with the USCG would result from voluntary commitments.

*Mandates that apply to private entities only*

The bill would impose a private-sector mandate on manufacturers of recreational vessels by requiring the installation of an engine cut-off switch on vessels less than 26 feet in length in accordance with an industry standard. (Cut-off switches turn off the engine if the operator is separated from the vessel.) Based on information from industry sources, CBO estimates that manufacturers would only need to install engine cut-off switches on about 5,000 vessels because manufacturers already include such switches on most recreational vessels covered by the mandate. On the basis of information about the cost of engine cut-off switches, CBO estimates that the cost of installing an engine cut-off switch on those vessels would be less than \$200,000.

Previous CBO estimate: On May 30, 2017, CBO transmitted a cost estimate for S. 1129, the Coast Guard Authorization Act of 2017, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on May 18, 2017. Both bills would authorize appropriations for the USCG over the 2018 and 2019 period. Our estimate of discretionary outlays under H.R. 2518 is less than under S. 1129 because H.R. 2518 would authorize less funding.

Estimate prepared by: Federal costs: Megan Carroll and Kathleen Gramp; Impact on state, local, and tribal governments: Jon Sperl; Impact on the private sector: Amy Petz.

Estimate approved by: Theresa A. Gullo, Assistant Director for Budget Analysis.

## PERFORMANCE GOALS AND OBJECTIVES

With respect to the requirement of clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the performance goal and objective of this legislation is to authorize funding for the Coast Guard for fiscal years 2018 and 2019 at levels sufficient to maintain Coast Guard operational readiness and timelines for

major acquisition programs, and includes reforms to Coast Guard authorities and regulations governing certain maritime industries.

#### ADVISORY OF EARMARKS

Pursuant to clause 9 of rule XXI of the Rules of the House of Representatives, the Committee is required to include a list of congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives. No provision in the bill includes an earmark, limited tax benefit, or limited tariff benefit under clause 9(e), 9(f), or 9(g) of rule XXI.

#### DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 2518 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111–139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

#### DISCLOSURE OF DIRECTED RULE MAKINGS

Pursuant to section 3(i) of H. Res. 5, 115th Cong. (2017), the Committee finds that sections 407 and 414 of H.R. 2518 require rule makings within the meaning of section 551 of title 5, United States Code. Section 407 requires the Secretary of the Department in which the Coast Guard is operating to issue a performance-based rule regarding alternative distress signals. Section 414 requires the Coast Guard to issue regulations requiring the installation of engine cut-off switches on certain recreational vessels.

#### FEDERAL MANDATE STATEMENT

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

#### PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee states that H.R. 2518 does not preempt any state, local, or tribal law.

#### ADVISORY COMMITTEE STATEMENT

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

## APPLICABILITY OF 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 LEGISLATION

### *Section 1. Short Title and Table of Contents*

(a) Short Title—cites the short title as “Coast Guard Authorization Act of 2017”.

(b) Table of Contents—lists the sections of the bill.

## TITLE I—AUTHORIZATIONS

### *Section 101. Authorization of appropriations*

This section amends section 2702 of title 14, United States Code, to authorize funding levels for the Coast Guard for fiscal years 2018 and 2019.

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

This section amends section 2704 of title 14, United States Code, to authorize the levels of military strength and training for fiscal years 2018 and 2019.

## TITLE II—COAST GUARD

### *Section 201. Training; public safety personnel*

This section amends Chapter 7 of title 14, United States Code, to add a new section 155 which will authorize the Commandant to allow, on a reimbursable or non-reimbursable basis, non-Coast Guard public safety personnel to participate in training when a member of the Coast Guard is unavailable. Public safety personnel is defined as any federal, state (or political subdivision thereof), territorial, or tribal law enforcement officer, firefighter, or emergency response provider.

### *Section 202. Commissioned service retirement*

This section allows the President to reduce the retirement requirement of at least 10 years of active service as a commissioned officer to eight years, for Coast Guard officers who retire in fiscal year 2017 or 2018.

### *Section 203. Officer promotion zones*

This section amends section 256(a) of title 14, United States Code, to adjust the number of officers in a promotion zone pool to account for current levels of attrition.

### *Section 204. Cross reference*

This section amends section 373(a) of title 14, United States Code, to insert “designated under section 371” after “cadet”.

*Section 205. Repeal*

This section repeals section 482 of title 14, United States Code. The Coast Guard does not use the authority for the issuance of clothing at the time of discharge.

*Section 206. Unmanned aircraft system*

This section requires the Secretary of the Department in which the Coast Guard is operating to establish a land-based unmanned aircraft system program that would be under the control of the Commandant of the Coast Guard. The section limits the type of system the Commandant can acquire during any fiscal year when funds are appropriated for Offshore Patrol Cutter design or construction.

*Section 207. Coast Guard health-care professionals; licensure portability*

This section amends Chapter 5 of title 14, United States Code, to include a new section 104. Section 104 allows a health-care professional to practice in any location of any state, the District of Columbia, or a Commonwealth, territory or possession of the United States, regardless of where the health-care professional or patient are located, as long as the practice is within the scope of the authorized federal duties of such health-care professional. The health-care professionals must have a current license to practice medicine, osteopathic medicine, dentistry, or another health profession, and be performing authorized duties for the Coast Guard.

*Section 208. Incentive contracts for Coast Guard yard and industrial establishments*

This section amends section 648 of title 14, United States Code, to allow the parties to an order for industrial work to be performed by the Coast Guard Yard or a Coast Guard industrial establishment to enter into an order or a cost-plus-incentive-fee order. If the parties agree to one of the project order options, an agreed-upon amount of any adjustment may be distributed as an incentive to the wage-grade industrial employees who complete the order.

Before entering into such order or cost-plus-incentive-fee order, the parties must agree that the wage-grade employees of the Coast Guard Yard or industrial establishment will take action to improve the delivery schedule or technical performance agreed to in the order.

If the workforce of the Coast Guard Yard or the industrial establishment satisfies the performance target established in a chosen order the adjustment pursuant to the agreement shall be reduced by the agreed upon amount and distributed to the wage-grade industrial employees and the remainder of the adjustment credited to the appropriations for the order.

*Section 209. Maintaining cutters in class*

This section amends section 573(c)(3)(A) of title 14, United States Code, to include “and shall maintain such cutter in class”.

*Section 210. Congressional affairs; Director*

This section requires the Commandant to appoint a Director of Congressional Affairs from officers who serve in a grade above captain.

*Section 211. Contracting for major acquisition programs*

This section provides the Commandant of the Coast Guard with contracting authority for major acquisition programs. Contracting authorities include block buy, incremental funding, combined purchases, and multiyear contracts.

This section also makes conforming amendments to repeal section 223 of P.L. 113–281 (14 United States Code 577 note), section 221(a) of P.L. 113–281 (14 United States Code 573 note), and section 207 of P.L. 114–120 (14 United States Code 87 note).

*Section 212. National Security Cutter*

This section requires the Commandant of the Coast Guard, before certifying an eighth National Security Cutter as Ready for Operation, to provide a notification of a new standard method for tracking operational employment of Coast Guard major cutters that does not include time during which such cutter is away from its homeport for maintenance or repair, and a report analyzing cost and performance for different approaches to achieving varied levels of operational tempos to the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation.

This section makes conforming amendments to repeal section 221(b) of the Coast Guard and Maritime Transportation Act of 2012 and 204(c)(1) of the Coast Guard Authorization Act of 2015.

*Section 213. Radar refresher training*

This section removes the requirement for radar observer refresher training. The authority of section 11.480(f) of title 46 Code of Federal Regulations, as it was in effect before the day of enactment of this Act, would no longer have any force or effect.

*Section 214. Repeal*

This section amends section 676a(a) of title 14, United States Code, to repeal paragraph (2) removing the sunset date and reconfigures paragraph (1).

*Section 215. Extension of Authority*

This section extends the authority given to the Commandant of the Coast Guard to designate shortage category positions and use the authorities in section 3304 of title 5, United States Code, to recruit and appoint highly qualified people to the positions. The authority is extended for two years, fiscal years 2018 and 2019.

*Section 216. Authorization of amounts for Fast Response Cutters*

This section authorizes \$165 million, within the levels authorized in the bill, for the acquisition of six Fast Response Cutters in addition to the 58 currently included in the acquisition baseline. The six additional cutters shall replace the six 110-foot cutters currently in Patrol Forces Southwest Asia.



*Section 217. Authorization of amounts for ice trials of icebreaker vessels*

This section authorizes \$3 million, within the levels authorized in the bill, for ice trials of icebreaker vessels.

*Section 218. Shoreside infrastructure*

This section authorizes authorization of \$165 million per year, within the levels authorized in the bill, for un-met shore-side infrastructure needs which are now estimated to cost \$1.6 billion.

TITLE III—PORTS AND WATERWAYS SAFETY ACT

*Section 301. Codification of Ports and Waterways Safety Act*

This section creates a new chapter 700, Port Safety, in title 46, United States Code. These provisions were previously included in the Ports and Waterways Safety Act.

*Section 302. Conforming amendments*

This section transfers a section of the Ports and Waterways Safety Act to section 3105 of title 46, United States Code. The section also states that except pursuant to an international treaty, convention, or agreement to which the United States is a party, this section shall not apply to any foreign vessel not destined for, or departing from, a port or place subject to the United States. This allows the foreign vessel innocent passage through the territorial sea of the United States or transit through navigable waters of the United States that form a part of an international strait.

*Section 303. Transitional and savings provisions*

This section defines “source provision” and “Title 46 provision”. It also outlines that the transferred title 46 provisions are deemed to have been enacted on the date of enactment of the source provision it replaces. References to the source provisions are deemed to refer to the corresponding title 46 provision; any regulation referencing or implementing a source provision are deemed to refer to or implement the corresponding title 46 provision; and any action taken or offense committed under a source provision is deemed to have been taken or committed under the corresponding title 46 provision.

*Section 304. Rule of construction*

This section explains that this title, including any amendments, is intended to transfer provisions from the Ports and Waterways Safety Act. It should not be construed as altering: the effect of provisions in the Ports and Waterways Safety Act, or any authorities or requirements in such Act; a department or agency interpretation with respect to such Act; or any judicial interpretation with respect to such Act.

*Section 305. Advisory Committee: Repeal*

This section repeals section 18 of the Coast Guard Authorization Act of 1991.

## TITLE IV—MARITIME TRANSPORTATION SAFETY

*Section 401. Clarification of logbook entries*

This section amends section 11304 of title 46, United States Code, to strike “an official logbook, which” and inserts “a logbook”. It also amends subsection (b) to include a new paragraph (3) which requires the logbook to include each illness of, and injury to, a seaman of the vessel, the nature of the illness or injury, and the medical treatment provided for the injury or illness.

*Section 402. Technical Corrections: licenses, certifications of registry, and merchant mariner documents*

This section clarifies terminology by amending the following sections of title 46, United States Code: 7106(b) to strike “merchant mariner’s document” and insert “license”; section 7107(b) to strike “merchant mariner’s document” to insert “certificate of registry”; section 7507(b)(1) to strike “licenses and certificates of registry” and insert “merchant mariner’s documents”; and section 7507(b)(2) to strike “merchant mariner’s document” to insert “license or certificate or registry.”

*Section 403. Numbering for undocumented barges*

This section amends section 12301(b) of title 46 United States Code, to strike “shall” and insert “may”, thus making the authority discretionary.

*Section 404. Drawbridge deviation exemption*

This section amends the Act of August 18, 1894 (33 United States Code 499) to create an exemption for a change in schedule that governs the opening of a drawbridge that will be in effect for less than six months to not be subject to the rule making requirements of section 533 of title 5, United States Code. Instead, alternative requirements are created to require the Coast Guard to notify each six months or less schedule change through a notice to local mariners, broadcasts, or another method of notice the Secretary considers appropriate. It also requires the owner of the drawbridge to provide notice of such schedule changes to the general public through a newspaper of general circulation, the public office with jurisdiction over the roadway that abuts the approach to the bridge, and the law enforcement organization with authority over the roadway.

*Section 405. Deadline for compliance with alternate safety compliance programs*

This section amends section 4503(d)(1) of title 46, United States Code, to allow the Secretary, in cooperation with the commercial fishing industry, to prescribe an alternate safety compliance program that shall apply in lieu of requirements under section 4502(b). The alternate safety compliance program would apply to any category of fishing vessels, fish processing vessels, or fish tender vessels that are at least 50 feet in overall length, built before July 1, 2013, and 25 years of age or older.

New paragraph (2) requires the alternate safety compliance program to apply to a vessel after the later of January 1, 2020, or the end of the three year period beginning on the date on which the

Secretary prescribes the program. In the case of a vessel that undergoes a major conversion completed after July 1, 2013, or the date the Secretary establishes standards for the alternate safety compliance program, upon the completion of the conversion.

A conforming amendment is made to 4502(b) of title 46, United States Code, by inserting “and subject to section 4503(d),” after “In addition to the requirements of subsection (a) of this section,”.

*Section 406. Authorization for marine debris program*

This section authorizes funding for Coast Guard marine debris functions at \$2 million and limits administrative costs to 10 percent.

*Section 407. Alternative distress signals*

This section requires the Secretary of the department in which the Coast Guard is operating, not later than one year after the date of enactment of this Act, to issue a rule that establishes a performance standard for distress signals. Not later than 180 days after issuing such rule, the Secretary is required to update the Code of Federal Regulations to authorize the use of distress signals.

*Section 408. Atlantic Coast Port Access Route Study recommendations*

This section requires, not later than 30 days after the date of enactment of this Act, the Commandant of the Coast Guard to notify the House Committee on Transportation and Infrastructure and the Senate Committee on Commerce, Science, and Transportation of action taken to carry out the recommendation contained in the final report Atlantic Coast Port Access Route Study published March 14, 2016.

*Section 409. Documentation of recreational vessels*

This section would allow Coast Guard personnel performing non-recreational vessel documentation functions to perform recreational vessel documentation functions in any fiscal year where there is a backlog of applications for recreational vessel documentation, when operating expenses funds may not be used for expenses incurred for recreational vessel documentation, and when fees collected from owners of yachts and credited to such use are insufficient to pay the expenses of recreational vessel documentation.

*Section 410. Certificates of documentation for recreational vessels*

This section amends section 12114 of title 46, United States Code, to make the provision allowing recreational endorsements for a vessel to be effective for five years. This section would have the endorsement terminate after a 30 day period if the owner does not notify the Coast Guard of changes in information required for the endorsement within the 30 day window. The section does not limit the authority of a state or local authority to take action to address abandoned and derelict vessels. This section also authorizes the collection of a fee for issuance of recreational vessel certificates of documentation.

*Section 411. Backup Global Positioning System*

This section requires the Secretary of the Department in which the Coast Guard is operating, in consultation with the Secretary of Transportation, to provide for the establishment, sustainment, and operation of a reliable land-based enhanced LORAN, or eLORAN, positioning, navigation, and timing system. The system would provide a compliment to, or backup for, the Global Positioning System. It would ensure the availability of uncorrupted and non-degraded positioning, navigation, and timing signals for military and civilian users in the event the global system signals are corrupted, degraded, unreliable, or otherwise unavailable. It also authorizes the use of non-federal entities, through cooperative agreements with the Coast Guard, for the development of a backup system for the Global Positioning System.

The Committee is very concerned about the lack of progress made by the Departments of Homeland Security, Defense, and Transportation toward the establishment of a backup system for GPS. The disruption or failure of our nation's GPS system could have catastrophic consequences on the safety of the transportation system. The Committee understands there is considerable interest in the private sector in establishing a GPS backup system and encourages the Coast Guard to use its existing authority to enter into a cooperative agreement with the private sector to install and operate such a system.

*Section 412. Waters deemed not navigable waters of the United States for certain purposes*

This section provides regulatory relief for the mule-powered vessel Volunteer (Hull Number CCA4108) on the Illinois and Michigan Canal.

*Section 413. Uninspected passenger vessels in St. Louis County, Minnesota*

This section provides regulatory relief for certain passenger vessels on Crane Lake in St. Louis County, Minnesota.

*Section 414. Engine cut-off switch requirements*

This section requires the Coast Guard to issue regulations requiring the installation of engine cut-off switches, in compliance with the American Boat and Yacht Standard A-33, on recreational vessels less than 26 feet in overall length. The section also allows the Coast Guard, through the National Boating Safety Advisory Council, to initiate a boating safety education program on the use and benefit of cut-off switches for recreational vessels.

*Section 415. Analysis of commercial fishing vessel classification requirements*

This section requires the Coast Guard to analyze the implementation of section 4503 of title 46, United States Code, to determine the average costs on vessel owners to comply with section 4503 and the impact the requirements of section 4503 are having on commercial fishing safety.

## TITLE V—MISCELLANEOUS

*Section 501. Repeal*

This section repeals subsection (h) of section 888 of the Homeland Security Act of 2002.

*Section 502. Reimbursements for non-federal construction costs of certain private aids-to-navigation*

This section would allow the Commandant, subject to appropriations, to reimburse a non-federal entity for costs incurred by the entity to construct and establish an aid to navigation authorized in title I of P.L. 110–114 that facilitates safe and efficient marine transportation on a federally authorized navigation channel. The section provides specific conditions under which the Commandant can reimburse an entity, it limits reimbursements for a single project at \$5,000,000, and the authority expires four years after the date of enactment of the bill.

*Section 503. Corrections to provisions enacted by Coast Guard Authorization Acts*

This section amends section 604(b) of the Howard Coble Coast Guard and Maritime Authorization Act of 2014 to insert “and fishery endorsement” after “endorsement”.

*Section 504. Ship Shoal Lighthouse transfer; Repeal*

This section puts a sunset date of January 1, 2021, in section 27 of the Coast Guard Authorization Act of 1991.

*Section 505. Coast Guard maritime domain awareness*

This section requires the Coast Guard to enter into an arrangement with the National Academy of Sciences, under which the Academy will prepare an assessment on existing and emerging unmanned technologies that can be used by the Coast Guard in the maritime domain for a number of Coast Guard purposes. The Academy must also analyze how the use of new and emerging maritime domain awareness technologies can assist the Coast Guard to carry out its missions at lower costs, expand the scope and range of the Service’s maritime domain awareness, and use its personnel and assets more efficiently, and identify adjustments in any Coast Guard policies, procedures, and protocols to incorporate these technologies.

*Section 506. Towing safety management system fees*

The Commandant of the Coast Guard is required to review and compare the costs of inspections performed by the Service and by a third party. If the Commandant determines there is a difference in the fee costs, the Commandant is required to revise the fee structure to conform to the requirements under section 9701 of title 31, United States Code, that the costs of the fees accurately reflect the costs of administering the inspections.

*Section 507. Oil spill disbursements auditing and report*

This section modifies an existing Oil Spill Liability Trust Fund audit requirement being conducted by the Government Accountability Office and moves the requirement to the Coast Guard to be

reported through an existing report. It further requires the Coast Guard to submit information on disbursements from the Fund for removal costs and damages totaling more than \$500,000 to Congress.

*Section 508. Land exchange, Ayakulik Island, Alaska*

This section authorizes a land exchange between the owner of the Ayakulik Island and the Secretary of the Interior. The Secretary of the Interior would receive Ayakulik Island, a bird rookery, for the transfer of a tract of submerged lands in Womens Bay, Alaska. It is roughly a one-to-one acre land exchange. The Coast Guard will be given the opportunity to apply operational restrictions on the tract of submerged lands to ensure they can effectively continue Service operations in Womens Bay.

*Section 509. Vessel response plans in the Arctic*

This section prohibits the Secretary of the department in which the Coast Guard is operating from approving vessel response plans in the Alaska Captain of the Port zone that includes the Arctic, unless certain verifications can be made. The Secretary has to verify that equipment in a response plan has been tested and proven capable and any oil spill removal organization has records of training for equipment operators and conducts an exercise at least once every three years. The Secretary can waive the full equipment deployment exercise if equipment was deployed in an active response. A report is required on the assets available for a response and the location of the equipment, among other items.

*Section 510. Assessment of public comments on additional anchorages on the Hudson River*

This section requires the Commandant of the Coast Guard to assess the public comments it received regarding the establishment of additional anchorages on the Hudson River between Yonkers, New York and Kingston, New York. The Service is required to issue a report to the House Transportation and Infrastructure Committee and the Senate Commerce, Science, and Transportation Committee regarding concerns raised by public comments and how the Service responded to such concerns. The Coast Guard cannot establish new anchorages until 180 days after submission of the report.

*Section 511. Public safety answering points and maritime search and rescue coordination.*

This section requires the Secretary of the department in which the Coast Guard is operating to review Coast Guard policy and procedures for public safety answering points and search and rescue coordination with State and local law enforcement entities. The review should look to minimize the possibility that 911 calls being improperly routed and assure the Service can effectively carry out its maritime search and rescue mission. The Commandant of the Coast Guard is required to formulate a national maritime public safety answering points policy and submit a report to Congress.

*Section 512. Documentation of “America’s Finest”*

This section allows the Coast Guard to issue a certificate of documentation with a coastwise and a fishery endorsement for the fishing vessel AMERICA’S FINEST (United States official number 1276760).

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

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**TITLE 14, UNITED STATES CODE**

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**PART I—REGULAR COAST GUARD**

\* \* \* \* \*

**CHAPTER 3—COMPOSITION AND ORGANIZATION**

Sec.

41. Grades and ratings.

\* \* \* \* \*

61. *Unmanned aircraft system.*

62. *Congressional Affairs; Director.*

\* \* \* \* \*

**§61. *Unmanned aircraft system***

(a) *IN GENERAL.*—Subject to the availability of appropriations and to subsection (b), the Secretary of the department in which the Coast Guard is operating shall establish a land-based unmanned aircraft system program under the control of the Commandant of the Coast Guard.

(b) *LIMITATIONS.*—

(1) *IN GENERAL.*—During any fiscal year for which funds are appropriated for the design or construction of the Offshore Patrol Cutter, the Commandant—

(A) may not award a contract for design of an unmanned aircraft system for use by the Coast Guard; and

(B) may acquire an unmanned aircraft system only if such a system—

(i) has been part of a program of record, procured by, or used by, the Department of Defense or the Depart-

ment of Homeland Security, or a component thereof, before the date on which the Commandant acquires the system; and

(ii) is acquired by the Commandant through an agreement with such a department or component, unless the unmanned aircraft system can be obtained at less cost through independent contract action.

(2) **LIMITATIONS ON APPLICATION.**—

(A) **SMALL UNMANNED AIRCRAFT.**—Paragraph (1)(B) does not apply to small unmanned aircraft.

(B) **PREVIOUSLY FUNDED SYSTEMS.**—Subsection (b) does not apply to the design or acquisition of an unmanned aircraft system for which funds for research, development, test, and evaluation have been received from the Department of Defense or the Department of Homeland Security.

(c) **DEFINITIONS.**—In this section each of the terms “small unmanned aircraft” and “unmanned aircraft system” has the meaning that term has in section 331 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note).

**§ 62. Congressional affairs; director**

The Commandant shall appoint a Director of Congressional Affairs from among officers of the Coast Guard who are in a grade above captain.

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**CHAPTER 5—FUNCTIONS AND POWERS**

Sec.

81. Aids to navigation authorized.

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104. Coast Guard health-care professionals; licensure portability.

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**§ 104. Coast Guard health-care professionals; licensure portability**

(a) Notwithstanding any law regarding the licensure of health-care providers, a health-care professional described in subsection (b) may practice the health profession or professions of the health-care professional at any location in any State, the District of Columbia, or a Commonwealth, territory, or possession of the United States, regardless of where such health-care professional or the patient are located, if the practice is within the scope of the authorized Federal duties of such health-care professional.

(b) A health-care professional described in this subsection is an individual—

(1) who is—

(A) a member of the Coast Guard;

(B) a civilian employee of the Coast Guard;

(C) a member of the Public Health Service who is assigned to the Coast Guard;

(D) a personal services contractor under section 1091 of title 10; or



- (E) any other health-care professional credentialed and privileged at a Federal health-care institution or location specially designated by the Secretary; and
- (2) who—
- (A) has a current license to practice medicine, osteopathic medicine, dentistry, or another health profession; and
- (B) is performing authorized duties for the Coast Guard.
- (c) In this section each of the terms “license” and “health-care professional” has the meaning that term has in section 1094(e) of title 10.

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## CHAPTER 7—COOPERATION WITH OTHER AGENCIES

Sec.

141. Cooperation with other agencies, States, territories, and political subdivisions.

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155. Training; public safety personnel.

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### **§ 155. Training; public safety personnel**

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

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

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

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

(b) *DEFINITION.*—For the purposes of this section, the term “public safety personnel” includes any Federal, State (or political subdivision thereof), territorial, or tribal law enforcement officer, firefighter, or emergency response provider.

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

(d) *STATUS OF TRAINED PERSONNEL; LIMITATION ON LIABILITY.*—

(1) *STATUS.*—Any public safety personnel to whom training is made available under this section who is not otherwise a Federal employee shall not, because of that training, be considered a Federal employee for any purpose (including the purposes of chapter 81 of title 5 (relating to compensation for injury)) and sections 2671 through 2680 of title 28 (relating to tort claims).

(2) *LIMITATION ON LIABILITY.*—The United States shall not be liable for actions taken by such personnel in the course of training made available under this section.

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## CHAPTER 11—PERSONNEL

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### SUBCHAPTER —OFFICERS

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#### B. SELECTION FOR PROMOTION

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#### § 256. Promotion zones

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

(1) the needs of the service;

(2) the estimated numbers of vacancies available in future years to provide comparable opportunity for promotion of officers in successive year groups; and

(3) the extent to which current terms of service in that grade conform to a desirable career promotion pattern.

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

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

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### SUBCHAPTER —ENLISTED MEMBERS

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

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

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

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

Sec.

461. Remission of indebtedness.

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【482. Clothing at time of discharge for good of service.】

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### 【§ 482. Clothing at time of discharge for good of service

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

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## CHAPTER 15—ACQUISITIONS

### SUBCHAPTER I—GENERAL PROVISIONS

Sec.

561. Acquisition directorate.

\* \* \* \* \*

### SUBCHAPTER II—IMPROVED ACQUISITION PROCESS AND PROCEDURES

\* \* \* \* \*

580. *Contracting for major acquisitions programs.*

\* \* \* \* \*

### SUBCHAPTER I—GENERAL PROVISIONS

\* \* \* \* \*

### § 564. 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 inte-

grator 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) ACQUISITION OF UNMANNED AERIAL SYSTEMS.—**

**[(1) IN GENERAL.—**During any fiscal year for which funds are appropriated for the design or construction of the Offshore Patrol Cutter, the Commandant—

**[(A)** may not award a contract for design of an unmanned aerial system for use by the Coast Guard; and

**[(B)** may acquire an unmanned aerial system only—

**[(i)** if such a system has been acquired by, or has been used by, the Department of Defense or the Department of Homeland Security, or a component thereof, before the date on which the Commandant acquires the system; and

**[(ii)** through an agreement with such a department or component, unless the unmanned aerial system can be obtained at less cost through independent contract action.

**[(2) LIMITATIONS ON APPLICATION.—**

**[(A) SMALL UNMANNED AERIAL SYSTEMS.—**The limitations in paragraph (1)(B) do not apply to any small unmanned aerial system that consists of—

**[(i)** an unmanned aircraft weighing less than 55 pounds on takeoff, including all components and equipment on board or otherwise attached to the aircraft; and

**[(ii)** associated elements (including communication links and the components that control such aircraft) that are required for the safe and efficient operation of such aircraft.

**[(B) PREVIOUSLY FUNDED SYSTEMS.—**The limitations in paragraph (1) do not apply to the design or acquisition of an unmanned aerial system for which funds for research, development, test, and evaluation have been received from the Department of Defense or the Department of Homeland Security]

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

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**§ 573. Preliminary development and demonstration**

(a) **IN GENERAL.—**The Commandant shall ensure that developmental test and evaluation, operational test and evaluation, life-cycle cost estimates, and the development and demonstration requirements applied by this chapter to acquisition projects and programs are met to confirm that the projects or programs meet the requirements identified in the mission-analysis and affordability assessment prepared under section 571(a)(2), the operational re-

quirements developed under section 572(a)(1) and the following development and demonstration objectives:

(1) To demonstrate that the design, manufacturing, and production solution is based upon a stable, producible, and cost-effective product design.

(2) To ensure that the product capabilities meet contract specifications, acceptable operational performance requirements, and system security requirements.

(3) To ensure that the product design is mature enough to commit to full production and deployment.

(b) TESTS AND EVALUATIONS.—

(1) IN GENERAL.—The Commandant shall ensure that the Coast Guard conducts developmental tests and evaluations and operational tests and evaluations of a capability or asset and the subsystems of the capability or asset in accordance with the master plan prepared for the capability or asset under section 572(d)(1).

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

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

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

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

safety concern with the capability or asset or any subsystems of the capability or asset not previously identified during developmental or operational test and evaluation, the Commandant shall—

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

(B) notify the Chief Acquisition Officer and include in such notification—

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

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

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

(c) TECHNICAL CERTIFICATION.—

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

(2) TEMPEST TESTING.—The Commandant shall—

(A) cause all electronics on all aircraft, surface, and shore capabilities and assets that require TEMPEST certification and that are delivered after the date of enactment of the Coast Guard Authorization Act of 2010 to be tested in accordance with TEMPEST standards and communications security (comsec) standards by an independent third party that is authorized by the Federal Government to perform such testing; and

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

(3) CUTTER CLASSIFICATION.—

[(A) IN GENERAL.—]The Commandant shall cause each cutter, other than a National Security Cutter, acquired by the Coast Guard and delivered after the date of enactment of the Coast Guard Authorization Act of 2010 to be classed by the American Bureau of Shipping before final acceptance *and shall maintain such cutter in class.*

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

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

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**§ 580. Contracting for major acquisitions programs**

(a) *IN GENERAL.*—The Commandant of the Coast Guard may enter into contracts for major acquisition programs.

(b) *AUTHORIZED METHODS.*—Such contracts—

(1) may be block buy contracts;

(2) may be incrementally funded;

(3) may include combined purchases, also known as economic order quantity purchases, of—

(A) materials and components; and

(B) long lead time materials; and

(4) may be multiyear contracts that comply with section 2306b of title 10.

(c) *SUBJECT TO APPROPRIATIONS.*—Any contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract is subject to the availability of amounts specifically provided in advance for that purpose in subsequent appropriations Acts.

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**CHAPTER 17—ADMINISTRATION**

\* \* \* \* \*

**§ 648. Accounting for industrial work**

(a) *IN GENERAL.*—The Secretary may prescribe regulations governing accounting for industrial work, including charges for overhead for civilian labor and for maintenance of industrial plant and equipment, performed at the Coast Guard Yard or such similar Coast Guard industrial establishments as he may designate. Any orders placed for such industrial work shall be covered by a transfer or advance of funds to cover the estimated cost thereof, and shall be credited to such accounts as may be necessary and established by the Secretary to carry out the provisions of this section. Accounts so established shall be available for materials, supplies, or equipment, and civilian labor, including overhead and maintenance, required in performing the work ordered. Upon completion of an order an adjustment will be made to make the amount transferred or advanced equal to the actual cost as computed in accordance with the accounting regulations prescribed by the Secretary or in accordance with subsection (b).

(b) *INCENTIVE CONTRACTS.*—

(1) *The parties to an order for industrial work to be performed by the Coast Guard Yard or a Coast Guard industrial establishment designated under subsection (a) may enter into an order or a cost-plus-incentive-fee order in accordance with this subsection.*

(2) *If such parties enter into such an order or a cost-plus-incentive-fee order, an agreed-upon amount of any adjustment described in subsection (a) may be distributed as an incentive to the wage-grade industrial employees who complete the order.*

(3) *Before entering into such an order or cost-plus-incentive-fee order such parties must agree that the wage-grade employees of the Coast Guard Yard or Coast Guard industrial establishment will take action to improve the delivery schedule or technical performance agreed to in the order for industrial work to which such parties initially agreed.*

(4) *Notwithstanding any other provision of law, if the industrial workforce of the Coast Guard Yard or such Coast Guard industrial establishment satisfies the performance target established in such an order or cost-plus-incentive-fee order—*

*(A) the adjustment to be made pursuant to this subsection shall be reduced by such agreed-upon amount and distributed to such wage-grade industrial employees; and*

*(B) the remainder of the adjustment shall be credited to the appropriation for such order current at that time.*

\* \* \* \* \*

#### **§ 676a. Air facility closures**

(a) PROHIBITION.—

[(1) IN GENERAL.—]The Coast Guard may not—

[(A)] (1) close a Coast Guard air facility that was in operation on November 30, 2014; or

[(B)] (2) retire, transfer, relocate, or deploy an aviation asset from an air facility described in [subparagraph (A)] *paragraph (1) for the purpose of closing such facility.*

[(2) SUNSET.—Paragraph (1) shall have no force or effect beginning on the later of—

[(A) January 1, 2018; or

[(B) the date on which the Secretary submits to the Committee on Transportation and Infrastructure of the House of Representatives, and to the Committee on Commerce, Science, and Transportation of the Senate, rotary wing strategic plans prepared in accordance with section 208(b) of the Coast Guard Authorization Act of 2016.]]

(b) CLOSURES.—

(1) IN GENERAL.—Beginning on January 1, 2018, the Secretary may not close a Coast Guard air facility, except as specified by this section.

(2) DETERMINATIONS.—The Secretary may not propose closing or terminating operations at a Coast Guard air facility unless the Secretary determines that—

(A) remaining search and rescue capabilities maintain the safety of the maritime public in the area of the air facility;

(B) regional or local prevailing weather and marine conditions, including water temperatures or unusual tide and current conditions, do not require continued operation of the air facility; and

(C) Coast Guard search and rescue standards related to search and response times are met.



(3) PUBLIC NOTICE AND COMMENT.—Prior to closing an air facility, the Secretary shall provide opportunities for public comment, including the convening of public meetings in communities in the area of responsibility of the air facility with regard to the proposed closure or cessation of operations at the air facility.

(4) NOTICE TO CONGRESS.—Prior to closure, cessation of operations, or any significant reduction in personnel and use of a Coast Guard air facility that is in operation on or after December 31, 2015, the Secretary shall—

(A) submit to the Congress a proposal for such closure, cessation, or reduction in operations along with the budget of the President submitted to Congress under section 1105(a) of title 31 for the fiscal year in which the action will be carried out; and

(B) not later than 7 days after the date a proposal for an air facility is submitted pursuant to subparagraph (A), provide written notice of such proposal to each of the following:

(i) Each member of the House of Representatives who represents a district in which the air facility is located.

(ii) Each member of the Senate who represents a State in which the air facility is located.

(iii) Each member of the House of Representatives who represents a district in which assets of the air facility conduct search and rescue operations.

(iv) Each member of the Senate who represents a State in which assets of the air facility conduct search and rescue operations.

(v) The Committee on Appropriations of the House of Representatives.

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

(vii) The Committee on Appropriations of the Senate.

(viii) The Committee on Commerce, Science, and Transportation of the Senate.

(c) OPERATIONAL FLEXIBILITY.—The Secretary may implement any reasonable management efficiencies within the air station and air facility network, such as modifying the operational posture of units or reallocating resources as necessary to ensure the safety of the maritime public nationwide.

\* \* \* \* \*

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

\* \* \* \* \*

#### **CHAPTER 27—AUTHORIZATIONS**

\* \* \* \* \*

### § 2702. Authorization of appropriations

Funds are authorized to be appropriated for each of **[(fiscal years 2016 and 2017)]** *fiscal years 2018 and 2019* for necessary expenses of the Coast Guard as follows:

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

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

**[(B) \$6,986,815,000 for fiscal year 2017.]]**

*(A) \$7,263,698,328 for fiscal year 2018; and*

*(B) \$7,452,554,484 for fiscal year 2019.*

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

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

**[(B) \$1,945,000,000 for fiscal year 2017.]]**

*(A) \$1,945,000,000 for fiscal year 2018; and*

*(B) \$1,945,000,000 for fiscal year 2019.*

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

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

**[(B) \$134,237,000 for fiscal year 2017.]]**

*(A) \$134,237,000 for fiscal year 2018; and*

*(B) \$134,237,000 for fiscal year 2019.*

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

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

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

*(A) \$16,701,000 for fiscal year 2018; and*

*(B) \$16,701,000 for fiscal year 2019.*

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

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

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

*(A) \$37,263,294 for fiscal year 2018; and*

*(B) \$38,232,140 for fiscal year 2019.*

\* \* \* \* \*

### § 2704. Authorized levels of military strength and training

(a) **ACTIVE DUTY STRENGTH.**—The Coast Guard is authorized an end-of-year strength for active duty personnel of 43,000 **[(for each of fiscal years 2016 and 2017)]** *for fiscal year 2018 and an end-of-year strength for such personnel of 44,500 for fiscal year 2019.*

(b) **MILITARY TRAINING STUDENT LOADS.**—The Coast Guard is authorized average military training student loads for each of [fiscal years 2016 and 2017] *fiscal years 2018 and 2019* as follows:

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

\* \* \* \* \*

## PUBLIC LAW 113-281

\* \* \* \* \*

### SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is the following:

\* \* \* \* \*

#### TITLE II—COAST GUARD

\* \* \* \* \*

[Sec. 223. Multiyear procurement authority for Offshore Patrol Cutters.]

\* \* \* \* \*

## TITLE II—COAST GUARD

\* \* \* \* \*

### [SEC. 223. MULTIYEAR PROCUREMENT AUTHORITY FOR OFFSHORE PATROL CUTTERS.

[In fiscal year 2015 and each fiscal year thereafter, the Secretary of the department in which the Coast Guard is operating may enter into, in accordance with section 2306b of title 10, United States Code, multiyear contracts for the procurement of Offshore Patrol Cutters and associated equipment.]

\* \* \* \* \*

## PUBLIC LAW 112-213

\* \* \* \* \*

## TITLE II—COAST GUARD

\* \* \* \* \*

### SEC. 221. NATIONAL SECURITY CUTTERS.

[(a) IN GENERAL.—

[(1) **MULTIYEAR AUTHORITY.**—In fiscal year 2013 and each fiscal year thereafter, the Secretary of the department in which the Coast Guard is operating may enter into, in accordance with section 2306b of title 10, United States Code, a multiyear contract for the procurement of Coast Guard National Security Cutters and Government-furnished equipment associated with the National Security Cutter program.]

[(2) LIMITATION.—The Secretary may not enter into a contract under paragraph (1) until the date that is 30 days after the date the Secretary submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a certification that the Secretary has made, with respect to the contract, each of the findings specified under section 2306b(a) of title 10, United States Code, and has done so in accordance with paragraph (3) of this subsection.]

[(3) DETERMINATION OF SUBSTANTIAL SAVINGS.—For purposes of this section, in conducting an analysis with respect to substantial savings under section 2306b(a)(1) of title 10, United States Code, the Secretary—

[(A) may not limit the analysis to a simple percentage-based metric; and

[(B) shall employ a full-scale analysis of cost avoidance—

[(i) based on a multiyear procurement; and

[(ii) taking into account the potential benefit any accrued savings might have for future shipbuilding programs if the cost avoidance savings were subsequently utilized for further ship construction.]

(b) CERTIFICATE TO OPERATE.—The Commandant of the Coast Guard may not certify a sixth National Security Cutter as Ready for Operations before the Commandant has—

(1) submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives program execution plans detailing—

(A) how the first 3 National Security Cutters will achieve the goal of 225 days away from homeport in fiscal years following the completion of the Structural Enhancement Drydock Availability of the first 2 National Security Cutters; and

(B) increased aerial coverage to support National Security Cutter operations; and

(2) awarded a contract for detailed design and construction for the Offshore Patrol Cutter.

\* \* \* \* \*

## COAST GUARD AUTHORIZATION ACT OF 2016

(Public Law 114-120)

\* \* \* \* \*

## TITLE II—COAST GUARD

\* \* \* \* \*

### SEC. 204. ACQUISITION REFORM.

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

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

- (2) by redesignating subparagraph (B) as subparagraph (C);
- (3) by inserting after subparagraph (A) the following:
  - “(B) the performance data to be used to determine whether the key performance parameters have been resolved;”; and
- (4) by inserting after subparagraph (C), as redesignated by paragraph (2) of this subsection, the following:
  - “(D) the results during test and evaluation that will be required to demonstrate that a capability, asset, or subsystem meets performance requirements;”.
- (b) CAPITAL INVESTMENT PLAN.—Section 2902 of title 14, United States Code, as redesignated and otherwise amended by this Act, is further amended—
  - (1) in subsection (a)(1)—
    - (A) in subparagraph (B), by striking “completion;” and inserting “completion based on the proposed appropriations included in the budget;”; and
    - (B) in subparagraph (D), by striking “at the projected funding levels;” and inserting “based on the proposed appropriations included in the budget;”; and
  - (2) by redesignating subsection (b) as subsection (c), and inserting after subsection (a) the following:
    - “(b) NEW CAPITAL ASSETS.—In the fiscal year following each fiscal year for which appropriations are enacted for a new capital asset, the report submitted under subsection (a) shall include—
      - “(1) an estimated life-cycle cost estimate for the new capital asset;
      - “(2) an assessment of the impact the new capital asset will have on—
        - “(A) delivery dates for each capital asset;
        - “(B) estimated completion dates for each capital asset;
        - “(C) the total estimated cost to complete each capital asset; and
        - “(D) other planned construction or improvement projects; and
      - “(3) recommended funding levels for each capital asset necessary to meet the estimated completion dates and total estimated costs included in the such asset’s approved acquisition program baseline.”; and
  - (3) by amending subsection (c), as so redesignated, to read as follows:
    - “(c) DEFINITIONS.—In this section—
      - “(1) the term ‘unfunded priority’ means a program or mission requirement that—
        - “(A) has not been selected for funding in the applicable proposed budget;
        - “(B) is necessary to fulfill a requirement associated with an operational need; and
        - “(C) the Commandant would have recommended for inclusion in the applicable proposed budget had additional resources been available or had the requirement emerged before the budget was submitted; and
      - “(2) the term ‘new capital asset’ means—
        - “(A) an acquisition program that does not have an approved acquisition program baseline; or

“(B) the acquisition of a capital asset in excess of the number included in the approved acquisition program baseline.”.

(c) DAYS AWAY FROM HOMEPORT.—Not later than 1 year after the date of the enactment of this Act, the Commandant of the Coast Guard shall—

[(1) implement a standard for tracking operational days at sea for Coast Guard cutters that does not include days during which such cutters are undergoing maintenance or repair; and]

(2) notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the standard implemented under paragraph (1).

(d) FIXED WING AIRCRAFT FLEET MIX ANALYSIS.—Not later than September 30, 2016, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a revised fleet mix analysis of Coast Guard fixed wing aircraft.

(e) LONG-TERM MAJOR ACQUISITIONS PLAN.—Section 2903 of title 14, United States Code, as redesignated and otherwise amended by this Act, is further amended—

(1) by redesignating subsection (e) as subsection (g); and

(2) by inserting after subsection (d) the following:

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

“(1) the numbers and types of cutters and aircraft to be decommissioned;

“(2) the numbers and types of cutters and aircraft to be acquired to—

“(A) replace the cutters and aircraft identified under paragraph (1); or

“(B) address an identified capability gap; and

“(3) the estimated level of funding in each fiscal year required to—

“(A) acquire the cutters and aircraft identified under paragraph (2);

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

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

“(f) QUARTERLY UPDATES ON RISKS OF PROGRAMS.—

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

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

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

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

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

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

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

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#### **SEC. 207. POLAR ICEBREAKERS.**

[(a) INCREMENTAL FUNDING AUTHORITY FOR POLAR ICEBREAKERS.—In fiscal year 2016 and each fiscal year thereafter, the Commandant of the Coast Guard may enter into a contract or contracts for the acquisition of polar icebreakers and associated equipment using incremental funding.]

(b) “POLAR SEA” MATERIEL CONDITION ASSESSMENT AND SERVICE LIFE EXTENSION.—Section 222 of the Coast Guard and Maritime Transportation Act of 2012 (Public Law 112-213; 126 Stat. 1560) is amended—

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

“(a) IN GENERAL.—Not later than 1 year after the date of the enactment of the Coast Guard Authorization Act of 2016, the Secretary of the department in which the Coast Guard is operating shall—

“(1) complete a materiel condition assessment with respect to the Polar Sea;

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

“(3) submit to the Committee on Transportation and Infrastructure and the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

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

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

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

(3) by striking subsection (c);

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

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

(A) in paragraph (1)—

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

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

- (B) in paragraph (2)—
  - (i) by striking “analysis” each place it appears and inserting “written notification”;
  - (ii) by striking “subsection (a)” and inserting “subsection (a)(3)(B)”;
  - (iii) by striking “subsection (c)” each place it appears and inserting “that subsection”; and
  - (iv) by striking “under subsection (a)(5)”;
- (C) in paragraph (3)—
  - (i) by striking “in the analysis submitted under this section”;
  - (ii) by striking “(a)(5)” and inserting “(a)”;
  - (iii) by striking “then” and all that follows through “(A)” and inserting “then”;
  - (iv) by striking “; or” and inserting a period; and
  - (v) by striking subparagraph (B); and
- (6) in subsection (d) (as redesignated by paragraph (4) of this subsection) by striking “in subsection (d)” and inserting “in subsection (c)”.

\* \* \* \* \*

## COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2012

\* \* \* \* \*

## TITLE II—COAST GUARD

\* \* \* \* \*

### SEC. 221. NATIONAL SECURITY CUTTERS.

#### (a) IN GENERAL.—

(1) **MULTIYEAR AUTHORITY.**—In fiscal year 2013 and each fiscal year thereafter, the Secretary of the department in which the Coast Guard is operating may enter into, in accordance with section 2306b of title 10, United States Code, a multiyear contract for the procurement of Coast Guard National Security Cutters and Government-furnished equipment associated with the National Security Cutter program.

(2) **LIMITATION.**—The Secretary may not enter into a contract under paragraph (1) until the date that is 30 days after the date the Secretary submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a certification that the Secretary has made, with respect to the contract, each of the findings specified under section 2306b(a) of title 10, United States Code, and has done so in accordance with paragraph (3) of this subsection.

(3) **DETERMINATION OF SUBSTANTIAL SAVINGS.**—For purposes of this section, in conducting an analysis with respect to substantial savings under section 2306b(a)(1) of title 10, United States Code, the Secretary—

(A) may not limit the analysis to a simple percentage-based metric; and



- (B) shall employ a full-scale analysis of cost avoidance—
- (i) based on a multiyear procurement; and
  - (ii) taking into account the potential benefit any accrued savings might have for future shipbuilding programs if the cost avoidance savings were subsequently utilized for further ship construction.

[(b) CERTIFICATE TO OPERATE.—The Commandant of the Coast Guard may not certify a sixth National Security Cutter as Ready for Operations before the Commandant has—

[(1) submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives program execution plans detailing—

[(A) how the first 3 National Security Cutters will achieve the goal of 225 days away from homeport in fiscal years following the completion of the Structural Enhancement Drydock Availability of the first 2 National Security Cutters; and

[(B) increased aerial coverage to support National Security Cutter operations; and

[(2) awarded a contract for detailed design and construction for the Offshore Patrol Cutter.]

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## COAST GUARD AUTHORIZATION ACT OF 2010

\* \* \* \* \*

## TITLE IV—ACQUISITION REFORM

\* \* \* \* \*

### SEC. 404. ACQUISITION WORKFORCE EXPEDITED HIRING AUTHORITY.

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

(1) designate any category of acquisition positions within the Coast Guard as positions for which there exists a shortage of candidates or there is a critical hiring need; and

(2) use the authorities in such sections to recruit and appoint highly qualified persons directly to positions so designated.

(b) LIMITATION.—The Commandant may not appoint a person to a position of employment under this section after September 30, [2017.] 2021.

(c) REPORTS.—The Commandant shall include in reports under section 569a of title 14, United States Code, information described in that section regarding positions designated under this section.

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## TITLE 46, UNITED STATES CODE

\* \* \* \* \*

## SUBTITLE II—VESSELS AND SEAMEN

\* \* \* \* \*

### PART A—GENERAL PROVISIONS

\* \* \* \* \*

#### CHAPTER 23—OPERATION OF VESSELS GENERALLY

Sec.

2301. Application.

\* \* \* \* \*

**[2307. Limitation of liability for Coast Guard Vessel Traffic Service pilots and non-Federal vessel traffic service operators.]**

\* \* \* \* \*

#### **[§ 2307. Limitation of liability for Coast Guard Vessel Traffic Service pilots and non-Federal vessel traffic service operators]**

**[(a) COAST GUARD VESSEL TRAFFIC SERVICE PILOTS.—**Any pilot, acting in the course and scope of his or her duties while at a United States Coast Guard Vessel Traffic Service, who provides information, advice, or communication assistance while under the supervision of a Coast Guard officer, member, or employee shall not be liable for damages caused by or related to such assistance unless the acts or omissions of such pilot constitute gross negligence or willful misconduct.

**[(b) NON-FEDERAL VESSEL TRAFFIC SERVICE OPERATORS.—**An entity operating a non-Federal vessel traffic information service or advisory service pursuant to a duly executed written agreement with the Coast Guard, and any pilot acting on behalf of such entity, is not liable for damages caused by or related to information, advice, or communication assistance provided by such entity or pilot while so operating or acting unless the acts or omissions of such entity or pilot constitute gross negligence or willful misconduct.]

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## PART B—INSPECTION AND REGULATION OF VESSELS

#### CHAPTER 31—GENERAL

Sec.

3101. Authority to suspend inspection.

\* \* \* \* \*

3105. *Electronic charts.*

\* \* \* \* \*

#### **§ 3105. *Electronic charts***

**(a) SYSTEM REQUIREMENTS.—**

**(1) REQUIREMENTS.—***Subject to paragraph (2), the following vessels, while operating on the navigable waters of the United States, shall be equipped with and operate electronic charts*

*under regulations prescribed by the Secretary of the department in which the Coast Guard is operating:*

(A) *A self-propelled commercial vessel of at least 65 feet overall length.*

(B) *A vessel carrying more than a number of passengers for hire determined by the Secretary.*

(C) *A towing vessel of more than 26 feet in overall length and 600 horsepower.*

(D) *Any other vessel for which the Secretary decides that electronic charts are necessary for the safe navigation of the vessel.*

(2) **EXEMPTIONS AND WAIVERS.**—*The Secretary may—*

(A) *exempt a vessel from paragraph (1), if the Secretary finds that electronic charts are not necessary for the safe navigation of the vessel on the waters on which the vessel operates; and*

(B) *waive the application of paragraph (1) with respect to operation of vessels on navigable waters of the United States specified by the Secretary, if the Secretary finds that electronic charts are not needed for safe navigation on those waters.*

(b) **LIMITATION ON APPLICATION.**—*Except pursuant to an international treaty, convention, or agreement, to which the United States is a party, this section shall not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in—*

(1) *innocent passage through the territorial sea of the United States; or*

(2) *transit through the navigable waters of the United States that form a part of an international strait.*

\* \* \* \* \*

## CHAPTER 41—UNINSPECTED VESSELS GENERALLY

\* \* \* \* \*

### § 4105. Uninspected passenger vessels

(a) Chapter 43 of this title applies to an uninspected passenger vessel.

(b)(1) In applying this title with respect to an uninspected vessel of less than 24 meters overall in length that carries passengers to or from a port in the United States Virgin Islands, the Secretary shall substitute “12 passengers” for “6 passengers” each place it appears in section 2101(42) if the Secretary determines that the vessel complies with, as applicable to the vessel—

(A) the Code of Practice for the Safety of Small Commercial Motor Vessels (commonly referred to as the “Yellow Code”), as published by the U.K. Maritime and Coastguard Agency and in effect on January 1, 2014; or

(B) the Code of Practice for the Safety of Small Commercial Sailing Vessels (commonly referred to as the “Blue Code”), as published by such agency and in effect on such date.

(2) If the Secretary establishes standards to carry out this subsection—

- (A) such standards shall be identical to those established in the Codes of Practice referred to in paragraph (1); and
- (B) on any dates before the date on which such standards are in effect, the Codes of Practice referred to in paragraph (1) shall apply with respect to the vessels referred to in paragraph (1).

*(c) In applying this title with respect to an uninspected vessel of less than 25 feet overall in length that carries passengers on Crane Lake or waters contiguous to such lake in St. Louis County, Minnesota, the Secretary shall substitute "12 passengers" for "6 passengers" each place it appears in section 2101(42).*

**[(c)]** *(d) The Secretary shall, by regulation, require certain additional equipment which may include liferafts or other lifesaving equipment, construction standards, or specify additional operating standards for those uninspected passenger vessels defined in section 2101(42)(A) of this title.*

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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 lifesaving 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, *and subject to section 4503(d)*, 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) 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.
- (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, and shall issue a certificate of compliance to a vessel meeting the requirements of this chapter; and
  - (3) shall complete the first dockside examination of a vessel under this subsection not later than October 15, 2015.
- (g)(1) The individual in charge of a vessel described in subsection (b) must pass a training program approved by the Secretary that meets the requirements in paragraph (2) of this subsection and hold a valid certificate issued under that program.
  - (2) The training program shall—
    - (A) be based on professional knowledge and skill obtained through sea service and hands-on training, including training in seamanship, stability, collision prevention, navigation, fire fighting and prevention, damage control, personal survival, emergency medical care, emergency drills, and weather;
    - (B) require an individual to demonstrate ability to communicate in an emergency situation and understand information found in navigation publications;
    - (C) recognize and give credit for recent past experience in fishing vessel operation; and
    - (D) provide for issuance of a certificate to an individual that has successfully completed the program.
  - (3) The Secretary shall prescribe regulations implementing this subsection. The regulations shall require that individuals who are issued a certificate under paragraph (2)(D) must 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 shall establish a Fishing Safety Training Grants Program to provide funding to municipalities, port authorities, other appropriate public entities, not-for-profit organizations,

and other qualified persons that provide commercial fishing safety training—

- (A) to conduct fishing vessel safety training for vessel operators and crewmembers that—
  - (i) in the case of vessel operators, meets the requirements of subsection (g); and
  - (ii) in the case of crewmembers, meets the requirements of subsection (g)(2)(A), such requirements of subsection (g)(2)(B) as are appropriate for crewmembers, and the requirements of subsections (g)(2)(D), (g)(3), and (g)(4); and
- (B) for purchase of safety equipment and training aids for use in those fishing vessel safety training programs.
- (2) The Secretary shall award grants under this subsection on a competitive basis.
- (3) The Federal share of the cost of any activity carried out with a grant under this subsection shall not exceed 75 percent.
- (4) There is authorized to be appropriated \$3,000,000 for each of fiscal years 2015 through 2017 for grants under this subsection.
- (j)(1) The Secretary shall establish a Fishing Safety Research Grant Program to provide funding to individuals in academia, members of non-profit organizations and businesses involved in fishing and maritime matters, and other persons with expertise in fishing safety, to conduct research on methods of improving the safety of the commercial fishing industry, including vessel design, emergency and survival equipment, enhancement of vessel monitoring systems, communications devices, de-icing technology, and severe weather detection.
- (2) The Secretary shall award grants under this subsection on a competitive basis.
- (3) The Federal share of the cost of any activity carried out with a grant under this subsection shall not exceed 75 percent.
- (4) There is authorized to be appropriated \$3,000,000 for each fiscal years 2015 through 2017 for activities under this subsection.

**§ 4503. Fishing, fish tender, and fish processing vessel certification**

- (a) A vessel to which this subsection applies may not be operated unless the vessel—
  - (1) meets all survey and classification requirements prescribed by the American Bureau of Shipping or another similarly qualified organization approved by the Secretary; and
  - (2) has on board a certificate issued by the American Bureau of Shipping or that other organization evidencing compliance with this subsection.
- (b) Except as provided in subsection (d), subsection (a) applies to a fish processing vessel to which this chapter applies that—
  - (1) is built after July 27, 1990; or
  - (2) undergoes a major conversion completed after that date.
- (c)(1) Except as provided in paragraph (2), subsection (a) applies to a vessel to which section 4502(b) of this title applies that is at least 50 feet overall in length and is built after July 1, 2013.

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

(A) is at least 50 feet overall in length, and not more than 79 feet overall in length as listed on the vessel's certificate of documentation or certificate of number; and

(B)(i) is built after the date of the enactment of the Coast Guard Authorization Act of 2016; and

(ii) complies with—

(I) the requirements described in subsection (e);

or

(II) the alternative requirements established by the Secretary under subsection (f).

(d) [(1) After January 1, 2020, a fishing vessel, fish processing vessel, or fish tender vessel to which section 4502(b) of this title applies shall comply with an alternate safety compliance program that is developed in cooperation with the commercial fishing industry and prescribed by the Secretary, if the vessel—

[(A) is at least 50 feet overall in length;

[(B) is built before July 1, 2013; and

[(C) is 25 years of age or older.]]

[(2) A fishing vessel, fish processing vessel, or fish tender vessel built before July 1, 2013, that undergoes a major conversion completed after the later of July 1, 2013, or the date the Secretary establishes standards for an alternate safety compliance program, shall comply with such an alternative safety compliance program that is developed in cooperation with the commercial fishing industry and prescribed by the Secretary.](1) *The Secretary, in cooperation with the commercial fishing industry, may prescribe an alternative safety compliance program that shall apply in lieu of requirements under section 4502(b), for any category of fishing vessels, fish processing vessels, or fish tender vessels that are—*

(A) at least 50 feet overall in length;

(B) built before July 1, 2013; and

(C) 25 years of age or older.

(2) An alternative safety compliance program prescribed under paragraph (1) shall apply to a vessel—

(A) except as provided in subparagraph (B), after the later of January 1, 2020, or the end of the 3-year period beginning on the date on which the Secretary prescribes the program; and

(B) in the case of a vessel that undergoes a major conversion completed after the later of July 1, 2013, or the date the Secretary establishes standards for the alternate safety compliance program, upon the completion of such conversion.

(3) Alternative safety compliance programs may be developed for purposes of paragraph (1) for specific regions and fisheries.

(4) Notwithstanding paragraph (1), vessels owned by a person that owns more than 30 vessels subject to that paragraph are not required to meet the alternate safety compliance requirements of that paragraph until January 1, 2030, if that owner enters into a compliance agreement with the Secretary that provides for a fixed schedule for all of the vessels owned



by that person to meet requirements of that paragraph by that date and the vessel owner is meeting that schedule.

(5) A fishing vessel, fish processing vessel, or fish tender vessel to which section 4502(b) of this title applies that was classed before July 1, 2012, shall—

(A) remain subject to the requirements of a classification society approved by the Secretary; and

(B) have on board a certificate from that society.

(e) The requirements referred to in subsection (c)(2)(B)(ii)(I) are the following:

(1) The vessel is designed by an individual licensed by a State as a naval architect or marine engineer, and the design incorporates standards equivalent to those prescribed by a classification society to which the Secretary has delegated authority under section 3316 or another qualified organization approved by the Secretary for purposes of this paragraph.

(2) Construction of the vessel is overseen and certified as being in accordance with its design by a marine surveyor of an organization accepted by the Secretary.

(3) The vessel—

(A) completes a stability test performed by a qualified individual;

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

(C) has an assigned loading mark.

(4) The vessel is not substantially altered without the review and approval of an individual licensed by a State as a naval architect or marine engineer before the beginning of such substantial alteration.

(5) The vessel undergoes a condition survey at least twice in 5 years, not to exceed 3 years between surveys, to the satisfaction of a marine surveyor of an organization accepted by the Secretary.

(6) The vessel undergoes an out-of-water survey at least once every 5 years to the satisfaction of a certified marine surveyor of an organization accepted by the Secretary.

(7) Once every 5 years and at the time of a substantial alteration to such vessel, compliance of the vessel with the requirements of paragraph (3) is reviewed and updated as necessary.

(8) For the life of the vessel, the owner of the vessel maintains records to demonstrate compliance with this subsection and makes such records readily available for inspection by an official authorized to enforce this chapter.

(f)(1) Not later than 10 years after the date of the enactment of the Coast Guard Authorization Act of 2016, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that provides an analysis of the adequacy of the requirements under subsection (e) in maintaining the safety of the fishing vessels and fish tender vessels which are described in subsection (c)(2) and which comply with the requirements of subsection (e).

(2) If the report required under this subsection includes a determination that the safety requirements under subsection (e)

are not adequate or that additional safety measures are necessary, then the Secretary may establish an alternative safety compliance program for fishing vessels or fish tender vessels (or both) which are described in subsection (c)(2) and which comply with the requirements of subsection (e).

(3) The alternative safety compliance program established under this subsection shall include requirements for—

- (A) vessel construction;
- (B) a vessel stability test;
- (C) vessel stability and loading instructions;
- (D) an assigned vessel loading mark;
- (E) a vessel condition survey at least twice in 5 years, not to exceed 3 years between surveys;
- (F) an out-of-water vessel survey at least once every 5 years;
- (G) maintenance of records to demonstrate compliance with the program, and the availability of such records for inspection; and
- (H) such other aspects of vessel safety as the Secretary considers appropriate.

(g) For the purposes of this section, the term “built” means, with respect to a vessel, that the vessel’s construction has reached any of the following stages:

- (1) The vessel’s keel is laid.
- (2) Construction identifiable with the vessel has begun and assembly of that vessel has commenced comprising of at least 50 metric tons or one percent of the estimated mass of all structural material, whichever is less.

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## PART E—MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS

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### CHAPTER 71—LICENSES AND CERTIFICATES OF REGISTRY

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#### **§ 70103. Maritime transportation security plans**

(a) NATIONAL MARITIME TRANSPORTATION SECURITY PLAN(1) Not later than April 1, 2005, the Secretary shall prepare a National Maritime Transportation Security Plan for deterring and responding to a transportation security incident.

(2) The National Maritime Transportation Security Plan shall provide for efficient, coordinated, and effective action to deter and minimize damage from a transportation security incident, and shall include the following:

- (A) Assignment of duties and responsibilities among Federal departments and agencies and coordination with State and local governmental agencies.
- (B) Identification of security resources.
- (C) Procedures and techniques to be employed in deterring a national transportation security incident.

- (D) Establishment of procedures for the coordination of activities of—
  - (i) Coast Guard maritime security teams established under this chapter; and
  - (ii) Federal Maritime Security Coordinators required under this chapter.
- (E) A system of surveillance and notice designed to safeguard against as well as ensure earliest possible notice of a transportation security incident and imminent threats of such a security incident to the appropriate State and Federal agencies.
- (F) Establishment of criteria and procedures to ensure immediate and effective Federal identification of a transportation security incident, or the substantial threat of such a security incident.
- (G) Designation of—
  - (i) areas for which Area Maritime Transportation Security Plans are required to be prepared under subsection (b); and
  - (ii) a Coast Guard official who shall be the Federal Maritime Security Coordinator for each such area.
- (H) A risk-based system for evaluating the potential for violations of security zones designated by the Secretary on the waters subject to the jurisdiction of the United States.
- (I) A recognition of certified systems of intermodal transportation.
- (J) A plan for ensuring that the flow of cargo through United States ports is reestablished as efficiently and quickly as possible after a transportation security incident.
- (3) The Secretary shall, as the Secretary considers advisable, revise or otherwise amend the National Maritime Transportation Security Plan.
- (4) Actions by Federal agencies to deter and minimize damage from a transportation security incident shall, to the greatest extent possible, be in accordance with the National Maritime Transportation Security Plan.
- (5) The Secretary shall inform vessel and facility owners or operators of the provisions in the National Transportation Security Plan that the Secretary considers necessary for security purposes.
- (b) AREA MARITIME TRANSPORTATION SECURITY PLANS(1) The Federal Maritime Security Coordinator designated under subsection (a)(2)(G) for an area shall—
  - (A) submit to the Secretary an Area Maritime Transportation Security Plan for the area; and
  - (B) solicit advice from the Area Security Advisory Committee required under this chapter, for the area to assure preplanning of joint deterrence efforts, including appropriate procedures for deterrence of a transportation security incident.
- (2) The Area Maritime Transportation Security Plan for an area shall—
  - (A) when implemented in conjunction with the National Maritime Transportation Security Plan, be adequate to

deter a transportation security incident in or near the area to the maximum extent practicable;

(B) describe the area and infrastructure covered by the plan, including the areas of population or special economic, environmental, or national security importance that might be damaged by a transportation security incident;

(C) describe in detail how the plan is integrated with other Area Maritime Transportation Security Plans, and with facility security plans and vessel security plans under this section;

(D) include consultation and coordination with the Department of Defense on matters relating to Department of Defense facilities and vessels;

(E) establish area response and recovery protocols to prepare for, respond to, mitigate against, and recover from a transportation security incident consistent with section 202 of the SAFE Port Act of 2006 (6 U.S.C. 942) and subsection (a) of this section;

(F) include any other information the Secretary requires;

(G) include a salvage response plan—

(i) to identify salvage equipment capable of restoring operational trade capacity; and

(ii) to ensure that the waterways are cleared and the flow of commerce through United States ports is reestablished as efficiently and quickly as possible after a maritime transportation security incident; and

(H) be updated at least every 5 years by the Federal Maritime Security Coordinator.

(3) The Secretary shall—

(A) review and approve Area Maritime Transportation Security Plans under this subsection; and

(B) periodically review previously approved Area Maritime Transportation Security Plans.

(4) In security zones designated by the Secretary in each Area Maritime Transportation Security Plan, the Secretary shall consider—

(A) the use of public/private partnerships to enforce security within the security zones, shoreside protection alternatives, and the environmental, public safety, and relative effectiveness of such alternatives; and

(B) technological means of enhancing the security zones of port, territorial waters, and waterways of the United States.

(c) **VESSEL AND FACILITY SECURITY PLANS**(1) Within 6 months after the prescription of interim final regulations on vessel and facility security plans, an owner or operator of a vessel or facility described in paragraph (2) shall prepare and submit to the Secretary a security plan for the vessel or facility, for deterring a transportation security incident to the maximum extent practicable.

(2) The vessels and facilities referred to in paragraph (1)—

(A) except as provided in subparagraph (B), are vessels and facilities that the Secretary believes may be involved in a transportation security incident; and

(B) do not include any vessel or facility owned or operated by the Department of Defense.

- (3) A security plan required under this subsection shall—
- (A) be consistent with the requirements of the National Maritime Transportation Security Plan and Area Maritime Transportation Security Plans;
  - (B) identify the qualified individual having full authority to implement security actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment pursuant to subparagraph (C);
  - (C) include provisions for—
    - (i) establishing and maintaining physical security, passenger and cargo security, and personnel security;
    - (ii) establishing and controlling access to secure areas of the vessel or facility, including access by persons engaged in the surface transportation of intermodal containers in or out of a port facility;
    - (iii) procedural security policies;
    - (iv) communications systems; and
    - (v) other security systems;
  - (D) identify, and ensure by contract or other means approved by the Secretary, the availability of security measures necessary to deter to the maximum extent practicable a transportation security incident or a substantial threat of such a security incident;
  - (E) describe the training, periodic unannounced drills, and security actions of persons on the vessel or at the facility, to be carried out under the plan to deter to the maximum extent practicable a transportation security incident, or a substantial threat of such a security incident;
  - (F) provide a strategy and timeline for conducting training and periodic unannounced drills;
  - (G) be updated at least every 5 years;
  - (H) be resubmitted for approval of each change to the vessel or facility that may substantially affect the security of the vessel or facility; and
  - (I) in the case of a security plan for a facility, be resubmitted for approval of each change in the ownership or operator of the facility that may substantially affect the security of the facility.
- (4) The Secretary shall—
- (A) promptly review each such plan;
  - (B) require amendments to any plan that does not meet the requirements of this subsection;
  - (C) approve any plan that meets the requirements of this subsection; and
  - (D) subject to the availability of appropriations, verify the effectiveness of each such facility security plan periodically, but not less than 2 times per year, at least 1 of which shall be an inspection of the facility that is conducted without notice to the facility.
- (5) A vessel or facility for which a plan is required to be submitted under this subsection may not operate after the end of the 12-month period beginning on the date of the prescription of interim final regulations on vessel and facility security plans, unless—

(A) the plan has been approved by the Secretary; and

(B) the vessel or facility is operating in compliance with the plan.

(6) Notwithstanding paragraph (5), the Secretary may authorize a vessel or facility to operate without a security plan approved under this subsection, until not later than 1 year after the date of the submission to the Secretary of a plan for the vessel or facility, if the owner or operator of the vessel or facility certifies that the owner or operator has ensured by contract or other means approved by the Secretary to deter to the maximum extent practicable a transportation security incident or a substantial threat of such a security incident.

(7) The Secretary shall require each owner or operator of a vessel or facility located within or adjacent to waters subject to the jurisdiction of the United States to implement any necessary interim security measures, including cargo security programs, to deter to the maximum extent practicable a transportation security incident until the security plan for that vessel or facility operator is approved.

(8)(A) The Secretary shall require that the qualified individual having full authority to implement security actions for a facility described in paragraph (2) shall be a citizen of the United States.

(B) The Secretary may waive the requirement of subparagraph (A) with respect to an individual if the Secretary determines that it is appropriate to do so based on a complete background check of the individual and a review of all terrorist watch lists to ensure that the individual is not identified on any such terrorist watch list.

(d) NONDISCLOSURE OF INFORMATION

(1) IN GENERAL Information developed under this section or sections 70102, 70104, and 70108 is not required to be disclosed to the public, including—

(A) facility security plans, vessel security plans, and port vulnerability assessments; and

(B) other information related to security plans, procedures, or programs for vessels or facilities authorized under this section or sections 70102, 70104, and 70108.

(2) LIMITATIONS Nothing in paragraph (1) shall be construed to authorize the designation of information as sensitive security information (as defined in section 1520.5 of title 49, Code of Federal Regulations)—

(A) to conceal a violation of law, inefficiency, or administrative error;

(B) to prevent embarrassment to a person, organization, or agency;

(C) to restrain competition; or

(D) to prevent or delay the release of information that does not require protection in the interest of transportation security, including basic scientific research information not clearly related to transportation security.

(e) ESPECIALLY HAZARDOUS CARGO

(1) ENFORCEMENT OF SECURITY ZONES Consistent with other provisions of Federal law, the Coast Guard shall coordinate and be responsible for the enforcement of any Federal security

zone established by the Coast Guard around a vessel containing especially hazardous cargo. The Coast Guard shall allocate available resources so as to deter and respond to a transportation security incident, to the maximum extent practicable, and to protect lives or protect property in danger.

(2) RESOURCE DEFICIENCY REPORTING

(A) IN GENERAL When the Secretary submits the annual budget request for a fiscal year for the department in which the Coast Guard is operating to the Office of Management and Budget, the Secretary shall provide to the Committees on Homeland Security and Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that includes—

(i) for the last full fiscal year preceding the report, a statement of the number of security zones established for especially hazardous cargo shipments;

(ii) for the last full fiscal year preceding the report, a statement of the number of especially hazardous cargo shipments provided a waterborne security escort, subdivided by Federal, State, local, or private security; and

(iii) an assessment as to any additional vessels, personnel, infrastructure, and other resources necessary to provide waterborne escorts to those especially hazardous cargo shipments for which a security zone is established.

(B) ESPECIALLY HAZARDOUS CARGO DEFINED In this subsection, the term “especially hazardous cargo” means anhydrous ammonia, ammonium nitrate, chlorine, liquefied natural gas, liquefied petroleum gas, and any other substance, material, or group or class of material, in a particular amount and form that the Secretary determines by regulation poses a significant risk of creating a transportation security incident while being transported in maritime commerce.

(f) *NONDISCLOSURE OF PORT SECURITY PLANS.*—Notwithstanding any other provision of law, information related to security plans, procedures, or programs for passenger vessels or passenger terminals authorized under this chapter is not required to be disclosed to the public.

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## **§ 7106. Duration of licenses**

(a) IN GENERAL.—A license issued under this part is valid for a 5-year period and may be renewed for additional 5-year periods; except that the validity of a license issued to a radio officer is conditioned on the continuous possession by the holder of a first-class or second-class radiotelegraph operator license issued by the Federal Communications Commission.

(b) ADVANCE RENEWALS.—A renewed license issued under this part may be issued up to 8 months in advance but is not effective until the date that the previously issued license expires or until the completion of any active suspension or revocation of that previously issued [merchant mariner’s document,] license, whichever is later.

**§ 7107. Duration of certificates of registry**

(a) IN GENERAL.—A certificate of registry issued under this part is valid for a 5-year period and may be renewed for additional 5-year periods; except that the validity of a certificate issued to a medical doctor or professional nurse is conditioned on the continuous possession by the holder of a license as a medical doctor or registered nurse, respectively, issued by a State.

(b) ADVANCE RENEWALS.—A renewed certificate of registry issued under this part may be issued up to 8 months in advance but is not effective until the date that the previously issued certificate of registry expires or until the completion of any active suspension or revocation of that previously issued [merchant mariner's document,] *certificate of registry*, whichever is later.

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**CHAPTER 75—GENERAL PROCEDURES FOR LICENSING,  
CERTIFICATION, AND DOCUMENTATION**

\* \* \* \* \*

**§ 7507. Authority to extend the duration of licenses, certificates of registry, and merchant mariner documents**

(a) LICENSES AND CERTIFICATES OF REGISTRY.—Notwithstanding sections 7106 and 7107, the Secretary of the department in which the Coast Guard is operating may—

(1) extend for not more than one year an expiring license or certificate of registry issued for an individual under chapter 71 if the Secretary determines that the extension is required to enable the Coast Guard to eliminate a backlog in processing applications for those licenses or certificates of registry 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 [licenses or certificates of registry] *merchant mariner documents* or in response to a national emergency or natural disaster, as deemed necessary by the Secretary; or

(2) issue for not more than five years an expiring merchant mariner's document issued for an individual under chapter 73 for the exclusive purpose of aligning the expiration date of such merchant mariner's document with the expiration date of a [merchant mariner's document.] *license or certificate of registry*.



(c) **MANNER OF EXTENSION.**—Any extensions granted under this section may be granted to individual seamen or a specifically identified group of seamen.

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## **PART G—MERCHANT SEAMEN PROTECTION AND RELIEF**

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### **CHAPTER 113—OFFICIAL LOGBOOKS**

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#### **§ 11304. Additional logbook and entry requirements**

(a) A vessel of the United States that is subject to inspection under section 3301 of this title, except a vessel on a voyage from a port in the United States to a port in Canada, shall have **[an official]** a logbook, which shall be kept available for review by the Secretary on request.

(b) The **[log book]** *logbook* required by subsection (a) shall include the following entries:

(1) The time when each seaman and each officer assumed or relieved the watch.

(2) The number of hours in service to the vessels of each seaman and each officer.

**[(3) An account of each accident, illness, and injury that occurs during each watch.]**

*(3) Each illness of, and injury to, a seaman of the vessel, the nature of the illness or injury, and the medical treatment provided for the injury or illness.*

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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**

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#### **§ 12114. Recreational endorsement**

(a) **REQUIREMENTS.**—A recreational endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

(b) **AUTHORIZED ACTIVITY.**—A vessel operating under a recreational endorsement may be operated only for pleasure.

(c) **APPLICATION OF CUSTOMS LAWS.**—A vessel for which a recreational endorsement is issued may proceed between a port of the United States and a port of a foreign country without entering or

clearing with the Secretary of Homeland Security. However, a recreational vessel is subject to the requirements for reporting arrivals under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433), and individuals on the vessel are subject to applicable customs regulations.

(d) *EFFECTIVE PERIOD.*—A recreational endorsement for a vessel—

(1) *except as provided in paragraph (3), shall be effective for 5 years;*

(2) *shall require the owner of the vessel to notify the Coast Guard of each change in the information on which the issuance of the certificate of documentation is based that occurs before the expiration of the certificate under this subsection, by not later than 30 days after such change; and*

(3) *shall terminate upon the expiration of such 30-day period if the owner has not notified the Coast Guard of such change before the end of such period.*

(e) *STATE AND LOCAL AUTHORITY TO REMOVE ABANDONED AND DERELICT VESSELS.*—Nothing in this section shall be construed to limit the authority of a State or local authority from taking action to remove an abandoned or derelict vessel.

(f) *AUTHORITY.*—

(1) *REQUIREMENT.*—The Secretary shall assess and collect a fee for the issuance or renewal of a recreational endorsement, that is equivalent to the fee established for the issuance or renewal, respectively, of a fishery endorsement pursuant to section 2110.

(2) *TREATMENT.*—Fees collected under this subsection—

(A) *shall be credited to the account from which the costs of such issuance or renewal were paid; and*

(B) *may remain available until expended.*

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## CHAPTER 123—NUMBERING UNDOCUMENTED VESSELS

### § 12301. Numbering vessels

(a) An undocumented vessel equipped with propulsion machinery of any kind shall have a number issued by the proper issuing authority in the State in which the vessel principally is operated.

(b) The Secretary **[shall]** *may* require an undocumented barge of more than 100 gross tons operating on the navigable waters of the United States to be numbered.

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## Subtitle VII—SECURITY AND DRUG ENFORCEMENT

Chapter	Sec.
<b>700 Ports and Waterways Safety</b> .....	<b>70001.</b>
701 Port Security .....	70101

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## CHAPTER 700—PORTS AND WATERWAYS SAFETY

### SUBCHAPTER A—VESSEL OPERATIONS

Sec.

- 70001. Vessel traffic services.
- 70002. Special powers.
- 70003. Port access routes.
- 70004. Considerations by Secretary.
- 70005. International agreements.

### SUBCHAPTER B—PORTS AND WATERWAYS SAFETY

- 70011. Waterfront safety.
- 70012. Navigational hazards.
- 70013. Requirement to notify Coast Guard of release of objects into the navigable waters of the United States.

### SUBCHAPTER C—CONDITION FOR ENTRY INTO PORTS IN THE UNITED STATES

- 70021. Conditions for entry to ports in the United States.

### SUBCHAPTER D—DEFINITIONS, REGULATIONS, ENFORCEMENT, INVESTIGATORY POWERS, APPLICABILITY

- 70031. Definitions.
- 70032. Saint Lawrence Seaway.
- 70033. Limitation on application to foreign vessels.
- 70034. Regulations.
- 70035. Investigatory powers.
- 70036. Enforcement.

### SUBCHAPTER A—VESSEL OPERATIONS

#### § 70001. Vessel traffic services

- (a) Subject to the requirements of section 70004, the Secretary—

- (1) in any port or place under the jurisdiction of the United States, in the navigable waters of the United States, or in any area covered by an international agreement negotiated pursuant to section 70005, may construct, operate, maintain, improve, or expand vessel traffic services, that consist of measures for controlling or supervising vessel traffic or for protecting navigation and the marine environment and that may include one or more of reporting and operating requirements, surveillance and communications systems, routing systems, and fairways;

- (2) shall require appropriate vessels that operate in an area of a vessel traffic service to utilize or comply with that service;

- (3)(A) may require vessels to install and use specified navigation equipment, communications equipment, electronic relative motion analyzer equipment, or any electronic or other device necessary to comply with a vessel traffic service or that is necessary in the interests of vessel safety.

- (B) Notwithstanding subparagraph (A), the Secretary shall not require fishing vessels under 300 gross tons as measured under section 14502, or an alternate tonnage measured under section 14302 as prescribed by the Secretary under section 14104, or recreational vessels 65 feet or less to possess or use the equipment or devices required by this subsection solely under the authority of this chapter;

- (4) may control vessel traffic in areas subject to the jurisdiction of the United States that the Secretary determines to be hazardous, or under conditions of reduced visibility, adverse weather, vessel congestion, or other hazardous circumstances, by—

- (A) specifying times of entry, movement, or departure;
- (B) establishing vessel traffic routing schemes;
- (C) establishing vessel size, speed, or draft limitations and vessel operating conditions; and
- (D) restricting operation, in any hazardous area or under hazardous conditions, to vessels that have particular operating characteristics or capabilities that the Secretary considers necessary for safe operation under the circumstances;
- (5) may require the receipt of prearrival messages from any vessel, destined for a port or place subject to the jurisdiction of the United States, in sufficient time to permit advance vessel traffic planning before port entry, which shall include any information that is not already a matter of record and that the Secretary determines necessary for the control of the vessel and the safety of the port or the marine environment; and
- (6) may prohibit the use on vessels of electronic or other devices that interfere with communication and navigation equipment, except that such authority shall not apply to electronic or other devices certified to transmit in the maritime services by the Federal Communications Commission and used within the frequency bands 157.1875–157.4375 MHz and 161.7875–162.0375 MHz.

(b) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—The Secretary may enter into cooperative agreements with public or private agencies, authorities, associations, institutions, corporations, organizations, or other persons to carry out the functions under subsection (a)(1).

(2) LIMITATION.—

(A) A nongovernmental entity may not under this subsection carry out an inherently governmental function.

(B) As used in this paragraph, the term “inherently governmental function” means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of judgment in making a decision for the Government.

(c) LIMITATION OF LIABILITY FOR COAST GUARD VESSEL TRAFFIC SERVICE PILOTS AND NON-FEDERAL VESSEL TRAFFIC SERVICE OPERATORS.—

(1) COAST GUARD VESSEL TRAFFIC SERVICE PILOTS.—Any pilot, acting in the course and scope of his or her duties while at a Coast Guard Vessel Traffic Service, who provides information, advice, or communication assistance while under the supervision of a Coast Guard officer, member, or employee shall not be liable for damages caused by or related to such assistance unless the acts or omissions of such pilot constitute gross negligence or willful misconduct.

(2) NON-FEDERAL VESSEL TRAFFIC SERVICE OPERATORS.—An entity operating a non-Federal vessel traffic information service or advisory service pursuant to a duly executed written agreement with the Coast Guard, and any pilot acting on behalf of such entity, is not liable for damages caused by or related to information, advice, or communication assistance provided by such entity or pilot while so operating or acting unless the acts

*or omissions of such entity or pilot constitute gross negligence or willful misconduct.*

#### **§ 70002. Special powers**

*The Secretary may order any vessel, in a port or place subject to the jurisdiction of the United States or in the navigable waters of the United States, to operate or anchor in a manner the Secretary directs if—*

*(1) the Secretary has reasonable cause to believe such vessel does not comply with any regulation issued under this chapter or any other applicable law or treaty;*

*(2) the Secretary determines such vessel does not satisfy the conditions for port entry set forth in section 70021 of this title; or*

*(3) by reason of weather, visibility, sea conditions, port congestion, other hazardous circumstances, or the condition of such vessel, the Secretary is satisfied such direction is justified in the interest of safety.*

#### **§ 70003. Port access routes**

*(a) AUTHORITY TO DESIGNATE.—Except as provided in subsection (b) and subject to the requirements of subsection (c), in order to provide safe access routes for the movement of vessel traffic proceeding to or from ports or places subject to the jurisdiction of the United States, the Secretary shall designate necessary fairways and traffic separation schemes for vessels operating in the territorial sea of the United States and in high seas approaches, outside the territorial sea, to such ports or places. Such a designation shall recognize, within the designated area, the paramount right of navigation over all other uses.*

*(b) LIMITATION.—*

*(1) IN GENERAL.—No designation may be made by the Secretary under this section if—*

*(A) the Secretary determines such a designation, as implemented, would deprive any person of the effective exercise of a right granted by a lease or permit executed or issued under other applicable provisions of law; and*

*(B) such right has become vested before the time of publication of the notice required by paragraph (1) of subsection (c).*

*(2) CONSULTATION REQUIRED.—The Secretary shall make the determination under paragraph (1)(A) after consultation with the head of the agency responsible for executing the lease or issuing the permit.*

*(c) CONSIDERATION OF OTHER USES.—Before making a designation under subsection (a), and in accordance with the requirements of section 70004, the Secretary shall—*

*(1) undertake a study of the potential traffic density and the need for safe access routes for vessels in any area for which fairways or traffic separation schemes are proposed or that may otherwise be considered and publish notice of such undertaking in the Federal Register;*

*(2) in consultation with the Secretary of State, the Secretary of the Interior, the Secretary of Commerce, the Secretary of the Army, and the Governors of affected States, as their responsibil-*

ities may require, take into account all other uses of the area under consideration, including, as appropriate, the exploration for, or exploitation of, oil, gas, or other mineral resources, the construction or operation of deepwater ports or other structures on or above the seabed or subsoil of the submerged lands or the Outer Continental Shelf of the United States, the establishment or operation of marine or estuarine sanctuaries, and activities involving recreational or commercial fishing; and

(3) to the extent practicable, reconcile the need for safe access routes with the needs of all other reasonable uses of the area involved.

(d) *STUDY.*—In carrying out the Secretary's responsibilities under subsection (c), the Secretary shall—

(1) proceed expeditiously to complete any study undertaken; and

(2) after completion of such a study, promptly—

(A) issue a notice of proposed rulemaking for the designation contemplated; or

(B) publish in the Federal Register a notice that no designation is contemplated as a result of the study and the reason for such determination.

(e) *IMPLEMENTATION OF DESIGNATION.*—In connection with a designation made under this section, the Secretary—

(1) shall issue reasonable rules and regulations governing the use of such designated areas, including rules and regulations regarding the applicability of rules 9 and 10 of the International Regulations for Preventing Collisions at Sea, 1972, relating to narrow channels and traffic separation schemes, respectively, in waters where such regulations apply;

(2) to the extent that the Secretary finds reasonable and necessary to effectuate the purposes of the designation, make the use of designated fairways and traffic separation schemes mandatory for specific types and sizes of vessels, foreign and domestic, operating in the territorial sea of the United States and for specific types and sizes of vessels of the United States operating on the high seas beyond the territorial sea of the United States;

(3) may, from time to time, as necessary, adjust the location or limits of designated fairways or traffic separation schemes in order to accommodate the needs of other uses that cannot be reasonably accommodated otherwise, except that such an adjustment may not, in the judgment of the Secretary, unacceptably adversely affect the purpose for which the existing designation was made and the need for which continues; and

(4) shall, through appropriate channels—

(A) notify cognizant international organizations of any designation, or adjustment thereof; and

(B) take action to seek the cooperation of foreign States in making it mandatory for vessels under their control to use, to the same extent as required by the Secretary for vessels of the United States, any fairway or traffic separation scheme designated under this section in any area of the high seas.

**§ 70004. Considerations by Secretary**

*In carrying out the duties of the Secretary under sections 70001, 70002, and 70003, the Secretary shall—*

*(1) take into account all relevant factors concerning navigation and vessel safety, protection of the marine environment, and the safety and security of United States ports and waterways, including—*

*(A) the scope and degree of the risk or hazard involved;*

*(B) vessel traffic characteristics and trends, including traffic volume, the sizes and types of vessels involved, potential interference with the flow of commercial traffic, the presence of any unusual cargoes, and other similar factors;*

*(C) port and waterway configurations and variations in local conditions of geography, climate, and other similar factors;*

*(D) the need for granting exemptions for the installation and use of equipment or devices for use with vessel traffic services for certain classes of small vessels, such as self-propelled fishing vessels and recreational vessels;*

*(E) the proximity of fishing grounds, oil and gas drilling and production operations, or any other potential or actual conflicting activity;*

*(F) environmental factors;*

*(G) economic impact and effects;*

*(H) existing vessel traffic services; and*

*(I) local practices and customs, including voluntary arrangements and agreements within the maritime community; and*

*(2) at the earliest possible time, consult with and receive and consider the views of representatives of the maritime community, ports and harbor authorities or associations, environmental groups, and other persons who may be affected by the proposed actions.*

**§ 70005. International agreements**

*(a) TRANSMITTAL OF REGULATIONS.—The Secretary shall transmit, via the Secretary of State, to appropriate international bodies or forums, any regulations issued under this subchapter, for consideration as international standards.*

*(b) AGREEMENTS.—The President is authorized and encouraged to—*

*(1) enter into negotiations and conclude and execute agreements with neighboring nations, to establish compatible vessel standards and vessel traffic services, and to establish, operate, and maintain international vessel traffic services, in areas and under circumstances of mutual concern; and*

*(2) enter into negotiations, through appropriate international bodies, and conclude and execute agreements to establish vessel traffic services in appropriate areas of the high seas.*

*(c) OPERATIONS.—The Secretary, pursuant to any agreement negotiated under subsection (b) that is binding upon the United States in accordance with constitutional requirements, may—*

*(1) require vessels operating in an area of a vessel traffic service to utilize or to comply with the vessel traffic service, includ-*

ing the carrying or installation of equipment and devices as necessary for the use of the service; and

(2) waive, by order or regulation, the application of any United States law or regulation concerning the design, construction, operation, equipment, personnel qualifications, and manning standards for vessels operating in waters over which the United States exercises jurisdiction if such vessel is not en route to or from a United States port or place, and if vessels en route to or from a United States port or place are accorded equivalent waivers of laws and regulations of the neighboring nation, when operating in waters over which that nation exercises jurisdiction.

(d) **SHIP REPORTING SYSTEMS.**—The Secretary, in cooperation with the International Maritime Organization, may implement and enforce two mandatory ship reporting systems, consistent with international law, with respect to vessels subject to such reporting systems entering the following areas of the Atlantic Ocean:

(1) Cape Cod Bay, Massachusetts Bay, and Great South Channel (in the area generally bounded by a line starting from a point on Cape Ann, Massachusetts at 42 deg. 39' N., 70 deg. 37' W; then northeast to 42 deg. 45' N., 70 deg. 13' W; then southeast to 42 deg. 10' N., 68 deg. 31' W, then south to 41 deg. 00' N., 68 deg. 31' W; then west to 41 deg. 00' N., 69 deg. 17' W; then northeast to 42 deg. 05' N., 70 deg. 02' W, then west to 42 deg. 04' N., 70 deg. 10' W; and then along the Massachusetts shoreline of Cape Cod Bay and Massachusetts Bay back to the point on Cape Ann at 42 deg. 39' N., 70 deg. 37' W).

(2) In the coastal waters of the Southeastern United States within about 25 nm along a 90 nm stretch of the Atlantic seaboard (in an area generally extending from the shoreline east to longitude 80 deg. 51.6' W with the southern and northern boundary at latitudes 30 deg. 00' N., 31 deg. 27' N., respectively).

## SUBCHAPTER B—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; and

(2) protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss.

(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.*

(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.

#### **§ 70012. Navigational hazards**

(a) *REPORTING PROCEDURE.*—The Secretary shall establish a program to encourage fishermen and other vessel operators to report potential or existing navigational hazards involving pipelines to the Secretary through Coast Guard field offices.

(b) *SECRETARY'S RESPONSE.*—

(1) *NOTIFICATION BY THE OPERATOR OF A PIPELINE.*—Upon notification by the operator of a pipeline of a hazard to navigation with respect to that pipeline, the Secretary shall immediately notify Coast Guard headquarters, the Pipeline and Hazardous Materials Safety Administration, other affected Federal and State agencies, and vessel owners and operators in the pipeline's vicinity.

(2) *NOTIFICATION BY OTHER PERSONS.*—Upon notification by any other person of a hazard or potential hazard to navigation with respect to a pipeline, the Secretary shall promptly determine whether a hazard exists, and if so shall immediately notify Coast Guard headquarters, the Pipeline and Hazardous Materials Safety Administration, other affected Federal and State agencies, vessel owners and operators in the pipeline's vicinity, and the owner and operator of the pipeline.

(c) *PIPELINE DEFINED.*—For purposes of this section, the term "pipeline" has the meaning given the term "pipeline facility" in section 60101(a)(18) of title 49.

#### **§ 70013. Requirement to notify Coast Guard of release of objects into the navigable waters of the United States**

(a) *REQUIREMENT.*—As soon as a person has knowledge of any release from a vessel or facility into the navigable waters of the United States of any object that creates an obstruction prohibited under section 10 of the Act of March 3, 1899, popularly known as the Rivers and Harbors Appropriations Act of 1899 (33 U.S.C. 403), such person shall notify the Secretary and the Secretary of the Army of such release.

(b) *RESTRICTION ON USE OF NOTIFICATION.*—Any notification provided by an individual in accordance with subsection (a) may not be used against such individual in any criminal case, except a prosecution for perjury or for giving a false statement.

SUBCHAPTER C—CONDITION FOR ENTRY INTO PORTS IN  
THE UNITED STATES

**§ 70021. Conditions for entry to ports in the United States**

(a) *IN GENERAL.*—No vessel that is subject to chapter 37 shall operate in the navigable waters of the United States or transfer cargo or residue in any port or place under the jurisdiction of the United States, if such vessel—

(1) has a history of accidents, pollution incidents, or serious repair problems that, as determined by the Secretary, creates reason to believe that such vessel may be unsafe or may create a threat to the marine environment;

(2) fails to comply with any applicable regulation issued under this chapter, chapter 37, or any other applicable law or treaty;

(3) discharges oil or hazardous material in violation of any law of the United States or in a manner or quantities inconsistent with any treaty to which the United States is a party;

(4) does not comply with any applicable vessel traffic service requirements;

(5) is manned by one or more officers who are licensed by a certificating State that the Secretary has determined, pursuant to section 9101 of title 46, does not have standards for licensing and certification of seafarers that are comparable to or more stringent than United States standards or international standards that are accepted by the United States;

(6) is not manned in compliance with manning levels as determined by the Secretary to be necessary to insure the safe navigation of the vessel; or

(7) while underway, does not have at least one licensed deck officer on the navigation bridge who is capable of clearly understanding English.

(b) *EXCEPTIONS.*—

(1) *IN GENERAL.*—The Secretary may allow provisional entry of a vessel that is not in compliance with subsection (a), if the owner or operator of such vessel proves, to the satisfaction of the Secretary, that such vessel is not unsafe or a threat to the marine environment, and if such entry is necessary for the safety of the vessel or persons aboard.

(2) *PROVISIONS NOT APPLICABLE.*—Paragraphs (1), (2), (3), and (4) of subsection (a) of this section shall not apply to a vessel allowed provisional entry under paragraph (1) if the owner or operator of such vessel proves, to the satisfaction of the Secretary, that such vessel is no longer unsafe or a threat to the marine environment, and is no longer in violation of any applicable law, treaty, regulation or condition, as appropriate.

SUBCHAPTER D—DEFINITIONS, REGULATIONS,  
ENFORCEMENT, INVESTIGATORY POWERS, APPLICABILITY

**§ 70031. Definitions**

As used in this chapter, unless the context otherwise requires:

(1) The term “marine environment” means—

(A) the navigable waters of the United States and the land and resources therein and thereunder;

(B) the waters and fishery resources of any 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 thereof, and the waters superjacent thereto; and

(D) the recreational, economic, and scenic values of such waters and resources.

(2) The term “Secretary” means the Secretary of the department in which the Coast Guard is operating, except that such term means the Secretary of Transportation with respect to the application of this chapter to the Saint Lawrence Seaway.

(3) The term “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.

#### **§ 70032. Saint Lawrence Seaway**

The authority granted to the Secretary under sections 70001, 70002, 70003, 7004, and 70011 may not be delegated with respect to the Saint Lawrence Seaway to any agency other than the Saint Lawrence Seaway Development Corporation. Any other authority granted the Secretary under this chapter shall be delegated by the Secretary to the Saint Lawrence Seaway Development Corporation to the extent the Secretary determines such delegation is necessary for the proper operation of the Saint Lawrence Seaway.

#### **§ 70033. Limitation on application to foreign vessels**

Except pursuant to international treaty, convention, or agreement, to which the United States is a party, this chapter shall not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in—

(1) innocent passage through the territorial sea of the United States; or

(2) transit through the navigable waters of the United States that form a part of an international strait.

#### **§ 70034. Regulations**

(a) *IN GENERAL.*—In accordance with section 553 of title 5, the Secretary shall issue, and may from time to time amend or repeal, regulations necessary to implement this chapter.

(b) *CONSULTATION.*—In the exercise of the regulatory authority under this chapter, the Secretary shall consult with, and receive and consider the views of all interested persons, including—

(1) interested Federal departments and agencies;

(2) officials of State and local governments;

(3) representatives of the maritime community;

(4) representatives of port and harbor authorities or associations;

(5) representatives of environmental groups;

(6) any other interested persons who are knowledgeable or experienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment; and

(7) advisory committees consisting of all interested segments of the public when the establishment of such committees is considered necessary because the issues involved are highly complex or controversial.

#### **§ 70035. Investigatory powers**

(a) *SECRETARY.*—The Secretary may investigate any incident, accident, or act involving the loss or destruction of, or damage to, any structure subject to this chapter, or that affects or may affect the safety or environmental quality of the ports, harbors, or navigable waters of the United States.

(b) *POWERS.*—In an investigation under this section, the Secretary may issue subpoenas to require the attendance of witnesses and the production of documents or other evidence relating to such incident, accident, or act. If any person refuses to obey a subpoena, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance with the subpoena. Any district court of the United States may, in the case of refusal to obey a subpoena, issue an order requiring compliance with the subpoena, and failure to obey the order may be punished by the court as contempt. Witnesses may be paid fees for travel and attendance at rates not exceeding those allowed in a district court of the United States.

#### **§ 70036. Enforcement**

(a) *CIVIL PENALTY.*—

(1) *IN GENERAL.*—Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this chapter or a regulation issued under this chapter shall be liable to the United States for a civil penalty, not to exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, or the Secretary's designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

(2) *COMPROMISE, MODIFICATION, OR REMISSION.*—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty that is subject to imposition or that has been imposed under this section.

(3) *FAILURE TO PAY PENALTY.*—If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

(b) *CRIMINAL PENALTY.*—

(1) *CLASS D FELONY.*—Any person who willfully and knowingly violates this chapter or any regulation issued hereunder commits a class D felony.

(2) *CLASS C FELONY.*—Any person who, in the willful and knowing violation of this chapter or of any regulation issued under this chapter, uses a dangerous weapon, or engages in

*conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this chapter or the regulations issued under this chapter, commits a class C felony.*

(c) *IN REM LIABILITY.*—Any vessel that is used in violation of this chapter, or any regulations issued under this chapter, shall be liable in rem for any civil penalty assessed pursuant to subsection (a) and may be proceeded against in the United States district court for any district in which such vessel may be found.

(d) *INJUNCTION.*—The United States district courts shall have jurisdiction to restrain violations of this chapter or of regulations issued under this chapter, for cause shown.

(e) *DENIAL OF ENTRY.*—Except as provided in section 70021, the Secretary may, subject to recognized principles of international law, deny entry by any vessel that is not in compliance with this chapter or the regulations issued under this chapter—

(1) *into the navigable waters of the United States; or*

(2) *to any port or place under the jurisdiction of the United States.*

(f) *WITHHOLDING OF CLEARANCE.*—

(1) *IN GENERAL.*—If any owner, operator, or individual in charge of a vessel is liable for a penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or individual in charge may be subject to a penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 60105 of title 46.

(2) *GRANTING CLEARANCE REFUSED OR REVOKED.*—Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

## CHAPTER 701—PORT SECURITY

### SUBCHAPTER I—GENERAL

Sec.

70101. Definitions.

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70102a. Port, harbor, and coastal facility security.

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### SUBCHAPTER I—GENERAL

#### **§ 70102a. 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 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;

(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 preventing and responding to acts of terrorism; and

(3) dispatch properly trained and qualified armed 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 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, 70034, 70035, and 70036.

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## SUBTITLE VIII—Miscellaneous

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### 807. *Position, navigation, and timing* ..... 80701.

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## CHAPTER 807—POSITION, NAVIGATION, AND TIMING

Sec.

80701. *Land-based complementary and backup positioning, navigation, and timing system.*

### **SEC. 80701. *Land-based complementary and backup positioning, navigation, and timing system***

(a) **eLORAN.**—Subject to the availability of appropriations, the Secretary shall provide for the establishment, sustainment, and operation of a reliable land-based enhanced LORAN, or eLORAN, positioning, navigation, and timing system.

(b) **PURPOSE.**—The purpose of the system established under subsection (a) is to provide a complement to, and backup for, the Global Positioning System (in this section referred to as “GPS”) to ensure the availability of uncorrupted and nondegraded positioning, navigation, and timing signals for military and civilian users in the event that GPS signals are corrupted, degraded, unreliable, or otherwise unavailable.

(c) **REQUIREMENTS.**—The system established under subsection (a) shall—

- (1) be wireless;
- (2) be terrestrial;
- (3) provide wide-area coverage;
- (4) transmit a precise, high-power 100 kilohertz signal and meet the one microsecond accuracy requirement specified in the Federal Radio Navigation Plan;
- (5) be synchronized with coordinated universal time;
- (6) be resilient and extremely difficult to disrupt or degrade;
- (7) be able to penetrate underground and inside buildings;

(8) be capable of deployment to remote locations;

(9) take full advantage of the infrastructure of the existing, unused Coast Guard long-range navigation system (commonly known as “LORAN-C”), and subject to the concurrence and agreement of other agencies, unused facilities associated with the Ground Wave Emergency Network and Nationwide Differential GPS systems;

(10) utilize and leverage the capabilities of the entity for development, building, and operation of the system;

(11) function in an interoperable and complementary manner with other similar positioning, navigation, and timing systems;

(12) be made available by the Secretary for use by other Federal agencies for public purposes at no cost; and

(13) incorporate such other requirements determined necessary by the Secretary with respect to such agencies.

(d) *REQUEST FOR PROPOSALS.*—

(1) *IN GENERAL.*—Under authority granted by section 93(a)(25) of title 14, United States Code, and not later than three months after the date of enactment of this section, the Secretary shall publish a request for proposals by non-Federal persons for the development, building, and operation of the system described in subsection (c).

(2) *ELEMENTS.*—Proposals submitted under this subsection shall include, at a minimum—

(A) an eLORAN system architecture; and

(B) a timetable for the delivery of—

(i) a nationwide backup timing signal not later than two years after the last date on which proposals are accepted under the request published under paragraph (1); and

(ii) a nationwide position and navigation signal not later than three years after such date.

(e) *SELECTION.*—Using competitive procedures similar to those authorized under section 2667 of title 10, the Secretary may select a proposal from proposals received in response to the request for proposals under subsection (d).

(f) *AGREEMENT.*—

(1) *IN GENERAL.*—The Secretary may enter into a cooperative agreement (as that term is used in section 6305 of title 31) with an entity upon such terms as the Secretary determines will carry out the purpose of the system under subsection (b).

(2) *CONTENT.*—An agreement under this subsection shall—

(A) require the Secretary to provide the entity—

(i) access to existing infrastructure and facilities described in subsection (c)(9) and provided as Government-furnished property (as that term is defined in section 45.101 of the Federal Acquisition Regulation, as in effect on the date of the enactment of the Coast Guard Authorization Act of 2017), for a minimum of 20 years;

(ii) full use of the necessary electromagnetic spectrum wavelength associated with the LORAN-C system for use by the system required under subsection (a) and provided as such Government-furnished property; and

(iii) approval for the reconstruction of towers that are part of the infrastructure described in subsection (c)(9);

(B) specify that all necessary capital expenditures be made by the entity;

(C) set performance standards for the signals transmitted by the system;

(D) require the Secretary to monitor and ensure the signals transmitted by the system conform to the performance standards of the agreement and are safe for use;

(E) set the terms under which the Secretary has access to such signals;

(F) subject to any national security requirements established by the Secretary of Defense and so long as activities described in clauses (i) and (ii) of subsection (B) do not interfere with the primary purpose of providing positioning, navigation, and timing services, allow the entity to—

(i) market, promote, and sell eLORAN positioning, navigation, and timing services to commercial and noncommercial third parties; and

(ii) generate revenue from such sale to non-Federal third parties of communications and other related services that result from the use of Government facilities and spectrum provided under this paragraph;

(G) require the entity pay to the United States a portion of revenue received by the entity under subparagraph (F);

(H) require the entity to assume all financial risk for the completion and operational capability of the eLORAN system and may require a performance bond from the entity to guarantee that risk;

(I) require the entity to assist international organizations and foreign governments on issues related to eLORAN and similar systems; and

(J) include such other terms and conditions as the Secretary determines to be necessary to carry out the purposes of this section.

(3) **REVENUE SHARING REQUIREMENT.**—

(A) **IN GENERAL.**—The requirement under paragraph (2)(G) shall require the entity to pay to the United States an equitable share of the revenue generated by the entity under paragraph (2)(F), in the fiscal year following the fiscal year in which such revenue is generated.

(B) **AMOUNT.**—The amount of such payments shall take into account—

(i) the capital investment by the entity to build the system and annual costs incurred by the entity to operate and maintain the system; and

(ii) the capital and operating expenses incurred by the entity to upgrade the eLORAN system and related systems over the effective period of the agreement.

(4) **EFFECTIVE DATE OF RISK REQUIREMENT.**—The requirement in paragraph (2)(H) shall be contingent upon, and take effect upon, the Secretary determining that the requirements under paragraph (2)(A) have been fulfilled.

(g) **CERCLA NOT AFFECTED.**—This section shall not be construed to limit the application of or otherwise affect section 120(h) of the Comprehensive Environmental Response, Compensation, and Li-



ability Act of 1980 (42 U.S.C. 9620(h)) for Federal Government facilities described in subsection (c)(9).

(h) *BIENNIAL REPORT TO CONGRESS.*—Not later than one year after the date on which an agreement with an entity is entered into under subsection (f), and biennially thereafter, 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—

(1) a report on the performance and progress of the entity in fulfilling its obligations under the agreement to build, operate and maintain the system established under subsection (a); and

(2) an accounting of finances, expenses, and revenue associated with such performance, including payments made to the Secretary under section (f)(3).

(i) *DEFINITIONS.*—In this section:

(1) The term “entity” means a non-Federal entity whose proposal is selected under subsection (e).

(2) The term “Secretary” means the Secretary of Transportation, acting through the Commandant of the Coast Guard.

\* \* \* \* \*

## PORTS AND WATERWAYS SAFETY ACT

【SECTION 1. SHORT TITLE.

【This Act may be cited as the “Ports and Waterways Safety Act”】

【SEC. 2. STATEMENT OF POLICY.

【The Congress finds and declares—

【(a) that navigation and vessel safety, protection of the marine environment, and safety and security of United States ports and waterways are matters of major national importance;

【(b) that increased vessel traffic in the Nation’s ports and waterways creates substantial hazard to life, property, and the marine environment;

【(c) that increased supervision of vessel and port operations is necessary in order to—

【(1) reduce the possibility of vessel or cargo loss, or damage to life, property, or the marine environment;

【(2) prevent damage to structures in, on, or immediately adjacent to the navigable waters of the United States or the resources within such waters;

【(3) insure that vessels operating in the navigable waters of the United States shall comply with all applicable standards and requirements for vessel construction, equipment, manning, and operational procedures; and

【(4) insure that the handling of dangerous articles and substances on the structures in, on, or immediately adjacent to the navigable waters of the United States is conducted in accordance with established standards and requirements; and

【(d) that advance planning is critical in determining proper and adequate protective measures for the Nation’s ports and waterways and the marine environment, with continuing consultation with other Federal agencies, State representatives, affected users, and

the general public, in the development and implementation of such measures.

**[SEC. 3. DEFINITIONS.—** As used in this Act, unless the context otherwise requires—

**[(1)** “Marine environment” means the navigable waters of the United States and the land and resources therein and thereunder; the waters and fishery resources of any area over which the United States asserts exclusive fishery management authority; the seabed and subsoil of the Outer Continental Shelf of the United States, the resources thereof and the waters superjacent thereto; and the recreational, economic, and scenic values of such waters and resources.

**[(2)** “Secretary” means the Secretary of the department in which the Coast Guard is operating, except that “Secretary” means the Secretary of Transportation with respect to the application of this Act to the Saint Lawrence Seaway.

**[(3)** “State” includes each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, Guam, American Samoa, the United States Virgin Islands, the Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas, and any other commonwealth, territory, or possession of the United States.

**[(4)** “United States”, when used in geographical context, means all the States thereof.

**[(5)** “Navigable waters of the United States” includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.

**[SEC. 4. VESSEL OPERATING REQUIREMENTS.**

**[(a)** **IN GENERAL.—**Subject to the requirements of section 5, the Secretary—

**[(1)** in any port or place under the jurisdiction of the United States, in the navigable waters of the United States, or in any area covered by an international agreement negotiated pursuant to section 11, may construct, operate, maintain, improve, or expand vessel traffic services, consisting of measures for controlling or supervising vessel traffic or for protecting navigation and the marine environment and may include, but need not be limited to one or more of the following: reporting and operating requirements, surveillance and communications systems, routing systems, and fairways;

**[(2)** shall require appropriate vessels which operate in an area of a vessel traffic service to utilize or comply with that service;

**[(3)** may require vessels to install and use specified navigation equipment, communications equipment, electronic relative motion analyzer equipment, or any electronic or other device necessary to comply with a vessel traffic service or which is necessary in the interests of vessel safety: *Provided*, That the Secretary shall not require fishing vessels under 300 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title or recreational vessels 65 feet or less to possess or

use the equipment or devices required by this subsection solely under the authority of this Act;

[(4) may control vessel traffic in areas subject to the jurisdiction of the United States which the Secretary determines to be hazardous, or under conditions of reduced visibility, adverse weather, vessel congestion, or other hazardous circumstances by—

[(A) specifying times of entry, movement, or departure;

[(B) establishing vessel traffic routing schemes;

[(C) establishing vessel size, speed, draft limitations and vessel operating conditions; and

[(D) restricting operation, in any hazardous area or under hazardous conditions, to vessels which have particular operating characteristics or capabilities which he considers necessary for safe operation under the circumstances;

[(5) may require the receipt of prearrival messages from any vessel, destined for a port or place subject to the jurisdiction of the United States, in sufficient time to permit advance vessel traffic planning prior to port entry, which shall include any information which is not already a matter of record and which the Secretary determines necessary for the control of the vessel and the safety of the port or the marine environment; and

[(6) may prohibit the use on vessels of electronic or other devices that interfere with communication and navigation equipment, except that such authority shall not apply to electronic or other devices certified to transmit in the maritime services by the Federal Communications Commission and used within the frequency bands 157.1875–157.4375 MHz and 161.7875–162.0375 MHz.

[(b) SPECIAL POWERS.—The Secretary may order any vessel, in a port or place subject to the jurisdiction of the United States or in the navigable waters of the United States, to operate or anchor in a manner he directs if—

[(1) he has reasonable cause to believe such vessel does not comply with any regulation issued under this Act or any other applicable law or treaty;

[(2) he determines that such vessel does not satisfy the conditions for port entry set forth in section 9; or

[(3) by reason of weather, visibility, sea conditions, port congestion, other hazardous circumstances, or the condition of such vessel, he is satisfied that such directive is justified in the interest of safety.

[(c) PORT ACCESS ROUTES.—(1) In order to provide safe access routes for the movement of vessel traffic proceeding to or from ports or places subject to the jurisdiction of the United States, and subject to the requirements of paragraph (3) hereof, the Secretary shall designate necessary fairways and traffic separation schemes for vessels operating in the territorial sea of the United States and in high seas approaches, outside the territorial sea, to such ports or places. Such a designation shall recognize, within the designated area, the paramount right of navigation over all other uses.

[(2) No designation may be made by the Secretary pursuant to this subsection, if such a designation, as implemented, would deprive any person of the effective exercise of a right granted by a

lease or permit executed or issued under other applicable provisions of law: *Provided*, That such right has become vested prior to the time of publication of the notice required by clause (A) of paragraph (3) hereof: *Provided further*, That the determination as to whether the designation would so deprive any such person shall be made by the Secretary, after consultation with the responsible official under whose authority the lease was executed or the permit issued.

[(3) Prior to making a designation pursuant to paragraph (1) hereof, and in accordance with the requirements of section 5, the Secretary shall—

[(A) within six months after date of enactment of this Act (and may, from time to time thereafter), undertake a study of the potential traffic density and the need for safe access routes for vessels in any area for which fairways or traffic separation schemes are proposed or which may otherwise be considered and shall publish notice of such undertaking in the Federal Register;

[(B) in consultation with the Secretary of State, the Secretary of the Interior, the Secretary of Commerce, the Secretary of the Army, and the Governors of affected States, as their responsibilities may require, take into account all other uses of the area under consideration (including, as appropriate, the exploration for, or exploitation of, oil, gas, or other mineral resources, the construction or operation of deepwater ports or other structures on or above the seabed or subsoil of the submerged lands or the Outer Continental Shelf of the United States, the establishment or operation of marine or estuarine sanctuaries, and activities involving recreational or commercial fishing); and

[(C) to the extent practicable, reconcile the need for safe access routes with the needs of all other reasonable uses of the area involved.

[(4) In carrying out his responsibilities under paragraph (3), the Secretary shall proceed expeditiously to complete any study undertaken. Thereafter, he shall promptly issue a notice of proposed rulemaking for the designation contemplated or shall have published in the Federal Register a notice that no designation is contemplated as a result of the study and the reason for such determination.

[(5) In connection with a designation made pursuant to this subsection, the Secretary—

[(A) shall issue reasonable rules and regulations governing the use of such designated areas, including the applicability of rules 9 and 10 of the International Regulations for Preventing Collisions at Sea, 1972, relating to narrow channels and traffic separation schemes, respectively, in waters where such regulations apply;

[(B) to the extent that he finds reasonable and necessary to effectuate the purposes of the designation, make the use of designated fairways and traffic separation schemes mandatory for specific types and sizes of vessels, foreign and domestic, operating in the territorial sea of the United States and for specific types and sizes of vessels of the United States operating on the high seas beyond the territorial sea of the United States;

[(C) may, from time to time, as necessary, adjust the location or limits of designated fairways or traffic separation schemes, in order to accommodate the needs of other uses which cannot be reasonably accommodated otherwise: *Provided*, That such an adjustment will not, in the judgment of the Secretary, unacceptably adversely affect the purpose for which the existing designation was made and the need for which continues; and

[(D) shall, through appropriate channels, (i) notify cognizant international organizations of any designation, or adjustment thereof, and (ii) take action to seek the cooperation of foreign States in making it mandatory for vessels under their control to use any fairway or traffic separation scheme designated pursuant to this subsection in any area of the high seas, to the same extent as required by the Secretary for vessels of the United States.

[(d) EXCEPTION.—Except pursuant to international treaty, convention, or agreement, to which the United States is a party, this Act shall not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in—

[(1) innocent passage through the territorial sea of the United States, or

[(2) transit through the navigable waters of the United States which form a part of an international strait.

[(e) COOPERATIVE AGREEMENTS.—(1) The Secretary may enter into cooperative agreements with public or private agencies, authorities, associations, institutions, corporations, organizations, or other persons to carry out the functions under subsection (a)(1).

[(2) A nongovernmental entity may not under this subsection carry out an inherently governmental function.

[(3) As used in this paragraph, the term “inherently governmental function” means any activity that is so intimately related to the public interest as to mandate performance by an officer or employee of the Federal Government, including an activity that requires either the exercise of discretion in applying the authority of the Government or the use of judgment in making a decision for the Government.

#### [SEC. 5. CONSIDERATIONS BY SECRETARY.

[In carrying out his duties and responsibilities under section 4, the Secretary shall—

[(a) take into account all relevant factors concerning navigation and vessel safety, protection of the marine environment, and the safety and security of United States ports and waterways, including but not limited to—

[(1) the scope and degree of the risk or hazard involved;

[(2) vessel traffic characteristics and trends, including traffic volume, the sizes and types of vessels involved, potential interference with the flow of commercial traffic, the presence of any unusual cargoes, and other similar factors;

[(3) port and waterway configurations and variations in local conditions of geography, climate, and other similar factors;

[(4) the need for granting exemptions for the installation and use of equipment or devices for use with vessel traffic

services for certain classes of small vessels, such as self-propelled fishing vessels and recreational vessels;

[(5) the proximity of fishing grounds, oil and gas drilling and production operations, or any other potential or actual conflicting activity;

[(6) environmental factors;

[(7) economic impact and effects;

[(8) existing vessel traffic services; and

[(9) local practices and customs, including voluntary arrangements and agreements within the maritime community; and

[(b) at the earliest possible time, consult with and receive and consider the views of representatives of the maritime community, ports and harbor authorities or associations, environmental groups, and other parties who may be affected by the proposed actions.

**[SEC. 6. WATERFRONT SAFETY.**

[(a) IN GENERAL.—The Secretary may take such action as is necessary to—

[(1) prevent damage to, or the destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to such waters; and

[(2) protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss. Such action may include, but need not be limited to—

[(A) establishing procedures, measures, and standards for the handling, loading, unloading, storage, stowage, and movement on the structure (including the emergency removal, control, and disposition) of explosives or other dangerous articles and substances, including oil or hazardous material as those terms are defined in section 4417a of the Revised Statutes, as amended;

[(B) prescribing minimum safety equipment requirements for the structure to assure adequate protection from fire, explosion, natural disaster, and other serious accidents or casualties;

[(C) establishing water or waterfront safety zones, or other measures for limited, controlled, or conditional access and activity when necessary for the protection of any vessel, structure, waters, or shore area; and

[(D) establishing procedures for examination to assure compliance with the requirements prescribed under this section.

[(b) STATE LAW.—Nothing contained in this section, with respect to structures, prohibits a State or political subdivision thereof from prescribing higher safety equipment requirements or safety standards than those which may be prescribed by regulations hereunder.

**[SEC. 8. INVESTIGATORY POWERS.**

[(a) SECRETARY.—The Secretary may investigate any incident, accident, or act involving the loss or destruction of, or damage to, any structure subject to this Act, or which affects or may affect the safety or environmental quality of the ports, harbors, or navigable waters of the United States.

[(b) POWERS.—In an investigation under this section, the Secretary may issue subpoenas to require the attendance of witnesses and the production of documents or other evidence relating to such incident, accident, or act. If any person refuses to obey a subpoena, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance with the subpoena. Any district court of the United States may, in the case of refusal to obey a subpoena, issue an order requiring compliance with the subpoena, and failure to obey the order may be punished by the court as contempt. Witnesses may be paid fees for travel and attendance at rates not exceeding those allowed in a district court of the United States.

[SEC. 9. CONDITIONS FOR ENTRY TO PORTS OF THE UNITED STATES.

[(a) IN GENERAL.—No vessel, subject to the provisions of chapter 37 of title 46, United States Code, shall operate in the navigable waters of the United States or transfer cargo or residue in any port or place under the jurisdiction of the United States, if such vessel—

[(1) has a history of accidents, pollution incidents, or serious repair problems which, as determined by the Secretary, creates reason to believe that such vessel may be unsafe or may create a threat to the marine environment; or

[(2) fails to comply with any applicable regulation issued under this Act, under chapter 37 of title 46, United States Code, or under any other applicable law or treaty; or

[(3) discharges oil or hazardous material in violation of any law of the United States or in a manner or quantities inconsistent with the provisions of any treaty to which the United States is a party; or

[(4) does not comply with any applicable vessel traffic service requirements; or

[(5) is manned by one or more officers who are licensed by a certificating state which the Secretary has determined, pursuant to section 9101 of title 46, United States Code, does not have standards for licensing and certification of seafarers which are comparable to or more stringent than United States standards or international standards which are accepted by the United States; or

[(6) is not manned in compliance with manning levels as determined by the Secretary to be necessary to insure the safe navigation of the vessel; or

[(7) while underway, does not have at least one licensed deck officer on the navigation bridge who is capable of clearly understanding English.

[(b) EXCEPTIONS.—The Secretary may allow provisional entry of a vessel not in compliance with subsection (a), if the owner or operator of such vessel proves, to the satisfaction of the Secretary, that such vessel is not unsafe or a threat to the marine environment, and if such entry is necessary for the safety of the vessel or persons aboard. In addition, paragraphs (1), (2), (3), and (4) of subsection (a) shall not apply if the owner or operator of such vessel proves, to the satisfaction of the Secretary, that such vessel is no longer unsafe or a threat to the marine environment, and is no longer in violation of any applicable law, treaty, regulation or condition, as

appropriate. Clauses (5) and (6) of subsection (a) shall become applicable eighteen months after the effective date of this section.

**[SEC. 10. APPLICABILITY.**

**[This Act shall not apply to the Panama Canal. The authority granted to the Secretary under sections 4, 5, and 6 of this Act shall not be delegated with respect to the Saint Lawrence Seaway to any agency other than the Saint Lawrence Seaway Development Corporation. Any other authority granted the Secretary under this Act shall be delegated to the Saint Lawrence Seaway Development Corporation to the extent he determines such delegation is necessary for the proper operation of the Saint Lawrence Seaway.**

**[SEC. 11. INTERNATIONAL AGREEMENTS.**

**[(a) TRANSMITTAL OF REGULATIONS.—The Secretary shall transmit, via the Secretary of State, to appropriate international bodies or forums, any regulations issued under this Act, for consideration as international standards.**

**[(b) AGREEMENTS.—The President is authorized and encouraged to—**

**[(1) enter into negotiations and conclude and execute agreements with neighboring nations, to establish compatible vessel standards and vessel traffic services, and to establish, operate, and maintain international vessel traffic services, in areas and under circumstances of mutual concern; and**

**[(2) enter into negotiations, through appropriate international bodies, and conclude and execute agreements to establish vessel traffic services in appropriate areas of the high seas.**

**[(c) OPERATIONS.—The Secretary, pursuant to any agreement negotiated under subsection (b) which is binding upon the United States in accordance with constitutional requirements, may—**

**[(1) require vessels in the vessel traffic service area to utilize or to comply with the vessel traffic service, including the carrying or installation of equipment and devices as necessary for the use of the service; and**

**[(2) waive, by order or regulation, the application of any United States law or regulation concerning the design, construction, operation, equipment, personnel qualifications, and manning standards for vessels operating in waters over which the United States exercises jurisdiction if such vessel is not en route to or from a United States port or place, and if vessels en route to or from a United States port or place are accorded equivalent waivers of laws and regulations of the neighboring nation, when operating in waters over which that nation exercises jurisdiction.**

**[(d) SHIP REPORTING SYSTEMS.—The Secretary, in cooperation with the International Maritime Organization, is authorized to implement and enforce two mandatory ship reporting systems, consistent with international law, with respect to vessels subject to such reporting systems entering the following areas of the Atlantic Ocean: Cape Cod Bay, Massachusetts Bay, and Great South Channel (in the area generally bounded by a line starting from a point on Cape Ann, Massachusetts at 42 deg. 39' N., 70 deg. 37' W; then northeast to 42 deg. 45' N., 70 deg. 13' W; then southeast to 42 deg. 10' N., 68 deg. 31' W, then south to 41 deg. 00' N., 68 deg. 31' W; then west to 41 deg. 00' N., 69 deg. 17' W; then northeast to 42 deg. 05' N., 70 deg. 02' W, then west to 42 deg. 04' N., 70 deg. 10'**



W; and then along the Massachusetts shoreline of Cape Cod Bay and Massachusetts Bay back to the point on Cape Ann at 42 deg. 39' N., 70 deg. 37' W) and in the coastal waters of the Southeastern United States within about 25 nm along a 90 nm stretch of the Atlantic seaboard (in an area generally extending from the shoreline east to longitude 80 deg. 51.6' W with the southern and northern boundary at latitudes 30 deg. 00' N., 31 deg. 27' N., respectively).

**[SEC. 12. REGULATIONS.**

**[(a) IN GENERAL.**—In accordance with the provisions of section 553 of title 5, United States Code, as amended, the Secretary shall issue, and may from time to time amend or repeal, regulations necessary to implement this Act.

**[(b) PROCEDURES.**—The Secretary, in the exercise of this regulatory authority, shall establish procedures for consulting with, and receiving and considering the views of all interested parties, including—

- [(1)** interested Federal departments and agencies,
- [(2)** officials of State and local governments,
- [(3)** representatives of the maritime community,
- [(4)** representatives of port and harbor authorities or associations,
- [(5)** representatives of environmental groups,
- [(6)** any other interested parties who are knowledgeable or experienced in dealing with problems involving vessel safety, port and waterways safety, and protection of the marine environment, and
- [(7)** advisory committees consisting of all interested segments of the public when the establishment of such committees is considered necessary because the issues involved are highly complex or controversial.

**[SEC. 13. ENFORCEMENT.**

**[(a) CIVIL PENALTY.**—(1) Any person who is found by the Secretary, after notice and an opportunity for a hearing, to have violated this Act or a regulation issued hereunder shall be liable to the United States for a civil penalty, not to exceed \$25,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary, or his designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.

**[(2)** The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

**[(3)** If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General of the United States, for collection in any appropriate district court of the United States.

**[(b) CRIMINAL PENALTY.**—(1) Any person who willfully and knowingly violates this Act or any regulation issued hereunder commits a class D felony.

**[(2)** Any person who, in the willfull and knowing violation of this Act or of any regulation issued hereunder, uses a dangerous weap-

on, or engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce the provisions of this Act or the regulations issued hereunder, commits a class C felony.

[(c) IN REM LIABILITY.—Any vessel subject to the provisions of this Act, which is used in violation of this Act, or any regulations issued hereunder, shall be liable in rem for any civil penalty assessed pursuant to subsection (a) and may be proceeded against in the United States district court for any district in which such vessel may be found.

[(d) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this Act or of regulations issued hereunder, for cause shown.

[(e) DENIAL OF ENTRY.—Except as provided in section 9, the Secretary may, subject to recognized principles of international law, deny entry into the navigable waters of the United States or to any port or place under the jurisdiction of the United States to any vessel not in compliance with the provisions of this Act or the regulations issued hereunder.

[(f) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or individual in charge of a vessel is liable for a penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or individual in charge may be subject to a penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

[(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

#### **[SEC. 14. NAVIGATIONAL HAZARDS.**

[(a) REPORTING PROCEDURE.—The Secretary shall establish a program to encourage fishermen and other vessel operators to report potential or existing navigational hazards involving pipelines to the Secretary through Coast Guard field offices.

[(b) SECRETARY'S RESPONSE.—(1) Upon notification by the operator of a pipeline of a hazard to navigation with respect to that pipeline, the Secretary shall immediately notify Coast Guard headquarters, the Office of Pipeline Safety, other affected Federal and State agencies, and vessel owners and operators in the pipeline's vicinity.

[(2) Upon notification by any other person of a hazard or potential hazard to navigation with respect to a pipeline, the Secretary shall promptly determine whether a hazard exists, and if so shall immediately notify Coast Guard headquarters, the Office of Pipeline Safety, other affected Federal and State agencies, vessel owners and operators in the pipeline's vicinity, and the owner and operator of the pipeline.

[(c) ESTABLISHMENT OF STANDARDS.—The Secretary shall, within six months after the date of enactment of this section, establish standards, for the purposes of this section, for what constitutes a hazard to navigation.

[(d) DEFINITION.—For purposes of this section, the term "pipelines" has the meaning given the term "pipeline facilities" in the

Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979.

**[SEC. 15. REQUIREMENT TO NOTIFY COAST GUARD OF RELEASE OF OBJECTS INTO THE NAVIGABLE WATERS OF THE UNITED STATES.**

[(a) REQUIREMENT.—As soon as a person has knowledge of any release from a vessel or facility into the navigable waters of the United States of any object that creates an obstruction prohibited under section 10 of the Act of March 3, 1899, popularly known as the Rivers and Harbors Appropriations Act of 1899 (33 U.S.C. 403), such person shall notify the Secretary and the Secretary of the Army of such release.

[(b) RESTRICTION ON USE OF NOTIFICATION.—Any notification provided by an individual in accordance with subsection (a) may not be used against such individual in any criminal case, except a prosecution for perjury or for giving a false statement.]

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**COAST GUARD AUTHORIZATION ACT OF 1991**

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**[SEC. 18. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.**

[(a)(1) There is established a Houston-Galveston Navigation Safety Advisory Committee (hereinafter referred to as the “Committee”). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the “Secretary”) on matters relating to the transit of vessels and products to and from the Ports of Galveston, Houston, Texas City, and Galveston Bay. The Secretary shall, whenever practicable, consult with the Committee before taking any significant action related to navigation safety at these port facilities. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

[(2) The Committee is authorized to make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All matters relating to or proceedings of the Committee shall comply with the Federal Advisory Committee Act (5 App. U.S.C.).

[(b) The Committee shall consist of 19 members, who have particular expertise, knowledge, and experience regarding the transportation, equipment, and techniques that are used to ship cargo and to navigate vessels in the inshore and the offshore waters of the Gulf of Mexico:

[(1) Two members who are employed by the Port of Houston Authority or have been selected by that entity to represent them.

[(2) Two members who are employed by the Port of Galveston or the Texas City Port Complex or have been selected by those entities to represent them.

[(3) Two members from organizations that represent ship-owners, stevedores, shipyards, or shipping organizations domiciled in the State of Texas.

[(4) Two members representing organizations that operate tugboats or barges that utilize the port facilities at Galveston, Houston, and Texas City Port Complex.

[(5) Two members representing shipping companies that transport cargo from the Ports of Galveston and Houston on liners, break bulk, or tramp steamer vessels.

[(6) Two members representing those who pilot or command vessels that utilize the Ports of Galveston and Houston.

[(7) Two at-large members who may represent a particular interest group but who utilize the port facilities at Galveston, Houston, and Texas City.

[(8) One member representing labor organizations which load and unload cargo at the Ports of Galveston and Houston.

[(9) One member representing licensed merchant mariners, other than pilots, who perform shipboard duties on vessels which utilize the port facilities of Galveston and Houston.

[(10) One member representing environmental interests.

[(11) One member representing the general public.

[(12) One member representing recreational boating interests.

[(c) The Secretary shall appoint the members of the Committee after first soliciting nominations by notice published in the Federal Register. The Secretary may request the head of any other Federal agency or department to designate a representative to advise the Committee on matters within the jurisdiction of that agency or department.

[(d) The Committee shall elect, by majority vote at its first meeting, one of the members of the Committee as the chairman and one of the members as the vice chairman. The vice chairman shall act as chairman in the absence or incapacity of, or in the event of a vacancy in the Office of the Chairman.

[(e) Terms of members appointed to the Committee shall be for two years. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

[(f) Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code.

[(h) The Committee shall terminate on September 30, 2020.]

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## **[SEC. 27. SHIP SHOAL LIGHTHOUSE TRANSFER.]**

[Notwithstanding another law, the Secretary of Transportation shall transfer without consideration to the city of Benwick, Louisiana, all rights, title, and interest of the United

States in the aid to navigation structure known as the Ship Shoal Lighthouse, Louisiana.

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**1**

## ACT OF AUGUST 18, 1894

AN ACT Making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

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SEC. 5. (a) That it shall be the duty of all persons owning, operating, and tending the drawbridges now built, or which may hereafter be built across the navigable rivers and other waters of the United States, to open, or cause to be opened, the draws of such bridges under such rules and regulations as in the opinion of the Secretary of the department in which the Coast Guard is operating the public interests require to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law. Every such person who shall willfully fail or refuse to open, or cause to be opened, the draw of any such bridge for the passage of a boat or boats, as provided in such regulations, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not more than two thousand dollars nor less one thousand dollars, or by imprisonment (in the case of a natural person) for not exceeding one year, or by both such fine and imprisonment, in the discretion of the court: Provided, That the proper action to enforce the provisions of this subsection may be commenced before any commissioner, judge, or court of the United States, and such commissioner, judge, or court shall proceed in respect thereto as authorized by law in case of crimes against the United States: Provided further, That whenever, in the opinion of the Secretary of the department in which the Coast Guard is operating, the public interests require it, he may make rules and regulations to govern the opening of drawbridges for the passage of vessels and other water crafts, and such rules and regulations, when so made and published, shall have the force of law, and any willful violation thereof shall be punished as hereinbefore provided. Any rules and regulations made in pursuance of this section shall, to the extent practical and feasible, provide for regularly scheduled openings of drawbridges during seasons of the year, and during times of the day, when scheduled openings would help reduce motor vehicle traffic delays and congestion on roads and highways linked by drawbridges.

(b) No vessel owner or operator shall signal a drawbridge to open for any nonstructural vessel appurtenance which is not essential to navigation or which is easily lowered and no person shall unreasonably delay the opening of a draw after the signal required by rules or regulations under this section has been given. The Secretary of the department in which the Coast Guard is operating shall issue rules and regulations to implement this subsection.

(c) Whoever violates any rule or regulation issued under subsection (a) or (b), shall be liable to a civil penalty of not more than \$5,000 for a violation occurring in 2004; \$10,000 for a violation oc-

curing in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter. No penalty may be assessed under this subsection until the person charged is given notice and an opportunity for a hearing on the charge. The Secretary of the department in which the Coast Guard is operating may assess and collect any civil penalty incurred under this subsection and, in his discretion, may remit, mitigate, or compromise any penalty until the matter is referred to the Attorney General. If a person against whom a civil penalty is assessed under this subsection fails to pay that penalty, an action may be commenced in the district court of the United States for any district in which the violation occurs for such penalty.

(d) *EXEMPTION.*—

(1) *IN GENERAL.*—*A change to a schedule that governs the opening of a drawbridge that will be in effect for less than 6 months shall not be subject to the rule making requirements of section 553 of title 5, United States Code.*

(2) *ALTERNATE REQUIREMENTS.*—

(A) *DUTIES OF SECRETARY.*—*The Secretary of the department in which the Coast Guard is operating shall provide notice of each such change through—*

- (i) a local notice to mariners;*
- (ii) a Coast Guard broadcast notice to mariners; or*
- (iii) another method of notice that the Secretary considers appropriate.*

(B) *OWNER AND OPERATOR DUTIES.*—*With respect to any drawbridge other than a railroad drawbridge, the owner or operator of such drawbridge shall provide notice of such a change to—*

- (i) the general public, through publication in a newspaper of general circulation;*
- (ii) the Department of Transportation or other public agency with administrative jurisdiction over the roadway that abuts the approach to such bridge; and*
- (iii) the law enforcement organization with jurisdiction over the roadway that abuts the approach to such bridge.*

\* \* \* \* \*

## MARINE DEBRIS RESEARCH, PREVENTION, AND REDUCTION ACT

\* \* \* \* \*

### SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year 2006 through 2010[—]

[(1)] to the Administrator for carrying out sections 3 and 6, \$10,000,000, of which no more than 10 percent may be for administrative costs[; and].

[(2)] to the Secretary of the Department in which the Coast Guard is operating, for the use of the Commandant of the Coast Guard in carrying out section 4, \$2,000,000, of which no more than 10 percent may be used for administrative costs.】

**SEC. 10. AUTHORIZATION OF APPROPRIATIONS.**

*Of the amounts authorized for each fiscal year under section 2702(1) of title 14, United States Code, up to \$2,000,000 are authorized for the Commandant to carry out section 4 of this Act, of which not more than 10 percent may be used for administrative costs.*

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**HOMELAND SECURITY ACT OF 2002**

\* \* \* \* \*

**TITLE VIII—COORDINATION WITH NON-FEDERAL ENTITIES; INSPECTOR GENERAL; UNITED STATES SECRET SERVICE; COAST GUARD; GENERAL PROVISIONS**

\* \* \* \* \*

**Subtitle H—Miscellaneous Provisions**

\* \* \* \* \*

**SEC. 888. PRESERVING COAST GUARD MISSION PERFORMANCE.**

(a) DEFINITIONS.—In this section:

(1) NON-HOMELAND SECURITY MISSIONS.—The term “non-homeland security missions” means the following missions of the Coast Guard:

- (A) Marine safety.
- (B) Search and rescue.
- (C) Aids to navigation.
- (D) Living marine resources (fisheries law enforcement).
- (E) Marine environmental protection.
- (F) Ice operations.

(2) HOMELAND SECURITY MISSIONS.—The term “homeland security missions” means the following missions of the Coast Guard:

- (A) Ports, waterways and coastal security.
- (B) Drug interdiction.
- (C) Migrant interdiction.
- (D) Defense readiness.
- (E) Other law enforcement.

(b) TRANSFER.—There are transferred to the Department the authorities, functions, personnel, and assets of the Coast Guard, which shall be maintained as a distinct entity within the Department, including the authorities and functions of the Secretary of Transportation relating thereto.

(c) MAINTENANCE OF STATUS OF FUNCTIONS AND ASSETS.—Notwithstanding any other provision of this Act, the authorities, functions, and capabilities of the Coast Guard to perform its missions shall be maintained intact and without significant reduction after the transfer of the Coast Guard to the Department, except as specified in subsequent Acts.

(d) CERTAIN TRANSFERS PROHIBITED.—No mission, function, or asset (including for purposes of this subsection any ship, aircraft, or helicopter) of the Coast Guard may be diverted to the principal and continuing use of any other organization, unit, or entity of the Department, except for details or assignments that do not reduce the Coast Guard’s capability to perform its missions.

(e) CHANGES TO MISSIONS.—

(1) PROHIBITION.—The Secretary may not substantially or significantly reduce the missions of the Coast Guard or the Coast Guard’s capability to perform those missions, except as specified in subsequent Acts.

(2) WAIVER.—The Secretary may waive the restrictions under paragraph (1) for a period of not to exceed 90 days upon a declaration and certification by the Secretary to Congress that a clear, compelling, and immediate need exists for such a waiver. A certification under this paragraph shall include a detailed justification for the declaration and certification, including the reasons and specific information that demonstrate that the Nation and the Coast Guard cannot respond effectively if the restrictions under paragraph (1) are not waived.

(f) DIRECT REPORTING TO SECRETARY.—Upon the transfer of the Coast Guard to the Department, the Commandant shall report directly to the Secretary without being required to report through any other official of the Department.

(g) OPERATION AS A SERVICE IN THE NAVY.—None of the conditions and restrictions in this section shall apply when the Coast Guard operates as a service in the Navy under section 3 of title 14, United States Code.

[(h) REPORT ON ACCELERATING THE INTEGRATED DEEPWATER SYSTEM.—Not later than 90 days after the date of enactment of this Act, the Secretary, in consultation with the Commandant of the Coast Guard, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate, the Committee on Transportation and Infrastructure of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives that—

[(1) analyzes the feasibility of accelerating the rate of procurement in the Coast Guard’s Integrated Deepwater System from 20 years to 10 years;

[(2) includes an estimate of additional resources required;

[(3) describes the resulting increased capabilities;

[(4) outlines any increases in the Coast Guard’s homeland security readiness;

[(5) describes any increases in operational efficiencies; and

[(6) provides a revised asset phase-in time line.]

\* \* \* \* \*

## SECTION 604 OF THE HOWARD COBLE COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2014

### SEC. 604. WAIVERS.

(a) “JOHN CRAIG”.—

(1) IN GENERAL.—Section 8902 of title 46, United States Code, shall not apply to the vessel *John Craig* (United States



official number D1110613) when such vessel is operating on the portion of the Kentucky River, Kentucky, located at approximately mile point 158, in Pool Number 9, between Lock and Dam Number 9 and Lock and Dam Number 10.

(2) APPLICATION.—Paragraph (1) shall apply on and after the date on which the Secretary of the department in which the Coast Guard is operating determines that a licensing requirement has been established under Kentucky State law that applies to an operator of the vessel *John Craig*.

(b) “F/V WESTERN CHALLENGER”.—Notwithstanding section 12132 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with a coastwise endorsement *and fishery endorsement* for the *F/V Western Challenger* (IMO number 5388108).

## OIL POLLUTION ACT OF 1990

\* \* \* \* \*

### SEC. 2. TABLE OF CONTENTS.

The contents of this Act are as follows:

#### TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION

Sec. 1001. Definitions.

\* \* \* \* \*

#### TITLE V—PRINCE WILLIAM SOUND PROVISIONS

\* \* \* \* \*

*Sec. 5008. North Pacific Marine Research Institute.*

*Sec. 5009. Vessel response plans in the Arctic.*

\* \* \* \* \*

## TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION

\* \* \* \* \*

### SEC. 1012. USES OF THE FUND.

(a) USES GENERALLY.—The Fund shall be available to the President for—

(1) the payment of removal costs, including the costs of monitoring removal actions, determined by the President to be consistent with the National Contingency Plan—

(A) by Federal authorities; or

(B) by a Governor or designated State official under subsection (d);

(2) the payment of costs incurred by Federal, State, or Indian tribe trustees in carrying out their functions under section 1006 for assessing natural resource damages and for developing and implementing plans for the restoration, rehabilitation, replacement, or acquisition of the equivalent of damaged resources determined by the President to be consistent with the National Contingency Plan;

(3) the payment of removal costs determined by the President to be consistent with the National Contingency Plan as a

result of, and damages resulting from, a discharge, or a substantial threat of a discharge, of oil from a foreign offshore unit;

(4) the payment of claims in accordance with section 1013 for uncompensated removal costs determined by the President to be consistent with the National Contingency Plan or uncompensated damages;

(5) the payment of Federal administrative, operational, and personnel costs and expenses reasonably necessary for and incidental to the implementation, administration, and enforcement of this Act (including, but not limited to, sections 1004(d)(2), 1006(e), 4107, 4110, 4111, 4112, 4117, 5006, 8103, and title VII) and subsections (b), (c), (d), (j), and (l) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), as amended by this Act, with respect to prevention, removal, and enforcement related to oil discharges, provided that—

(A) not more than \$25,000,000 in each fiscal year shall be available to the Secretary for operating expenses incurred by the Coast Guard;

(B) not more than \$15,000,000 in each fiscal year shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred by, and activities related to, response and damage assessment capabilities of the National Oceanic and Atmospheric Administration;

(C) not more than \$30,000,000 each year through the end of fiscal year 1992 shall be available to establish the National Response System under section 311(j) of the Federal Water Pollution Control Act, as amended by this Act, including the purchase and prepositioning of oil spill removal equipment; and

(D) not more than \$27,250,000 in each fiscal year shall be available to carry out title VII of this Act; and

(6) the making of loans pursuant to the program established under section 1013(f).

(b) **DEFENSE TO LIABILITY FOR FUND.**—The Fund shall not be available to pay any claim for removal costs or damages to a particular claimant, to the extent that the incident, removal costs, or damages are caused by the gross negligence or willful misconduct of that claimant.

(c) **OBLIGATION OF FUND BY FEDERAL OFFICIALS.**—The President may promulgate regulations designating one or more Federal officials who may obligate money in accordance with subsection (a).

(d) **ACCESS TO FUND BY STATE OFFICIALS.**—

(1) **IMMEDIATE REMOVAL.**—In accordance with regulations promulgated under this section, the President, upon the request of the Governor of a State or pursuant to an agreement with a State under paragraph (2), may obligate the Fund for payment in an amount not to exceed \$250,000 for removal costs consistent with the National Contingency Plan required for the immediate removal of a discharge, or the mitigation or prevention of a substantial threat of a discharge, of oil.

(2) **AGREEMENTS.**—

(A) IN GENERAL.—The President shall enter into an agreement with the Governor of any interested State to establish procedures under which the Governor or a designated State official may receive payments from the Fund for removal costs pursuant to paragraph (1).

(B) TERMS.—Agreements under this paragraph—

(i) may include such terms and conditions as may be agreed upon by the President and the Governor of a State;

(ii) shall provide for political subdivisions of the State to receive payments for reasonable removal costs; and

(iii) may authorize advance payments from the Fund to facilitate removal efforts.

(e) REGULATIONS.—The President shall—

(1) not later than 6 months after the date of the enactment of this Act, publish proposed regulations detailing the manner in which the authority to obligate the Fund and to enter into agreements under this subsection shall be exercised; and

(2) not later than 3 months after the close of the comment period for such proposed regulations, promulgate final regulations for that purpose.

(f) RIGHTS OF SUBROGATION.—Payment of any claim or obligation by the Fund under this Act shall be subject to the United States Government acquiring by subrogation all rights of the claimant or State to recover from the responsible party.

[(g) AUDITS.—

[(1) IN GENERAL.—The Comptroller General of the United States shall conduct an audit, including a detailed accounting of each disbursement from the Fund in excess of \$500,000 that is—

[(A) disbursed by the National Pollution Fund Center and not reimbursed by the responsible party; and

[(B) administered and managed by the receiving Federal agencies, including final payments made to agencies and contractors and, to the extent possible, subcontractors.

[(2) FREQUENCY.—The audits shall be conducted—

[(A) at least once every 3 years after the date of enactment of the Coast Guard Authorization Act of 2010 until 2016; and

[(B) at least once every 5 years after the last audit conducted under subparagraph (A).

[(3) SUBMISSION OF RESULTS.—The Comptroller shall submit the results of each audit conducted under paragraph (1) to—

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

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

[(C) the Secretary or Administrator of each agency referred to in paragraph (1)(B).]

(h) PERIOD OF LIMITATIONS FOR CLAIMS.—

(1) REMOVAL COSTS.—No claim may be presented under this title for recovery of removal costs for an incident unless the claim is presented within 6 years after the date of completion of all removal actions for that incident.

(2) DAMAGES.—No claim may be presented under this section for recovery of damages unless the claim is presented within 3 years after the date on which the injury and its connection with the discharge in question were reasonably discoverable with the exercise of due care, or in the case of natural resource damages under section 1002(b)(2)(A), if later, the date of completion of the natural resources damage assessment under section 1006(e).

(3) MINORS AND INCOMPETENTS.—The time limitations contained in this subsection 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 the 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 the incompetent.

(i) LIMITATION ON PAYMENT FOR SAME COSTS.—In any case in which the President has paid an amount from the Fund for any removal costs or damages specified under subsection (a), no other claim may be paid from the Fund for the same removal costs or damages.

(j) OBLIGATION IN ACCORDANCE WITH PLAN.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts may be obligated from the Fund for the restoration, rehabilitation, replacement, or acquisition of natural resources only in accordance with a plan adopted under section 1006(c).

(2) EXCEPTION.—Paragraph (1) shall not apply in a situation requiring action to avoid irreversible loss of natural resources or to prevent or reduce any continuing danger to natural resources or similar need for emergency action.

(k) PREFERENCE FOR PRIVATE PERSONS IN AREA AFFECTED BY DISCHARGE.—

(1) IN GENERAL.—In the expenditure of Federal funds for removal of oil, including for distribution of supplies, construction, and other reasonable and appropriate activities, under a contract or agreement with a private person, preference shall be given, to the extent feasible and practicable, to private persons residing or doing business primarily in the area affected by the discharge of oil.

(2) LIMITATION.—This subsection shall not be considered to restrict the use of Department of Defense resources.

(l) REPORTS.—

(1) IN GENERAL.—[Within one year after the date of enactment of the Coast Guard Authorization Act of 2010, and annually thereafter,] *Each year, on the date on which the President submits to Congress a budget under section 1105 of title 31, United States Code, the President, through the Secretary of the Department in which the Coast Guard is operating, shall—*

(A) provide a report on disbursements for the preceding fiscal year from the Fund, regardless of whether those disbursements were subject to annual appropriations, to—

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

- (ii) the House of Representatives Committee on Transportation and Infrastructure; and
  - (B) make the report available to the public on the National Pollution Funds Center Internet website.
- [(2) CONTENTS.—The report shall include—
- [(A) a list of each disbursement of \$250,000 or more from the Fund during the preceding fiscal year; and
  - [(B) a description of how each such use of the Fund meets the requirements of subsection (a).]
- (2) CONTENTS.—*The report shall include—*
- (A) *a list of each incident that—*
    - (i) *occurred in the preceding fiscal year; and*
    - (ii) *resulted in disbursements from the Fund, for removal costs and damages, totaling \$500,000 or more;*
  - (B) *a list of each incident that—*
    - (i) *occurred in the fiscal year preceding the preceding fiscal year; and*
    - (ii) *resulted in disbursements from the Fund, for removal costs and damages, totaling \$500,000 or more;*
  - and*
  - (C) *an accounting of any amounts reimbursed to the Fund in the preceding fiscal year that were recovered from a responsible party for an incident that resulted in disbursements from the Fund, for removal costs and damages, totaling \$500,000 or more.*
- (3) AGENCY RECORDKEEPING.—Each Federal agency that receives amounts from the Fund shall maintain records describing the purposes for which such funds were obligated or expended in such detail as the Secretary may require for purposes of the report required under paragraph (1).

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## TITLE V—PRINCE WILLIAM SOUND PROVISIONS

\* \* \* \* \*

### SEC. 5009. VESSEL RESPONSE PLANS IN THE ARCTIC.

*The Secretary of the department in which the Coast Guard is operating may not approve a vessel response plan under section 311(j)(5) of the Federal Water Pollution Control Act for a vessel operating in any area covered by the Captain of the Port Zone, as established by the Secretary, that includes the Arctic (as defined in section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111)), unless the Secretary verifies that—*

- (1) *all equipment required to be available for response under the plan has been tested and proven capable of operating in the environment in which it is intended to be operated, as determined by the Secretary; and*
- (2) *the oil spill removal organization identified in the vessel response plan under section 311(j)(5) of the Federal Water Pollution Control Act—*
  - (A) *has records of training for equipment operators; and*

*(B) conducts a full equipment deployment exercise in the area covered by the vessel response plan at least once every 3 years, except that the Secretary may waive a required full equipment deployment exercise, upon request of the organization, if the organization implemented the vessel response plan (including the deployment of equipment and operators) during the preceding 3 years in response to a discharge or substantial threat of a discharge of oil.*

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