

Public Law 111–281
111th Congress

An Act

To authorize appropriations for the Coast Guard for fiscal year 2011, and for other purposes.

Oct. 15, 2010
[H.R. 3619]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Coast Guard
Authorization
Act of 2010.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Coast Guard Authorization Act of 2010”.

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

Sec. 1. Short title; table of contents.

TITLE I—AUTHORIZATION

Sec. 101. Authorization of appropriations.

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

TITLE II—COAST GUARD

Sec. 201. Appointment of civilian Coast Guard judges.

Sec. 202. Industrial activities.

Sec. 203. Reimbursement for medical-related travel expenses.

Sec. 204. Commissioned officers.

Sec. 205. Coast Guard participation in the Armed Forces Retirement Home (AFRH) system.

Sec. 206. Grants to international maritime organizations.

Sec. 207. Leave retention authority.

Sec. 208. Enforcement authority.

Sec. 209. Repeal.

Sec. 210. Merchant Mariner Medical Advisory Committee.

Sec. 211. Reserve commissioned warrant officer to lieutenant program.

Sec. 212. Enhanced status quo officer promotion system.

Sec. 213. Coast Guard vessels and aircraft.

Sec. 214. Coast Guard District Ombudsmen.

Sec. 215. Coast Guard commissioned officers: compulsory retirement.

Sec. 216. Enforcement of coastwise trade laws.

Sec. 217. Report on sexual assaults in the Coast Guard.

Sec. 218. Home port of Coast Guard vessels in Guam.

Sec. 219. Supplemental positioning system.

Sec. 220. Assistance to foreign governments and maritime authorities.

Sec. 221. Coast guard housing.

Sec. 222. Child development services.

Sec. 223. Chaplain activity expense.

Sec. 224. Coast Guard cross; silver star medal.

TITLE III—SHIPPING AND NAVIGATION

Sec. 301. Seaward extension of anchorage grounds jurisdiction.

Sec. 302. Maritime Drug Law Enforcement Act amendment-simple possession.

Sec. 303. Technical amendments to tonnage measurement law.

Sec. 304. Merchant mariner document standards.

Sec. 305. Ship emission reduction technology demonstration project.

Sec. 306. Phaseout of vessels supporting oil and gas development.

Sec. 307. Arctic marine shipping assessment implementation.

TITLE IV—ACQUISITION REFORM

- Sec. 401. Chief Acquisition Officer.
- Sec. 402. Acquisitions.
- Sec. 403. National Security Cutters.
- Sec. 404. Acquisition workforce expedited hiring authority.

TITLE V—COAST GUARD MODERNIZATION

- Sec. 501. Short title.

Subtitle A—Coast Guard Leadership

- Sec. 511. Vice admirals.

Subtitle B—Workforce Expertise

- Sec. 521. Prevention and response staff.
- Sec. 522. Marine safety mission priorities and long-term goals.
- Sec. 523. Powers and duties.
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- Sec. 603. Cold weather survival training.
- Sec. 604. Fishing vessel safety.
- Sec. 605. Mariner records.
- Sec. 606. Deletion of exemption of license requirement for operators of certain towing vessels.
- Sec. 607. Log books.
- Sec. 608. Safe operations and equipment standards.
- Sec. 609. Approval of survival craft.
- Sec. 610. Safety management.
- Sec. 611. Protection against discrimination.
- Sec. 612. Oil fuel tank protection.
- Sec. 613. Oaths.
- Sec. 614. Duration of licenses, certificates of registry, and merchant mariners' documents.
- Sec. 615. Authorization to extend the duration of licenses, certificates of registry, and merchant mariners' documents.
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- Sec. 617. Offshore supply vessels.
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- Sec. 702. Oil transfers from vessels.
- Sec. 703. Improvements to reduce human error and near miss incidents.
- Sec. 704. Olympic Coast National Marine Sanctuary.
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- Sec. 706. Improved coordination with tribal governments.
- Sec. 707. Report on availability of technology to detect the loss of oil.
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- Sec. 822. Integration of security plans and systems with local port authorities, State harbor divisions, and law enforcement agencies.
- Sec. 823. Transportation security cards.
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- Sec. 906. Limitation on jurisdiction of States to tax certain seamen.
- Sec. 907. Land conveyance, Coast Guard property in Marquette County, Michigan, to the City of Marquette, Michigan.
- Sec. 908. Mission requirement analysis for navigable portions of the Rio Grande River, Texas, international water boundary.
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TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for fiscal year 2011 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard, \$6,970,681,000 of which \$24,500,000 is authorized to be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)).

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$1,640,000,000, of which—

(A) \$20,000,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990, to remain available until expended;

(B) \$1,233,502,000 is authorized for the Integrated Deepwater System Program; and

(C) \$100,000,000 is authorized for shore facilities and aids to navigation.

(3) To the Commandant of the Coast Guard for research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, \$28,034,000, to remain available until expended, of which \$500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$1,400,700,000, to remain available until expended.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, \$16,000,000.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated

with operation and maintenance), \$13,329,000, to remain available until expended.

(7) For the Coast Guard Reserve program, including personnel and training costs, equipment, and services, \$135,675,000.

SEC. 102. 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 47,000 for the fiscal year ending on September 30, 2011.

(b) **MILITARY TRAINING STUDENT LOADS.**—For fiscal year 2011, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 2,500 student years.

(2) For flight training, 165 student years.

(3) For professional training in military and civilian institutions, 350 student years.

(4) For officer acquisition, 1,200 student years.

TITLE II—COAST GUARD

SEC. 201. APPOINTMENT OF CIVILIAN COAST GUARD JUDGES.

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

“§ 153. Appointment of judges

“The Secretary may appoint civilian employees of the department in which the Coast Guard is operating as appellate military judges, available for assignment to the Coast Guard Court of Criminal Appeals as provided for in section 866(a) of title 10.”.

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

14 USC 141.

“153. Appointment of judges.”.

SEC. 202. INDUSTRIAL ACTIVITIES.

Section 151 of title 14, United States Code, is amended—

(1) by inserting “(a) **IN GENERAL.**—” before “All orders”; and

(2) by adding at the end the following:

“(b) **ORDERS AND AGREEMENTS FOR INDUSTRIAL ACTIVITIES.**—Under this section, the Coast Guard industrial activities may accept orders from and enter into reimbursable agreements with establishments, agencies, and departments of the Department of Defense and the Department of Homeland Security.”.

SEC. 203. REIMBURSEMENT FOR MEDICAL-RELATED TRAVEL EXPENSES.

(a) **IN GENERAL.**—Chapter 13 of title 14, United States Code, is amended by adding at the end the following:

“§ 518. Reimbursement for medical-related travel expenses for certain persons residing on islands in the continental United States

“In any case in which a covered beneficiary (as defined in section 1072(5) of title 10) resides on an island that is located

in the 48 contiguous States and the District of Columbia and that lacks public access roads to the mainland and is referred by a primary care physician to a specialty care provider (as defined in section 1074i(b) of title 10) on the mainland who provides services less than 100 miles from the location where the beneficiary resides, the Secretary shall reimburse the reasonable travel expenses of the covered beneficiary and, when accompaniment by an adult is necessary, for a parent or guardian of the covered beneficiary or another member of the covered beneficiary's family who is at least 21 years of age.”.

14 USC 461.

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

“518. Reimbursement for medical-related travel expenses for certain persons residing on islands in the continental United States.”.

SEC. 204. COMMISSIONED OFFICERS.

(a) ACTIVE DUTY PROMOTION LIST.—Section 42 of title 14, United States Code, is amended to read as follows:

“§ 42. Number and distribution of commissioned officers on active duty promotion list

“(a) MAXIMUM TOTAL NUMBER.—The total number of Coast Guard commissioned officers on the active duty promotion list, excluding warrant officers, shall not exceed 7,200; except that the Commandant may temporarily increase that number by up to 2 percent for no more than 60 days following the date of the commissioning of a Coast Guard Academy class.

“(b) DISTRIBUTION PERCENTAGES BY GRADE.—

“(1) REQUIRED.—The total number of commissioned officers authorized by this section shall be distributed in grade in the following percentages: 0.375 percent for rear admiral; 0.375 percent for rear admiral (lower half); 6.0 percent for captain; 15.0 percent for commander; and 22.0 percent for lieutenant commander.

“(2) DISCRETIONARY.—The Secretary shall prescribe the percentages applicable to the grades of lieutenant, lieutenant (junior grade), and ensign.

“(3) AUTHORITY OF SECRETARY TO REDUCE PERCENTAGE.—The Secretary—

“(A) may reduce, as the needs of the Coast Guard require, any of the percentages set forth in paragraph (1); and

“(B) shall apply that total percentage reduction to any other lower grade or combination of lower grades.

“(c) COMPUTATIONS.—

“(1) IN GENERAL.—The Secretary shall compute, at least once each year, the total number of commissioned officers authorized to serve in each grade by applying the grade distribution percentages established by or under this section to the total number of commissioned officers listed on the current active duty promotion list.

“(2) ROUNDING FRACTIONS.—Subject to subsection (a), in making the computations under paragraph (1), any fraction shall be rounded to the nearest whole number.

“(3) TREATMENT OF OFFICERS SERVING OUTSIDE COAST GUARD.—The number of commissioned officers on the active duty promotion list below the rank of rear admiral (lower

Applicability.

half) serving with other Federal departments or agencies on a reimbursable basis or excluded under section 324(d) of title 49 shall not be counted against the total number of commissioned officers authorized to serve in each grade.

“(d) USE OF NUMBERS; TEMPORARY INCREASES.—The numbers resulting from computations under subsection (c) shall be, for all purposes, the authorized number in each grade; except that the authorized number for a grade is temporarily increased during the period between one computation and the next by the number of officers originally appointed in that grade during that period and the number of officers of that grade for whom vacancies exist in the next higher grade but whose promotion has been delayed for any reason.

“(e) OFFICERS SERVING COAST GUARD ACADEMY AND RESERVE.—The number of officers authorized to be serving on active duty in each grade of the permanent commissioned teaching staff of the Coast Guard Academy and of the Reserve serving in connection with organizing, administering, recruiting, instructing, or training the reserve components shall be prescribed by the Secretary.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 3 of such title is amended by striking the item relating to section 42 and inserting the following:

14 USC 41.

“42. Number and distribution of commissioned officers on active duty promotion list.”.

SEC. 205. COAST GUARD PARTICIPATION IN THE ARMED FORCES RETIREMENT HOME (AFRH) SYSTEM.

(a) IN GENERAL.—Section 1502 of the Armed Forces Retirement Home Act of 1991 (24 U.S.C. 401) is amended—

(1) by striking paragraph (4);

(2) in paragraph (5)—

(A) by striking “and” at the end of subparagraph (C);

(B) by striking the period at the end of subparagraph

(D) and inserting “; and”; and

(C) by inserting at the end the following:

“(E) the Assistant Commandant of the Coast Guard for Human Resources.”; and

(3) by adding at the end of paragraph (6) the following:

“(E) The Master Chief Petty Officer of the Coast Guard.”.

(b) CONFORMING AMENDMENTS.—(1) Section 2772 of title 10, United States Code, is amended—

(A) in subsection (a) by inserting “or, in the case of the Coast Guard, the Commandant” after “concerned”; and

(B) by striking subsection (c).

(2) Section 1007(i) of title 37, United States Code, is amended—

(A) in paragraph (3) by inserting “or, in the case of the Coast Guard, the Commandant” after “Secretary of Defense”;

(B) by striking paragraph (4); and

(C) by redesignating paragraph (5) as paragraph (4).

SEC. 206. GRANTS TO INTERNATIONAL MARITIME ORGANIZATIONS.

Section 149 of title 14, United States Code, is amended by adding at the end the following:

“(c) GRANTS TO INTERNATIONAL MARITIME ORGANIZATIONS.—After consultation with the Secretary of State, the Commandant may make grants to, or enter into cooperative agreements, contracts,

or other agreements with, international maritime organizations for the purpose of acquiring information or data about merchant vessel inspections, security, safety, environmental protection, classification, and port state or flag state law enforcement or oversight.”.

SEC. 207. LEAVE RETENTION AUTHORITY.

(a) **IN GENERAL.**—Chapter 11 of title 14, United States Code, is amended by inserting after section 425 the following:

“§ 426. Emergency leave retention authority

“(a) **IN GENERAL.**—A duty assignment for an active duty member of the Coast Guard in support of a declaration of a major disaster or emergency by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.) or in response to a spill of national significance shall be treated, for the purpose of section 701(f)(2) of title 10, as a duty assignment in support of a contingency operation.

“(b) **DEFINITIONS.**—In this section:

“(1) **SPILL OF NATIONAL SIGNIFICANCE.**—The term ‘spill of national significance’ means a discharge of oil or a hazardous substance that is declared by the Commandant to be a spill of national significance.

“(2) **DISCHARGE.**—The term ‘discharge’ has the meaning given that term in section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701).”.

14 USC 211.

(b) **CLERICAL AMENDMENT.**—The analysis for such chapter is amended by inserting after the item relating to section 425 the following:

“426. Emergency leave retention authority.”.

Effective date.
14 USC 426 note.

(c) **APPLICATION.**—The amendments made by this section shall be deemed to have been enacted on April 19, 2010.

SEC. 208. ENFORCEMENT AUTHORITY.

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

“§ 99. Enforcement authority

“Subject to guidelines approved by the Secretary, members of the Coast Guard, in the performance of official duties, may—

“(1) carry a firearm; and

“(2) while at a facility (as defined in section 70101 of title 46)—

“(A) make an arrest without warrant for any offense against the United States committed in their presence; and

“(B) seize property as otherwise provided by law.”.

(b) **CONFORMING REPEAL.**—Section 70117 of title 46, United States Code, and the item relating to such section in the analysis at the beginning of chapter 701 of such title, are repealed.

14 USC 81.

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

“99. Enforcement authority.”.

14 USC 211.

SEC. 209. REPEAL.

Section 216 of title 14, United States Code, and the item relating to such section in the analysis for chapter 11 of such title, are repealed.

SEC. 210. MERCHANT MARINER MEDICAL ADVISORY COMMITTEE.

(a) IN GENERAL.—Chapter 71 of title 46, United States Code, is amended by adding at the end the following new section:

“§ 7115. Merchant Mariner Medical Advisory Committee

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—There is established a Merchant Mariner Medical Advisory Committee (in this section referred to as the ‘Committee’).

“(2) FUNCTIONS.—The Committee shall advise the Secretary on matters relating to—

“(A) medical certification determinations for issuance of licences, certificates of registry, and merchant mariners’ documents;

“(B) medical standards and guidelines for the physical qualifications of operators of commercial vessels;

“(C) medical examiner education; and

“(D) medical research.

“(b) MEMBERSHIP.—

“(1) IN GENERAL.—The Committee shall consist of 14 members, none of whom is a Federal employee, and shall include—

“(A) ten who are health-care professionals with particular expertise, knowledge, or experience regarding the medical examinations of merchant mariners or occupational medicine; and

“(B) four who are professional mariners with knowledge and experience in mariner occupational requirements.

“(2) STATUS OF MEMBERS.—Members of the Committee shall not be considered Federal employees or otherwise in the service or the employment of the Federal Government, except that members shall be considered special Government employees, as defined in section 202(a) of title 18, United States Code, and shall be subject to any administrative standards of conduct applicable to the employees of the department in which the Coast Guard is operating.

“(c) APPOINTMENTS; TERMS; VACANCIES.—

“(1) APPOINTMENTS.—The Secretary shall appoint the members of the Committee, and each member shall serve at the pleasure of the Secretary.

“(2) TERMS.—Each member shall be appointed for a term of five years, except that, of the members first appointed, three members shall be appointed for a term of two years.

“(3) VACANCIES.—Any member appointed to fill the vacancy prior to the expiration of the term for which that member’s predecessor was appointed shall be appointed for the remainder of that term.

“(d) CHAIRMAN AND VICE CHAIRMAN.—The Secretary shall designate one member of the Committee as the Chairman and one member as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

“(e) COMPENSATION; REIMBURSEMENT.—Members of the Committee shall serve without compensation, except that, while engaged in the performance of duties away from their homes or regular places of business of the member, the member of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

“(f) STAFF; SERVICES.—The Secretary shall furnish to the Committee the personnel and services as are considered necessary for the conduct of its business.”

Deadline.
14 USC 7115
note.

(b) FIRST MEETING.—No later than six months after the date of enactment of this Act, the Merchant Mariner Medical Advisory Committee established by the amendment made by this section shall hold its first meeting.

14 USC 7101.

(c) CLERICAL AMENDMENT.—The analysis for chapter 71 of that title is amended by adding at the end the following:

“7115. Merchant Mariner Medical Advisory Committee.”

SEC. 211. RESERVE COMMISSIONED WARRANT OFFICER TO LIEUTENANT PROGRAM.

Section 214(a) of title 14, United States Code, is amended to read as follows:

“(a) The president may appoint temporary commissioned officers—

“(1) in the Regular Coast Guard in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers, warrant officers, and enlisted members of the Coast Guard, and from holders of licenses issued under chapter 71 of title 46; and

“(2) in the Coast Guard Reserve in a grade, not above lieutenant, appropriate to their qualifications, experience, and length of service, as the needs of the Coast Guard may require, from among the commissioned warrant officers of the Coast Guard Reserve.”

SEC. 212. ENHANCED STATUS QUO OFFICER PROMOTION SYSTEM.

Chapter 11 of title 14, United States Code, is amended—

(1) in section 253(a)—

(A) by inserting “and” after “considered.”; and

(B) by striking “, and the number of officers the board may recommend for promotion”;

(2) in section 258—

(A) by inserting “(a) IN GENERAL.—” before “The Secretary shall”;

(B) in subsection (a) (as so designated) by striking the colon at the end of the material preceding paragraph (1) and inserting “—”; and

(C) by adding at the end the following:

“(b) PROVISION OF DIRECTION AND GUIDANCE.—

“(1) In addition to the information provided pursuant to subsection (a), the Secretary may furnish the selection board—

“(A) specific direction relating to the needs of the Coast Guard for officers having particular skills, including direction relating to the need for a minimum number of officers with particular skills within a specialty; and

“(B) any other guidance that the Secretary believes may be necessary to enable the board to properly perform its functions.

“(2) Selections made based on the direction and guidance provided under this subsection shall not exceed the maximum percentage of officers who may be selected from below the announced promotion zone at any given selection board convened under section 251 of this title.”;

(3) in section 259(a), by inserting after “whom the board” the following: “, giving due consideration to the needs of the Coast Guard for officers with particular skills so noted in specific direction furnished to the board by the Secretary under section 258 of this title,”; and

(4) in section 260(b), by inserting after “qualified for promotion” the following: “to meet the needs of the service (as noted in specific direction furnished the board by the Secretary under section 258 of this title)”.

SEC. 213. COAST GUARD VESSELS AND AIRCRAFT.

(a) **AUTHORITY TO FIRE AT OR INTO A VESSEL.**—Section 637(c) of title 14, United States Code, is amended—

(1) in paragraph (1), by striking “; or” and inserting a semicolon;

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

(3) by adding at the end the following:

“(3) any other vessel or aircraft on government noncommercial service when—

“(A) the vessel or aircraft is under the tactical control of the Coast Guard; and

“(B) at least one member of the Coast Guard is assigned and conducting a Coast Guard mission on the vessel or aircraft.”.

(b) **AUTHORITY TO DISPLAY COAST GUARD ENSIGNS AND PENNANTS.**—Section 638(a) of title 14, United States Code, is amended by striking “Coast Guard vessels and aircraft” and inserting “Vessels and aircraft authorized by the Secretary”.

SEC. 214. COAST GUARD DISTRICT OMBUDSMEN.

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

“§ 55. District Ombudsmen

“(a) **IN GENERAL.**—The Commandant shall appoint in each Coast Guard District a District Ombudsman to serve as a liaison between ports, terminal operators, shipowners, and labor representatives and the Coast Guard.

Appointment.

“(b) **PURPOSE.**—The purpose of the District Ombudsman shall be the following:

“(1) To support the operations of the Coast Guard in each port in the District for which the District Ombudsman is appointed.

“(2) To improve communications between and among port stakeholders including, port and terminal operators, ship owners, labor representatives, and the Coast Guard.

“(3) To seek to resolve disputes between the Coast Guard and all petitioners regarding requirements imposed or services provided by the Coast Guard.

“(c) **FUNCTIONS.**—

“(1) **COMPLAINTS.**—The District Ombudsman may examine complaints brought to the attention of the District Ombudsman by a petitioner operating in a port or by Coast Guard personnel.

“(2) **GUIDELINES FOR DISPUTES.**—

“(A) **IN GENERAL.**—The District Ombudsman shall develop guidelines regarding the types of disputes with

respect to which the District Ombudsman will provide assistance.

“(B) LIMITATION.—The District Ombudsman shall not provide assistance with respect to a dispute unless it involves the impact of Coast Guard requirements on port business and the flow of commerce.

“(C) PRIORITY.—In providing such assistance, the District Ombudsman shall give priority to complaints brought by petitioners who believe they will suffer a significant hardship as the result of implementing a Coast Guard requirement or being denied a Coast Guard service.

“(3) CONSULTATION.—The District Ombudsman may consult with any Coast Guard personnel who can aid in the investigation of a complaint.

“(4) ACCESS TO INFORMATION.—The District Ombudsman shall have access to any Coast Guard document, including any record or report, that will aid the District Ombudsman in obtaining the information needed to conduct an investigation of a complaint.

“(5) REPORTS.—At the conclusion of an investigation, the District Ombudsman shall submit a report on the findings and recommendations of the District Ombudsman, to the Commander of the District in which the petitioner who brought the complaint is located or operating.

“(6) DEADLINE.—The District Ombudsman shall seek to resolve each complaint brought in accordance with the guidelines—

“(A) in a timely fashion; and

“(B) not later than 4 months after the complaint is officially accepted by the District Ombudsman.

“(d) APPOINTMENT.—The Commandant shall appoint as the District Ombudsman an individual who has experience in port and transportation systems and knowledge of port operations or of maritime commerce (or both).

“(e) ANNUAL REPORTS.—The Secretary shall report annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the matters brought before the District Ombudsmen, including—

“(1) the number of matters brought before each District Ombudsman;

“(2) a brief summary of each such matter; and

“(3) the eventual resolution of each such matter.”.

14 USC 41.

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

“55. District Ombudsmen.”.

SEC. 215. COAST GUARD COMMISSIONED OFFICERS: COMPULSORY RETIREMENT.

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended by striking section 293 and inserting the following:

“§ 293. Compulsory retirement

“(a) REGULAR COMMISSIONED OFFICERS.—Any regular commissioned officer, except a commissioned warrant officer, serving in a grade below rear admiral (lower half) shall be retired on the

first day of the month following the month in which the officer becomes 62 years of age.

“(b) FLAG-OFFICER GRADES.—(1) Except as provided in paragraph (2), any regular commissioned officer serving in a grade of rear admiral (lower half) or above shall be retired on the first day of the month following the month in which the officer becomes 64 years of age.

“(2) The retirement of an officer under paragraph (1) may be deferred—

“(A) by the President, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 68 years of age; or

“(B) by the Secretary of the department in which the Coast Guard is operating, but such a deferment may not extend beyond the first day of the month following the month in which the officer becomes 66 years of age.”.

(b) CLERICAL AMENDMENT.—The analysis at the beginning of such chapter is amended by striking the item relating to such section and inserting the following: 14 USC 211.

“293. Compulsory retirement.”.

SEC. 216. ENFORCEMENT OF COASTWISE TRADE LAWS.

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

“§ 100. Enforcement of coastwise trade laws

“Officers and members of the Coast Guard are authorized to enforce chapter 551 of title 46. The Secretary shall establish a program for these officers and members to enforce that chapter.”.

(b) CLERICAL AMENDMENT.—The analysis for that chapter is further amended by adding at the end the following new item: 14 USC 81.

“100. Enforcement of coastwise trade laws.”.

(c) REPORT.—The Secretary of the department in which the Coast Guard is operating shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Senate Committee on Commerce, Science, and Transportation within 1 year after the date of enactment of this Act on the enforcement strategies and enforcement actions taken to enforce the coastwise trade laws.

SEC. 217. REPORT ON SEXUAL ASSAULTS IN THE COAST GUARD.

14 USC 93 note.

(a) IN GENERAL.—Not later than January 15 of each year, the Commandant of the Coast Guard shall submit a report on the sexual assaults involving members of the Coast Guard to the Committee on Transportation and Infrastructure and the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

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

(1) The number of sexual assaults against members of the Coast Guard, and the number of sexual assaults by members of the Coast Guard, that were reported to military officials during the year covered by such report, and the number of the cases so reported that were substantiated.

(2) A synopsis of, and the disciplinary action taken in, each substantiated case.

(3) The policies, procedures, and processes implemented by the Secretary concerned during the year covered by such report in response to incidents of sexual assault involving members of the Coast Guard concerned.

(4) A plan for the actions that are to be taken in the year following the year covered by such report on the prevention of and response to sexual assault involving members of the Coast Guard concerned.

SEC. 218. HOME PORT OF COAST GUARD VESSELS IN GUAM.

Section 96 of title 14, United States Code, is amended—

(1) by striking “a State of the United States” and inserting “the United States or Guam”; and

(2) by inserting “or Guam” after “outside the United States”.

Deadline.
Study.
Notification.

SEC. 219. SUPPLEMENTAL POSITIONING SYSTEM.

Not later than 180 days after date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating in consultation with the Commandant of the Coast Guard shall conclude their study of whether a single, domestic system is needed as a back-up navigation system to the Global Positioning System and notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the results of such determination.

SEC. 220. ASSISTANCE TO FOREIGN GOVERNMENTS AND MARITIME AUTHORITIES.

Section 149 of title 14, United States Code, as amended by section 206, is further amended by adding at the end the following:

“(d) AUTHORIZED ACTIVITIES.—

“(1) The Commandant may use funds for—

“(A) the activities of traveling contact teams, including any transportation expense, translation services expense, or administrative expense that is related to such activities;

“(B) the activities of maritime authority liaison teams of foreign governments making reciprocal visits to Coast Guard units, including any transportation expense, translation services expense, or administrative expense that is related to such activities;

“(C) seminars and conferences involving members of maritime authorities of foreign governments;

“(D) distribution of publications pertinent to engagement with maritime authorities of foreign governments; and

“(E) personnel expenses for Coast Guard civilian and military personnel to the extent that those expenses relate to participation in an activity described in subparagraph (C) or (D).

“(2) An activity may not be conducted under this subsection with a foreign country unless the Secretary of State approves the conduct of such activity in that foreign country.”.

SEC. 221. COAST GUARD HOUSING.

(a) IN GENERAL.—Chapter 18 of title 14, United States Code, is amended—

(1) in section 680—

(A) by striking paragraphs (1), (2), and (3) and inserting the following new paragraphs:

“(1) The term ‘construct’ means to build, renovate, or improve military family housing and military unaccompanied housing.

“(2) The term ‘construction’ means building, renovating, or improving military family housing and military unaccompanied housing.”; and

(B) by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively;

(2) in section 681(a)—

(A) in the matter preceding paragraph (1), by striking “exercise any authority or any combination of authorities provided under this chapter in order to provide for the acquisition or construction by private persons, including a small business concern qualified under section 8(a) of the Small Business Act (15 U.S.C. 637(a)), of the following:” and inserting “acquire or construct the following:”;

(B) in paragraph (1), by striking “Family housing units” and inserting “Military family housing”; and

(C) in paragraph (2), by striking “Unaccompanied housing units” and inserting “Military unaccompanied housing”;

(3) by repealing sections 682, 683, and 684;

(4) by amending section 685 to read as follows:

“§ 685. Conveyance of real property

“(a) CONVEYANCE AUTHORIZED.—Notwithstanding any other provision of law, the Secretary may convey, at fair market value, real property, owned or under the administrative control of the Coast Guard, for the purpose of expending the proceeds from such conveyance to acquire and construct military family housing and military unaccompanied housing.

“(b) TERMS AND CONDITIONS.—

“(1) The conveyance of real property under this section shall be by sale, for cash. The Secretary shall deposit the proceeds from the sale in the Coast Guard Housing Fund established under section 687 of this title, for the purpose of expending such proceeds to acquire and construct military family housing and military unaccompanied housing.

“(2) The conveyance of real property under this section shall not diminish the mission capacity of the Coast Guard, but further the mission support capability of the Coast Guard with regard to military family housing or military unaccompanied housing.

“(c) RELATIONSHIP TO ENVIRONMENTAL LAW.—This section does not affect or limit the application of or obligation to comply with any environmental law, including section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).”;

(5) by repealing section 686;

(6) in section 687—

(A) in subsection (b)—

(i) in paragraph (2), by striking “or unaccompanied” and inserting “or military unaccompanied”;

(ii) in paragraph (3)—

(I) by striking “or lease”;

(II) by striking “or facilities”; and

(III) by striking “military family and” and inserting “military family housing and”; and

(iii) by repealing paragraph (4);

(B) subsection (c), by amending paragraph (1) to read as follows: (1) In such amounts as provided in appropriations Acts, and except as provided in subsection (d), the Secretary may use amounts in the Coast Guard Housing Fund to carry out activities under this chapter with respect to military family housing and military unaccompanied housing, including—

“(A) the planning, execution, and administration of the conveyance of real property;

“(B) all necessary expenses, including expenses for environmental compliance and restoration, to prepare real property for conveyance; and

“(C) the conveyance of real property.”;

(C) in subsection (e), by striking “or (b)(3)”; and

(D) by repealing subsections (f) and (g);

14 USC 687a.

(7) by repealing 687a;

(8) by amending section 688 to read as follows:

“§ 688. Reports

“The Secretary shall prepare and submit to Congress, concurrent with the budget submitted pursuant to section 1105 of title 31, a report identifying the contracts or agreements for the conveyance of properties pursuant to this chapter executed during the prior calendar year.”; and

(9) by repealing section 689.

14 USC 680 note.

(b) SAVINGS CLAUSE.—This section shall not affect any action commenced prior to the date of enactment of this Act.

14 USC 680.

(c) CLERICAL AMENDMENT.—The chapter analysis at the beginning of such chapter is amended—

(1) by striking the items relating to sections 682, 683, 684, 686, 687a, and 689; and

(2) by amending the item relating to section 685 to read as follows:

“685. Conveyance of real property.”.

SEC. 222. CHILD DEVELOPMENT SERVICES.

Section 515 of title 14, United States Code, is amended—

(1) by striking subsection (b) and inserting the following:

“(b)(1) The Commandant is authorized to use appropriated funds available to the Coast Guard to provide child development services.

Regulations.
Fees.

“(2)(A) The Commandant is authorized to establish, by regulations, fees to be charged parents for the attendance of children at Coast Guard child development centers.

“(B) Fees to be charged, pursuant to subparagraph (A), shall be based on family income, except that the Commandant may, on a case-by-base basis, establish fees at lower rates if such rates would not be competitive with rates at local child development centers.

“(C) The Commandant is authorized to collect and expend fees, established pursuant to this subparagraph, and such fees shall, without further appropriation, remain available until expended for the purpose of providing services, including the compensation of employees and the purchase of consumable and disposable items, at Coast Guard child development centers.

“(3) The Commandant is authorized to use appropriated funds available to the Coast Guard to provide assistance to family home daycare providers so that family home daycare services can be provided to uniformed service members and civilian employees of the Coast Guard at a cost comparable to the cost of services provided by Coast Guard child development centers.”;

(2) by repealing subsections (d) and (e); and

(3) by redesignating subsections (f) and (g) as subsections (d) and (e), respectively.

SEC. 223. CHAPLAIN ACTIVITY EXPENSE.

Section 145 of title 14, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking “and” at the end;

(B) in paragraph (3), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new paragraph:

“(4) detail personnel from the Chaplain Corps to provide services, pursuant to section 1789 of title 10, to the Coast Guard.”; and

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

“(d)(1) As part of the services provided by the Secretary of the Navy pursuant to subsection (a)(4), the Secretary may provide support services to chaplain-led programs to assist members of the Coast Guard on active duty and their dependents, and members of the reserve component in an active status and their dependents, in building and maintaining a strong family structure.

“(2) In this subsection, the term ‘support services’ include transportation, food, lodging, child care, supplies, fees, and training materials for members of the Coast Guard on active duty and their dependents, and members of the reserve component in an active status and their dependents, while participating in programs referred to in paragraph (1), including participation at retreats and conferences.

“(3) In this subsection, the term ‘dependents’ has the same meaning as defined in section 1072(2) of title 10.”.

SEC. 224. COAST GUARD CROSS; SILVER STAR MEDAL.

(a) COAST GUARD CROSS.—Chapter 13 of title 14, United States Code, is amended by inserting after section 491 the following new section:

“§ 491a. Coast Guard cross

“The President may award a Coast Guard cross of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Coast Guard, when the Coast Guard is not operating under the Department of the Navy, distinguishes himself or herself by extraordinary heroism not justifying the award of a medal of honor—

“(1) while engaged in an action against an enemy of the United States;

“(2) while engaged in military operations involving conflict with an opposing foreign force or international terrorist organization; or

“(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.”.

(b) SILVER STAR MEDAL.—Such chapter is further amended—

(1) by striking the designation and heading of section 492a and inserting the following:

“§ 492b. Distinguished flying cross”;

and

(2) by inserting after section 492 the following new section:

“§ 492a. Silver star medal

“The President may award a silver star medal of appropriate design, with ribbons and appurtenances, to a person who, while serving in any capacity with the Coast Guard, when the Coast Guard is not operating under the Department of the Navy, is cited for gallantry in action that does not warrant a medal of honor or Coast Guard cross—

“(1) while engaged in an action against an enemy of the United States;

“(2) while engaged in military operations involving conflict with an opposing foreign force or international terrorist organization; or

“(3) while serving with friendly foreign forces engaged in an armed conflict against an opposing armed force in which the United States is not a belligerent party.”.

(c) CONFORMING AMENDMENTS.—Such chapter is further amended—

(1) in section 494, by striking “distinguished service medal, distinguished flying cross,” and inserting “Coast Guard cross, distinguished service medal, silver star medal, distinguished flying cross,” in both places it appears;

(2) in section 496—

(A) in the matter preceding paragraph (1) of subsection (a), by striking “distinguished service medal, distinguished flying cross,” and inserting “Coast Guard cross, distinguished service medal, silver star medal, distinguished flying cross,”; and

(B) in subsection (b)(2), by striking “distinguished service medal, distinguished flying cross,” and inserting “Coast Guard cross, distinguished service medal, silver star medal, distinguished flying cross,”; and

(3) in section 497, by striking “distinguished service medal, distinguished flying cross,” and inserting “Coast Guard cross, distinguished service medal, silver star medal, distinguished flying cross,”.

14 USC 461.

(d) CLERICAL AMENDMENTS.—The analysis at the beginning of such chapter is amended—

(1) by inserting after the item relating to section 491 the following new item:

“491a. Coast Guard cross.”.

(2) by striking the item relating to section 492a and inserting the following new items:

“492a. Silver star medal.

“492b. Distinguished flying cross.”.

TITLE III—SHIPPING AND NAVIGATION

SEC. 301. SEAWARD EXTENSION OF ANCHORAGE GROUNDS JURISDICTION.

Section 7 of the Rivers and Harbors Appropriations Act of 1915 (33 U.S.C. 471) is amended—

(1) by striking “That the” and inserting the following:

“(a) IN GENERAL.—The”.

(2) in subsection (a) (as designated by paragraph (1)) by striking “\$100; and the” and inserting “up to \$10,000. Each day during which a violation continues shall constitute a separate violation. The”; and

(3) by adding at the end the following:

“(b) DEFINITION.—As used in this section ‘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. 302. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENT—SIMPLE POSSESSION.

Section 70506 of title 46, United States Code, is amended by adding at the end the following:

“(c) SIMPLE POSSESSION.—

“(1) IN GENERAL.—Any individual on a vessel subject to the jurisdiction of the United States who is found by the Secretary, after notice and an opportunity for a hearing, to have knowingly or intentionally possessed a controlled substance within the meaning of the Controlled Substances Act (21 U.S.C. 812) shall be liable to the United States for a civil penalty of not to exceed 5,000 for each violation. The Secretary shall notify the individual in writing of the amount of the civil penalty.

Penalty.

“(2) DETERMINATION OF AMOUNT.—In determining the amount of the penalty, the Secretary shall consider 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 other matters that justice requires.

Notification.

“(3) TREATMENT OF CIVIL PENALTY ASSESSMENT.—Assessment of a civil penalty under this subsection shall not be considered a conviction for purposes of State or Federal law but may be considered proof of possession if such a determination is relevant.”.

SEC. 303. TECHNICAL AMENDMENTS TO TONNAGE MEASUREMENT LAW.

(a) DEFINITIONS.—Section 14101(4) of title 46, United States Code, is amended—

(1) by striking “engaged” the first place it appears and inserting “that engages”;

(2) in subparagraph (A), by striking “arriving” and inserting “that arrives”;

(3) in subparagraph (B)—

(A) by striking “making” and inserting “that makes”;

and

(B) by striking “(except a foreign vessel engaged on that voyage)”;

(4) in subparagraph (C), by striking “departing” and inserting “that departs”; and

(5) in subparagraph (D), by striking “making” and inserting “that makes”.

(b) DELEGATION OF AUTHORITY.—Section 14103(c) of that title is amended by striking “intended to be engaged on” and inserting “that engages on”.

(c) APPLICATION.—Section 14301 of that title is amended—

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

“(a) Except as otherwise provided in this section, this chapter applies to any vessel for which the application of an international agreement or other law of the United States to the vessel depends on the vessel’s tonnage.”;

(2) in subsection (b)—

(A) in paragraph (1), by striking the period at the end and inserting “, unless the government of the country to which the vessel belongs elects to measure the vessel under this chapter.”;

(B) in paragraph (3), by inserting “of United States or Canadian registry or nationality, or a vessel operated under the authority of the United States or Canada, and that is” after “vessel”;

(C) in paragraph (4), by striking “a vessel (except a vessel engaged)” and inserting “a vessel of United States registry or nationality, or one operated under the authority of the United States (except a vessel that engages)”;

(D) by striking paragraph (5);

(E) by redesignating paragraph (6) as paragraph (5);

and

(F) by amending paragraph (5), as so redesignated, to read as follows:

“(5) a barge of United States registry or nationality, or a barge operated under the authority of the United States (except a barge that engages on a foreign voyage) unless the owner requests.”;

(3) by striking subsection (c);

(4) by redesignating subsections (d) and (e) as subsections (c) and (d), respectively; and

(5) in subsection (c), as redesignated, by striking “After July 18, 1994, an existing vessel (except an existing vessel referred to in subsection (b)(5)(A) or (B) of this section)” and inserting “An existing vessel that has not undergone a change that the Secretary finds substantially affects the vessel’s gross tonnage (or a vessel to which IMO Resolutions A.494 (XII) of November 19, 1981, A.540 (XIII) of November 17, 1983, or A.541 (XIII) of November 17, 1983, apply)”.

(d) MEASUREMENT.—Section 14302(b) of that title is amended to read as follows:

“(b) A vessel measured under this chapter may not be required to be measured under another law.”.

(e) TONNAGE CERTIFICATE.—

(1) ISSUANCE.—Section 14303 of title 46, United States Code, is amended—

(A) in subsection (a), by adding at the end the following:

“For a vessel to which the Convention does not apply, the Secretary shall prescribe a certificate to be issued as evidence of a vessel’s measurement under this chapter.”;

(B) in subsection (b), by inserting “issued under this section” after “certificate”; and

(C) in the section heading by striking “**International**” and “**(1969)**”.

(2) MAINTENANCE.—Section 14503 of that title is amended—

(A) by designating the existing text as subsection (a); and

(B) by adding at the end the following new subsection: “(b) The certificate shall be maintained as required by the Secretary.”.

(3) CLERICAL AMENDMENT.—The analysis at the beginning of chapter 143 of that title is amended by striking the item relating to section 14303 and inserting the following:

“14303. Tonnage Certificate.”.

(f) OPTIONAL REGULATORY MEASUREMENT.—Section 14305(a) of that title is amended by striking “documented vessel measured under this chapter,” and inserting “vessel measured under this chapter that is of United States registry or nationality, or a vessel operated under the authority of the United States.”.

(g) APPLICATION.—Section 14501 of that title is amended—

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

“(1) A vessel not measured under chapter 143 of this title if the application of an international agreement or other law of the United States to the vessel depends on the vessel’s tonnage.”; and

(2) in paragraph (2), by striking “a vessel” and inserting “A vessel”.

(h) DUAL TONNAGE MEASUREMENT.—Section 14513(c) of that title is amended—

(1) in paragraph (1)—

(A) by striking “vessel’s tonnage mark is below the uppermost part of the load line marks,” and inserting “vessel is assigned two sets of gross and net tonnages under this section.”; and

(B) by inserting “vessel’s tonnage” before “mark” the second place such term appears; and

(2) in paragraph (2), by striking the period at the end and inserting “as assigned under this section.”.

(i) RECIPROCITY FOR FOREIGN VESSELS.—Subchapter II of chapter 145 of that title is amended by adding at the end the following:

“§ 14514. Reciprocity for foreign vessels

“For a foreign vessel not measured under chapter 143, if the Secretary finds that the laws and regulations of a foreign country related to measurement of vessels are substantially similar to those of this chapter and the regulations prescribed under this chapter, the Secretary may accept the measurement and certificate of a

vessel of that foreign country as complying with this chapter and the regulations prescribed under this chapter.”.

46 USC 14501. (j) CLERICAL AMENDMENT.—The analysis for subchapter II of chapter 145 of such title is amended by adding at the end the following:

“14514. Reciprocity for foreign vessels.”.

Deadline.

SEC. 304. MERCHANT MARINER DOCUMENT STANDARDS.

Not later than 270 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

Plans.

(1) a plan, including estimated costs, to ensure that the process for an application, by an individual who has, or has applied for, a transportation security card under section 70105 of title 46, United States Code, for a merchant mariner document can be completed entirely by mail; and

Reports.

(2) a report on the feasibility of, and a timeline to, redesign the merchant mariner document to comply with the requirements of such section, including a biometric identifier, and all relevant international conventions, including the International Labour Organization Convention Number 185 concerning the seafarers identity document, and include a review on whether or not such redesign will eliminate the need for separate identity credentials and background screening and streamline the application process for mariners.

SEC. 305. SHIP EMISSION REDUCTION TECHNOLOGY DEMONSTRATION PROJECT.

(a) STUDY.—The Commandant of the Coast Guard, in conjunction with the Administrator of the Environmental Protection Agency, shall conduct a study—

(1) that surveys new technology and new applications of existing technology for reducing air emissions from cargo or passenger vessels that operate in United States waters and ports; and

(2) that identifies the impediments, including any laws or regulations, to demonstrating the technology identified in paragraph (1).

(b) REPORT.—Within 180 days after the date of enactment of this Act, the Commandant shall submit a report on the results of the study conducted under subsection (a) to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate.

SEC. 306. PHASEOUT OF VESSELS SUPPORTING OIL AND GAS DEVELOPMENT.

Determination.
Federal Register,
publication.

(a) IN GENERAL.—Notwithstanding section 12111(d) of title 46, United States Code, foreign-flag vessels may be chartered by, or on behalf of, a lessee to be employed for the setting, relocation, or recovery of anchors or other mooring equipment of a mobile offshore drilling unit that is located over the Outer Continental Shelf (as defined in section 2(a) of the Outer Continental Shelf

Lands Act (43 U.S.C. 1331(a)) for operations in support of exploration, or flow-testing and stimulation of wells, for offshore mineral or energy resources in the Beaufort Sea or the Chukchi Sea adjacent to Alaska—

(1) for a 1-year period from the date the lessee gives the Secretary of Transportation written notice of the commencement of such exploration drilling if the Secretary determines, after publishing notice in the Federal Register, that insufficient vessels documented under section 12111(d) of title 46, United States Code, are reasonably available and suitable for these support operations and all such reasonably available and suitable vessels are employed in support of such operations; and

(2) for an additional period until such vessels are available if the Secretary of Transportation determines—

(A) that, by April 30 of the year following the commencement of exploration drilling, the lessee has entered into a binding agreement to employ a suitable vessel or vessels to be documented under section 12111(d) of title 46, United States Code, in sufficient numbers and with sufficient suitability to replace any foreign-flag vessel or vessels operating under this section; and

(B) after publishing notice in the Federal Register, that insufficient vessels documented under section 12111(d) of title 46, United States Code, are reasonably available and suitable for these support operations and all such reasonably available and suitable vessels are employed in support of such operations.

(b) EXPIRATION.—Irrespective of the year in which the commitment referred to in subsection (a)(2)(A) occurs, foreign-flag anchor handling vessels may not be employed for the setting, relocation, or recovery of anchors or other mooring equipment of a mobile offshore drilling unit after December 31, 2017.

(c) LESSEE DEFINED.—In this section, the term “lessee” means the holder of a lease (as defined in section 1331(c) of title 43, United States Code), who, prior to giving the written notice in subsection (a)(1), has entered into a binding agreement to employ a suitable vessel documented or to be documented under 12111(d) of title 46, United States Code.

(d) SAVINGS PROVISION.—Nothing in subsection (a) may be construed to authorize the employment in the coastwise trade of a vessel that does not meet the requirements of 12111 of title 46, United States Code.

SEC. 307. ARCTIC MARINE SHIPPING ASSESSMENT IMPLEMENTATION.

14 USC 92 note.

(a) PURPOSE.—The purpose of this section is to ensure safe and secure maritime shipping in the Arctic including the availability of aids to navigation, vessel escorts, spill response capability, and maritime search and rescue in the Arctic.

(b) INTERNATIONAL MARITIME ORGANIZATION AGREEMENTS.—To carry out the purpose of this section, the Secretary of the department in which the Coast Guard is operating is encouraged to enter into negotiations through the International Maritime Organization to conclude and execute agreements to promote coordinated action among the United States, Russia, Canada, Iceland, Norway, and Denmark and other seafaring and Arctic nations to ensure, in the Arctic—

(1) placement and maintenance of aids to navigation;

- (2) appropriate marine safety, tug, and salvage capabilities;
- (3) oil spill prevention and response capability;
- (4) maritime domain awareness, including long-range vessel tracking; and
- (5) search and rescue.

(c) COORDINATION BY COMMITTEE ON THE MARITIME TRANSPORTATION SYSTEM.—The Committee on the Maritime Transportation System established under a directive of the President in the Ocean Action Plan, issued December 17, 2004, shall coordinate the establishment of domestic transportation policies in the Arctic necessary to carry out the purpose of this section.

(d) AGREEMENTS AND CONTRACTS.—The Secretary of the department in which the Coast Guard is operating may, subject to the availability of appropriations, enter into cooperative agreements, contracts, or other agreements with, or make grants to individuals and governments to carry out the purpose of this section or any agreements established under subsection (b).

(e) ICEBREAKING.—The Secretary of the department in which the Coast Guard is operating shall promote safe maritime navigation by means of icebreaking where necessary, feasible, and effective to carry out the purposes of this section.

(f) INDEPENDENT ICE BREAKER ANALYSES.—

Deadline.

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall require a non-governmental, independent third party (other than the National Academy of Sciences) that has extensive experience in the analysis of military procurements, to—

(A) conduct a comparative cost-benefit analysis, taking into account future Coast Guard budget projections (which assume Coast Guard budget growth of no more than inflation) and other recapitalization needs, of—

(i) rebuilding, renovating, or improving the existing fleet of polar icebreakers for operation by the Coast Guard;

(ii) constructing new polar icebreakers for operation by the Coast Guard;

(iii) construction of new polar icebreakers by the National Science Foundation for operation by the Foundation;

(iv) rebuilding, renovating, or improving the existing fleet of polar icebreakers by the National Science Foundation for operation by the Foundation; and

(v) any combination of the activities described in clause (i), (ii), (iii), or (iv) to carry out the missions of the Coast Guard and the National Science Foundation; and

(B) conduct a comprehensive analysis of the impact on all Coast Guard activities, including operations, maintenance, procurements, and end strength, of the acquisition of polar icebreakers described in subparagraph (A) by the Coast Guard or the National Science Foundation assuming that total Coast Guard funding will not increase more than the annual rate of inflation.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of the department in which

the Coast Guard is operating shall submit a report containing the results of the analyses required under paragraph (1), together with recommendations the Commandant considers appropriate under section 93(a)(24) of title 14, United States Code, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(g) HIGH-LATITUDE STUDY.—Not later than 90 days after the date of enactment of this Act or the date of completion of the ongoing High-Latitude Study to assess polar icebreaking mission requirements for all Coast Guard missions including search and rescue, marine pollution response and prevention, fisheries enforcement, and maritime commerce, whichever occurs later, the Commandant of the Coast Guard shall submit a report containing the results of the study, together with recommendations the Commandant considers appropriate under section 93(a)(24) of title 14, United States Code, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives. Deadline.

(h) ARCTIC DEFINITION.—In this section the term “Arctic” has the same meaning as in section 112 of the Arctic Research and Policy Act of 1984 (15 U.S.C. 4111).

TITLE IV—ACQUISITION REFORM

SEC. 401. CHIEF ACQUISITION OFFICER.

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

“§ 56. Chief Acquisition Officer

“(a) IN GENERAL.—There shall be in the Coast Guard a Chief Acquisition Officer selected by the Commandant who shall be a Rear Admiral or civilian from the Senior Executive Service (career reserved) and who meets the qualifications set forth under subsection (b). The Chief Acquisition Officer shall serve at the Assistant Commandant level and have acquisition management as that individual’s primary duty.

“(b) QUALIFICATIONS.—

“(1) The Chief Acquisition Officer and any flag officer serving in the Acquisition Directorate shall be an acquisition professional with a Level III acquisition management certification and must have at least 10 years experience in an acquisition position, of which at least 4 years were spent as—

“(A) the program executive officer;

“(B) the program manager of a Level 1 or Level 2 acquisition project or program;

“(C) the deputy program manager of a Level 1 or Level 2 acquisition;

“(D) the project manager of a Level 1 or Level 2 acquisition; or

“(E) any other acquisition position of significant responsibility in which the primary duties are supervisory or management duties.

“(2) The Commandant shall periodically publish a list of Lists.
the positions designated under paragraph (1).

“(3) In this subsection each of the terms ‘Level 1 acquisition’ and ‘Level 2 acquisition’ has the meaning that term has in chapter 15 of this title.

“(c) FUNCTIONS OF THE CHIEF ACQUISITION OFFICER.—The functions of the Chief Acquisition Officer include—

“(1) monitoring the performance of acquisition projects and programs on the basis of applicable performance measurements and advising the Commandant, through the chain of command, regarding the appropriate business strategy to achieve the missions of the Coast Guard;

“(2) maximizing the use of full and open competition at the prime contract and subcontract levels in the acquisition of property, capabilities, assets, and services by the Coast Guard by establishing policies, procedures, and practices that ensure that the Coast Guard receives a sufficient number of sealed bids or competitive proposals from responsible sources to fulfill the Government’s requirements, including performance and delivery schedules, at the lowest cost or best value considering the nature of the property, capability, asset, or service procured;

“(3) making acquisition decisions in concurrence with the technical authority, or technical authorities, of the Coast Guard, as designated by the Commandant, consistent with all other applicable laws and decisions establishing procedures within the Coast Guard;

“(4) ensuring the use of detailed performance specifications in instances in which performance-based contracting is used;

“(5) managing the direction of acquisition policy for the Coast Guard, including implementation of the unique acquisition policies, regulations, and standards of the Coast Guard;

“(6) developing and maintaining an acquisition career management program in the Coast Guard to ensure that there is an adequate acquisition workforce;

“(7) assessing the requirements established for Coast Guard personnel regarding knowledge and skill in acquisition resources and management and the adequacy of such requirements for facilitating the achievement of the performance goals established for acquisition management;

“(8) developing strategies and specific plans for hiring, training, and professional development; and

“(9) reporting to the Commandant, through the chain of command, on the progress made in improving acquisition management capability.”.

14 USC 41.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 3 of title 14, United States Code, is amended by adding at the end the following:

“56. Chief Acquisition Officer.”.

14 USC 56 note.

(c) SELECTION DEADLINE.—As soon as practicable after the date of enactment of this Act, but no later than October 1, 2011, the Commandant of the Coast Guard shall select a Chief Acquisition Officer under section 56 of title 14, United States Code, as amended by this section.

14 USC 56 note.
Deadline.

(d) SPECIAL RATE SUPPLEMENTS.—

(1) REQUIREMENT TO ESTABLISH.—Not later than 1 year after the date of enactment of this Act and in accordance with part 9701.333 of title 5, Code of Federal Regulations,

the Commandant of the Coast Guard shall establish special rate supplements that provide higher pay levels for employees necessary to carry out the amendment made by this section.

(2) SUBJECT TO APPROPRIATIONS.—The requirement under paragraph (1) is subject to the availability of appropriations.

(e) ELEVATION OF DISPUTES TO THE CHIEF ACQUISITION OFFICER.—If, after 90 days following the elevation to the Chief Acquisition Officer of any design or other dispute regarding Level 1 or Level 2 acquisition, the dispute remains unresolved, the Commandant shall provide to the appropriate congressional committees a detailed description of the issue and the rationale underlying the decision taken by the Chief Acquisition Officer to resolve the issue.

14 USC 56 note.
Deadline.

SEC. 402. ACQUISITIONS.

(a) IN GENERAL.—Part I of title 14, United States Code, is amended by inserting after chapter 13 the following:

14 USC 561.

“CHAPTER 15—ACQUISITIONS

“SUBCHAPTER I—GENERAL PROVISIONS

“Sec.

“561. Acquisition directorate.

“562. Improvements in Coast Guard acquisition management.

“563. Recognition of Coast Guard personnel for excellence in acquisition.

“564. Prohibition on use of lead systems integrators.

“565. Required contract terms.

“566. Department of Defense consultation.

“567. Undefinitized contractual actions.

“568. Guidance on excessive pass-through charges.

“569. Report on former Coast Guard officials employed by contractors to the agency.

“SUBCHAPTER II—IMPROVED ACQUISITION PROCESS AND PROCEDURES

“Sec.

“571. Identification of major system acquisitions.

“572. Acquisition.

“573. Preliminary development and demonstration.

“574. Acquisition, production, deployment, and support.

“575. Acquisition program baseline breach.

“576. Acquisition approval authority.

“SUBCHAPTER III—DEFINITIONS

“581. Definitions.

“SUBCHAPTER I—GENERAL PROVISIONS

“§ 561. Acquisition directorate

“(a) ESTABLISHMENT.—The Commandant of the Coast Guard shall establish an acquisition directorate to provide guidance and oversight for the implementation and management of all Coast Guard acquisition processes, programs, and projects.

“(b) MISSION.—The mission of the acquisition directorate is—

“(1) to acquire and deliver assets and systems that increase operational readiness, enhance mission performance, and create a safe working environment; and

“(2) to assist in the development of a workforce that is trained and qualified to further the Coast Guard’s missions and deliver the best-value products and services to the Nation.

“§ 562. Improvements in Coast Guard acquisition management

“(a) PROJECT OR PROGRAM MANAGERS.—

“(1) LEVEL 1 PROJECTS.—An individual may not be assigned as the project or program manager for a Level 1 acquisition unless the individual holds a Level III acquisition certification as a program manager.

“(2) LEVEL 2 PROJECTS.—An individual may not be assigned as the project or program manager for a Level 2 acquisition unless the individual holds a Level II acquisition certification as a program manager.

“(b) GUIDANCE ON TENURE AND ACCOUNTABILITY OF PROGRAM AND PROJECT MANAGERS.—

Deadline.

“(1) ISSUANCE OF GUIDANCE.—Not later than one year after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011, the Commandant shall issue guidance to address the qualifications, resources, responsibilities, tenure, and accountability of program and project managers for the management of acquisition projects and programs. The guidance shall address, at a minimum—

“(A) the qualifications required for project or program managers, including the number of years of acquisition experience and the professional training levels to be required of those appointed to project or program management positions;

“(B) authorities available to project or program managers, including, to the extent appropriate, the authority to object to the addition of new program requirements that would be inconsistent with the parameters established for an acquisition program; and

“(C) the extent to which a project or program manager who initiates a new acquisition project or program will continue in management of that project or program without interruption until the delivery of the first production units of the program.

“(2) STRATEGY.—

Deadline.

“(A) IN GENERAL.—Not later than 18 months after the date of enactment of this section, the Commandant shall develop a comprehensive strategy for enhancing the role of Coast Guard project or program managers in developing and carrying out acquisition programs.

“(B) MATTERS TO BE ADDRESSED.—The strategy required by this section shall address, at a minimum—

“(i) the creation of a specific career path and career opportunities for individuals who are or may become project or program managers, including the rotational assignments that will be provided to project or program managers;

“(ii) the provision of enhanced training and educational opportunities for individuals who are or may become project or program managers;

“(iii) the provision of mentoring support to current and future project or program managers by experienced senior executives and program managers within the Coast Guard, and through rotational assignments to the Department of Defense;

“(iv) the methods by which the Coast Guard will collect and disseminate best practices and lessons learned on systems acquisition to enhance project and program management throughout the Coast Guard;

“(v) the templates and tools that will be used to support improved data gathering and analysis for project and program management and oversight purposes, including the metrics that will be utilized to assess the effectiveness of Coast Guard project or program managers in managing systems acquisition efforts; and

“(vi) the methods by which the accountability of project or program managers for the results of acquisition projects and programs will be increased.

“(c) ACQUISITION WORKFORCE.—

“(1) IN GENERAL.—The Commandant shall designate a sufficient number of positions to be in the Coast Guard’s acquisition workforce to perform acquisition-related functions at Coast Guard headquarters and field activities.

“(2) REQUIRED POSITIONS.—In designating positions under subsection (a), the Commandant shall include, at a minimum, positions encompassing the following competencies and functions:

“(A) Program management.

“(B) Systems planning, research, development, engineering, and testing.

“(C) Procurement, including contracting.

“(D) Industrial and contract property management.

“(E) Life-cycle logistics.

“(F) Quality control and assurance.

“(G) Manufacturing and production.

“(H) Business, cost estimating, financial management, and auditing.

“(I) Acquisition education, training, and career development.

“(J) Construction and facilities engineering.

“(K) Testing and evaluation.

“(3) ACQUISITION MANAGEMENT HEADQUARTER ACTIVITIES.—The Commandant shall also designate as positions in the acquisition workforce under paragraph (1) those acquisition-related positions located at Coast Guard headquarters units.

“(4) APPROPRIATE EXPERTISE REQUIRED.—The Commandant shall ensure that each individual assigned to a position in the acquisition workforce has the appropriate expertise to carry out the responsibilities of that position.

“(d) MANAGEMENT INFORMATION SYSTEM.—

“(1) IN GENERAL.—The Commandant shall establish a management information system capability to improve acquisition workforce management and reporting.

“(2) INFORMATION MAINTAINED.—Information maintained with such capability shall include the following standardized information on individuals assigned to positions in the workforce:

“(A) Qualifications, assignment history, and tenure of those individuals assigned to positions in the acquisition workforce or holding acquisition-related certifications.

“(B) Promotion rates for officers and members of the Coast Guard in the acquisition workforce.

“(e) REPORT ON ADEQUACY OF ACQUISITION WORKFORCE.—

“(1) IN GENERAL.—The Commandant shall report to the appropriate congressional committees and the Committee on

Homeland Security of the House of Representatives by July 1 of each year on the scope of the acquisition activities to be performed in the next fiscal year and on the adequacy of the current acquisition workforce to meet that anticipated workload.

“(2) CONTENTS.—The report shall—

“(A) specify the number of officers, members, and employees of the Coast Guard currently and planned to be assigned to each position designated under subsection (c); and

“(B) identify positions that are understaffed to meet the anticipated acquisition workload, and actions that will be taken to correct such understaffing.

“(f) APPOINTMENTS TO ACQUISITION POSITIONS.—The Commandant shall ensure that no requirement or preference for officers or members of the Coast Guard is used in the consideration of persons for positions in the acquisition workforce.

“(g) CAREER PATHS.—

“(1) IDENTIFICATION OF CAREER PATHS.—To establish acquisition management as a core competency of the Coast Guard, the Commandant shall—

“(A) ensure that career paths for officers, members, and employees of the Coast Guard who wish to pursue careers in acquisition are identified in terms of the education, training, experience, and assignments necessary for career progression of those officers, members, and employees to the most senior positions in the acquisition workforce; and

Publication.

“(B) publish information on such career paths.

“(2) PROMOTION PARITY.—The Commandant shall ensure that promotion parity is established for officers and members of the Coast Guard who have been assigned to the acquisition workforce relative to officers and members who have not been assigned to the acquisition workforce.

“§ 563. Recognition of Coast Guard personnel for excellence in acquisition

Deadline.

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011, the Commandant shall commence implementation of a program to recognize excellent performance by individuals and teams comprised of officers, members, and employees of the Coast Guard that contributed to the long-term success of a Coast Guard acquisition project or program.

“(b) ELEMENTS.—The program shall include—

“(1) specific award categories, criteria, and eligibility and manners of recognition;

“(2) procedures for the nomination by personnel of the Coast Guard of individuals and teams comprised of officers, members, and employees of the Coast Guard for recognition under the program; and

“(3) procedures for the evaluation of nominations for recognition under the program by one or more panels of individuals from the Government, academia, and the private sector who have such expertise and are appointed in such manner as the Commandant shall establish for the purposes of this program.

“(c) AWARD OF CASH BONUSES.—As part of the program required by subsection (a), the Commandant, subject to the availability of appropriations, may award to any civilian employee recognized pursuant to the program a cash bonus to the extent that the performance of such individual so recognized warrants the award of such bonus.

“§ 564. Prohibition on use of lead systems integrators

“(a) IN GENERAL.—

“(1) USE OF LEAD SYSTEMS INTEGRATOR.—Except as provided in subsection (b), the Commandant may not use a private sector entity as a lead systems integrator for an acquisition contract awarded or delivery order or task order issued after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011.

“(2) FULL AND OPEN COMPETITION.—The Commandant and any lead systems integrator engaged by the Coast Guard, pursuant to the exceptions described in subsection (b), shall use full and open competition for any acquisition contract awarded after the date of enactment of that Act, 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) EXCEPTIONS.—

“(1) NATIONAL DISTRESS AND RESPONSE SYSTEM MODERNIZATION PROGRAM; C4ISR; NATIONAL SECURITY CUTTERS 2 AND 3.—Notwithstanding subsection (a), the Commandant may use a private sector entity as a lead systems integrator for the Coast Guard to complete the National Distress and Response System Modernization Program (otherwise known as the ‘Rescue 21’ program), the C4ISR projects directly related to the Integrated Deepwater program, and National Security Cutters 2 and 3, if the Secretary of the department in which the Coast Guard is operating certifies that—

“(A) the acquisition is in accordance with Federal law and the Federal Acquisition Regulation; and

“(B) the acquisition and the use of a private sector lead systems integrator for the acquisition is in the best interest of the Federal Government.

“(2) REPORT ON DECISIONMAKING PROCESS.—If the Commandant uses a private sector lead systems integrator for an acquisition, the Commandant shall notify in writing the appropriate congressional committees of the Commandant’s determination and shall provide to such committees a detailed rationale for the determination, at least 30 days before the award of a contract or issuance of a delivery order or task order, using a private sector lead systems integrator, including a comparison of the cost of the acquisition through the private sector lead systems integrator with the expected cost if the acquisition were awarded directly to the manufacturer or shipyard. For purposes of that comparison, the cost of award directly to a manufacturer or shipyard shall include the costs of Government contract management and oversight.

Certification.

“(c) **LIMITATION ON LEAD SYSTEMS INTEGRATORS.**—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 the lead systems integrator or a subcontractor through full and open competition;

“(3) the procurement was awarded by a subcontractor through a process over which the lead systems integrator and 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.

“(d) **TERMINATION DATE FOR EXCEPTIONS.**—Except as described in subsection (b)(1), the Commandant may not use a private sector entity as a lead systems integrator for acquisition contracts awarded, or task orders or delivery orders issued, after the earlier of—

“(1) September 30, 2011; or

Certification.

“(2) the date on which the Commandant certifies in writing to the appropriate congressional committees that the Coast Guard has available and can retain sufficient acquisition workforce personnel and expertise within the Coast Guard, through an arrangement with other Federal agencies, or through contracts or other arrangements with private sector entities, to perform the functions and responsibilities of the lead systems integrator in an efficient and cost-effective manner.

“§ 565. Required contract terms

“(a) **IN GENERAL.**—The Commandant shall ensure that a contract awarded or a delivery order or task order issued for an acquisition of a capability or an asset with an expected service life of 10 or more years and with a total acquisition cost that is equal to or exceeds \$10,000,000 awarded or issued by the Coast Guard after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011—

“(1) provides that all certifications for an end-state capability or asset under such contract, delivery order, or task order, respectively, will be conducted by the Commandant or an independent third party, and that self-certification by a contractor or subcontractor is not allowed;

“(2) provides that the Commandant shall maintain the authority to establish, approve, and maintain technical requirements;

“(3) requires that any measurement of contractor and subcontractor performance be based on the status of all work performed, including the extent to which the work performed met all performance, cost, and schedule requirements;

“(4) specifies that, for the acquisition or upgrade of air, surface, or shore capabilities and assets for which compliance with TEMPEST certification is a requirement, the standard for determining such compliance will be the air, surface, or

shore standard then used by the Department of the Navy for that type of capability or asset; and

“(5) for any contract awarded to acquire an Offshore Patrol Cutter, includes provisions specifying the service life, fatigue life, and days underway in general Atlantic and North Pacific Sea conditions, maximum range, and maximum speed the cutter will be built to achieve.

“(b) PROHIBITED PROVISIONS.—

“(1) IN GENERAL.—The Commandant shall ensure that any contract awarded or delivery order or task order issued by the Coast Guard after the date of enactment of the Coast Guard Authorization Act of 2010 does not include any provision allowing for equitable adjustment that is not consistent with the Federal Acquisition Regulations.

“(2) EXTENSION OF PROGRAM.—A contract, contract modification, or award term extending a contract with a lead systems integrator—

“(A) may not include any minimum requirements for the purchase of a given or determinable number of specific capabilities or assets; and

“(B) shall be reviewed by an independent third party with expertise in acquisition management, and the results of that review shall be submitted to the appropriate congressional committees at least 60 days prior to the award of the contract, contract modification, or award term.

Review.
Deadline.

“(c) INTEGRATED PRODUCT TEAMS.—Integrated product teams, and all teams that oversee integrated product teams, shall be chaired by officers, members, or employees of the Coast Guard.

“(d) TECHNICAL AUTHORITY.—The Commandant shall maintain or designate the technical authority to establish, approve, and maintain technical requirements. Any such designation shall be made in writing and may not be delegated to the authority of the Chief Acquisition Officer established by section 56 of this title.

“§ 566. Department of Defense consultation

“(a) IN GENERAL.—The Commandant shall make arrangements as appropriate with the Secretary of Defense for support in contracting and management of Coast Guard acquisition programs. The Commandant shall also seek opportunities to make use of Department of Defense contracts, and contracts of other appropriate agencies, to obtain the best possible price for assets acquired for the Coast Guard.

“(b) INTERSERVICE TECHNICAL ASSISTANCE.—The Commandant shall seek to enter into a memorandum of understanding or a memorandum of agreement with the Secretary of the Navy to obtain the assistance of the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including the Navy Systems Command, with the oversight of Coast Guard major acquisition programs. The memorandum of understanding or memorandum of agreement shall, at a minimum, provide for—

Memorandum.

“(1) the exchange of technical assistance and support that the Assistant Commandants for Acquisition, Human Resources, Engineering, and Information technology may identify;

“(2) the use, as appropriate, of Navy technical expertise; and

“(3) the temporary assignment or exchange of personnel between the Coast Guard and the Office of the Assistant Secretary of the Navy for Research, Development, and Acquisition, including Naval Systems Command, to facilitate the development of organic capabilities in the Coast Guard.

“(c) TECHNICAL REQUIREMENT APPROVAL PROCEDURES.—The Chief Acquisition Officer shall adopt, to the extent practicable, procedures modeled after those used by the Navy Senior Acquisition Official to approve all technical requirements.

Deadline.
Reports.

“(d) ASSESSMENT.—Within 180 days after the date of enactment of the Coast Guard Authorization Act for fiscal years 2010 and 2011, the Comptroller General of the United States shall transmit a report to the appropriate congressional committees that—

“(1) contains an assessment of current Coast Guard acquisition and management capabilities to manage Level 1 and Level 2 acquisitions;

“(2) includes recommendations as to how the Coast Guard can improve its acquisition management, either through internal reforms or by seeking acquisition expertise from the Department of Defense; and

“(3) addresses specifically the question of whether the Coast Guard can better leverage Department of Defense or other agencies’ contracts that would meet the needs of Level 1 or Level 2 acquisitions in order to obtain the best possible price.

“§ 567. Undefined contractual actions

“(a) IN GENERAL.—The Coast Guard may not enter into an undefined contractual action unless such action is directly approved by the Head of Contracting Activity of the Coast Guard.

“(b) REQUESTS FOR UNDEFINIZED CONTRACTUAL ACTIONS.—Any request to the Head of Contracting Activity for approval of an undefined contractual action shall include a description of the anticipated effect on requirements of the Coast Guard if a delay is incurred for the purposes of determining contractual terms, specifications, and price before performance is begun under the contractual action.

“(c) REQUIREMENTS FOR UNDEFINIZED CONTRACTUAL ACTIONS.—

“(1) DEADLINE FOR AGREEMENT ON TERMS, SPECIFICATIONS, AND PRICE.—A contracting officer of the Coast Guard may not enter into an undefined contractual action unless the contractual action provides for agreement upon contractual terms, specification, and price by the earlier of—

“(A) the end of the 180-day period beginning on the date on which the contractor submits a qualifying proposal to definitize the contractual terms, specifications, and price; or

“(B) the date on which the amount of funds obligated under the contractual action is equal to more than 50 percent of the negotiated overall ceiling price for the contractual action.

“(2) LIMITATION ON OBLIGATIONS.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the contracting officer for an undefined contractual action may not obligate under such contractual action an amount that exceeds 50 percent of the negotiated overall

ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

“(B) EXCEPTION.—Notwithstanding subparagraph (A), if a contractor submits a qualifying proposal to definitize an undefinitized contractual action before an amount that exceeds 50 percent of the negotiated overall ceiling price is obligated on such action, the contracting officer for such action may not obligate with respect to such contractual action an amount that exceeds 75 percent of the negotiated overall ceiling price until the contractual terms, specifications, and price are definitized for such contractual action.

“(3) WAIVER.—The Commandant may waive the application of this subsection with respect to a contract if the Commandant determines that the waiver is necessary to support—

“(A) a contingency operation (as that term is defined in section 101(a)(13) of title 10);

“(B) operations to prevent or respond to a transportation security incident (as defined in section 70101(6) of title 46);

“(C) an operation in response to an emergency that poses an unacceptable threat to human health or safety or to the marine environment; or

“(D) an operation in response to a natural disaster or major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

“(4) LIMITATION ON APPLICATION.—This subsection does not apply to an undefinitized contractual action for the purchase of initial spares.

“(d) INCLUSION OF NONURGENT REQUIREMENTS.—Requirements for spare parts and support equipment that are not needed on an urgent basis may not be included in an undefinitized contractual action by the Coast Guard for spare parts and support equipment that are needed on an urgent basis unless the Commandant approves such inclusion as being—

“(1) good business practice; and

“(2) in the best interests of the United States.

“(e) MODIFICATION OF SCOPE.—The scope of an undefinitized contractual action under which performance has begun may not be modified unless the Commandant approves such modification as being—

“(1) good business practice; and

“(2) in the best interests of the United States.

“(f) ALLOWABLE PROFIT.—The Commandant shall ensure that the profit allowed on an undefinitized contractual action for which the final price is negotiated after a substantial portion of the performance required is completed reflects—

“(1) the possible reduced cost risk of the contractor with respect to costs incurred during performance of the contract before the final price is negotiated; and

“(2) the reduced cost risk of the contractor with respect to costs incurred during performance of the remaining portion of the contract.

“(g) DEFINITIONS.—In this section:

“(1) UNDEFINITIZED CONTRACTUAL ACTION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), the term ‘undefinitized contractual action’ means a

new procurement action entered into by the Coast Guard for which the contractual terms, specifications, or price are not agreed upon before performance is begun under the action.

“(B) EXCLUSION.—The term ‘undefinitized contractual action’ does not include contractual actions with respect to—

“(i) foreign military sales;

“(ii) purchases in an amount not in excess of the amount of the simplified acquisition threshold; or

“(iii) special access programs.

“(2) QUALIFYING PROPOSAL.—The term ‘qualifying proposal’ means a proposal that contains sufficient information to enable complete and meaningful audits of the information contained in the proposal as determined by the contracting officer.

“§ 568. Guidance on excessive pass-through charges

Deadline.

“(a) IN GENERAL.—Not later than 180 days after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011, the Commandant shall issue guidance to ensure that pass-through charges on contracts, subcontracts, delivery orders, and task orders that are entered into with a private entity acting as a lead systems integrator by or on behalf of the Coast Guard are not excessive in relation to the cost of work performed by the relevant contractor or subcontractor. The guidance shall, at a minimum—

“(1) set forth clear standards for determining when no, or negligible, value has been added to a contract by a contractor or subcontractor;

“(2) set forth procedures for preventing the payment by the Government of excessive pass-through charges; and

“(3) identify any exceptions determined by the Commandant to be in the best interest of the Government.

“(b) EXCESSIVE PASS-THROUGH CHARGE DEFINED.—In this section the term ‘excessive pass-through charge’, with respect to a contractor or subcontractor that adds no, or negligible, value to a contract or subcontract, means a charge to the Government by the contractor or subcontractor that is for overhead or profit on work performed by a lower tier contractor or subcontractor, other than reasonable charges for the direct costs of managing lower tier contractors and subcontracts and overhead and profit based on such direct costs.

“(c) APPLICATION OF GUIDANCE.—The guidance under this subsection shall apply to contracts awarded to a private entity acting as a lead systems integrator by or on behalf of the Coast Guard on or after the date that is 360 days after the date of enactment of the Coast Guard Authorization Act for Fiscal Years 2010 and 2011.

“§ 569. Report on former Coast Guard officials employed by contractors to the agency

“(a) REPORT REQUIRED.—Not later than December 31, 2011, and annually thereafter, the Comptroller General of the United States shall submit a report to the appropriate congressional committees on the employment during the preceding year by Coast Guard contractors of individuals who were Coast Guard officials in the previous 5-year period. The report shall assess the extent

to which former Coast Guard officials were provided compensation by Coast Guard contractors in the preceding calendar year.

“(b) OBJECTIVES OF REPORT.—At a minimum, the report required by this section shall assess the extent to which former Coast Guard officials who receive compensation from Coast Guard contractors have been assigned by those contractors to work on contracts or programs between the contractor and the Coast Guard, including contracts or programs for which the former official personally had oversight responsibility or decisionmaking authority when they served in or worked for the Coast Guard.

“(c) CONFIDENTIALITY REQUIREMENT.—The report required by this subsection shall not include the names of the former Coast Guard officials who receive compensation from Coast Guard contractors.

“(d) ACCESS TO INFORMATION.—A Coast Guard contractor shall provide the Comptroller General access to information requested by the Comptroller General for the purpose of conducting the study required by this section.

“(e) DEFINITIONS.—In this section:

“(1) COAST GUARD CONTRACTOR.—The term ‘Coast Guard contractor’ includes any person that received at least \$10,000,000 in contractor awards from the Coast Guard in the calendar year covered by the annual report.

“(2) COAST GUARD OFFICIAL.—The term ‘Coast Guard official’ includes former officers of the Coast Guard who were compensated at a rate of pay for grade O-7 or above during the calendar year prior to the date on which they separated from the Coast Guard, and former civilian employees of the Coast Guard who served at any Level of the Senior Executive Service under subchapter VIII of chapter 53 of title 5, United States Code, during the calendar year prior to the date on which they separated from the Coast Guard.

“SUBCHAPTER II—IMPROVED ACQUISITION PROCESS AND PROCEDURES

“§ 571. Identification of major system acquisitions

“(a) IN GENERAL.—

“(1) SUPPORT MECHANISMS.—The Commandant shall develop and implement mechanisms to support the establishment of mature and stable operational requirements for all acquisitions.

“(2) MISSION ANALYSIS; AFFORDABILITY ASSESSMENT.—The Commandant may not initiate a Level 1 or Level 2 acquisition project or program until the Commandant—

“(A) completes a mission analysis that—

“(i) identifies the specific capability gaps to be addressed by the project or program; and

“(ii) develops a clear mission need to be addressed by the project or program; and

“(B) prepares a preliminary affordability assessment for the project or program.

“(b) ELEMENTS.—

“(1) REQUIREMENTS.—The mechanisms required by subsection (a) shall ensure the implementation of a formal process for the development of a mission-needs statement, concept-of-operations document, capability development plan, and

resource proposal for the initial project or program funding, and shall ensure the project or program is included in the Coast Guard Capital Investment Plan.

“(2) ASSESSMENT OF TRADE-OFFS.—In conducting an affordability assessment under subsection (a)(2)(B), the Commandant shall develop and implement mechanisms to ensure that trade-offs among cost, schedule, and performance are considered in the establishment of preliminary operational requirements for development and production of new assets and capabilities for Level 1 and Level 2 acquisitions projects and programs.

“(c) HUMAN RESOURCE CAPITAL PLANNING.—The Commandant shall develop staffing predictions, define human capital performance initiatives, and identify preliminary training needs required to implement each Level 1 and Level 2 acquisition project and program.

“§ 572. Acquisition

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

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

“(2) establishes the feasibility of alternatives;

“(3) develops an acquisition project or program baseline;

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

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

“(b) SUBMISSION REQUIRED BEFORE PROCEEDING.—Any Coast Guard Level 1 or Level 2 acquisition project or program may not begin to obtain any capability or asset or proceed beyond that phase of its development that entails approving the supporting acquisition until the Commandant submits to the appropriate congressional committees the following:

“(1) The key performance parameters, the key system attributes, and the operational performance attributes of the capability or asset to be acquired under the proposed acquisition project or program.

“(2) A detailed list of the systems or other capabilities with which the capability or asset to be acquired is intended to be interoperable, including an explanation of the attributes of interoperability.

“(3) The anticipated acquisition project or program baseline and acquisition unit cost for the capability or asset to be acquired under the project or program.

“(4) A detailed schedule for the acquisition process showing when all capability and asset acquisitions are to be completed and when all acquired capabilities and assets are to be initially and fully deployed.

“(c) ANALYSIS OF ALTERNATIVES.—

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

“(2) REQUIREMENTS.—The analysis of alternatives shall be prepared by a federally funded research and development center, a qualified entity of the Department of Defense, or a similar independent third-party entity that has appropriate acquisition expertise and has no financial interest in any part of the acquisition project or program that is the subject of the analysis. At a minimum, the analysis of alternatives shall include—

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

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

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

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

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

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

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

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

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

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

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

“(G) the business case for each viable alternative.

“(d) TEST AND EVALUATION MASTER PLAN.—

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

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

“(A) set forth an integrated test and evaluation strategy that will verify that capability-level or asset-level and subsystem-level design and development, including performance and supportability, have been sufficiently proven before the capability, asset, or subsystem of the capability or asset is approved for production; and

“(B) require that adequate developmental tests and evaluations and operational tests and evaluations established under subparagraph (A) are performed to inform production decisions.

“(3) OTHER COMPONENTS OF THE MASTER PLAN.—At a minimum, the master plan shall identify—

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

“(B) critical operational issues to be assessed in addition to the key performance parameters;

“(C) specific development test and evaluation phases and the scope of each phase;

“(D) modeling and simulation activities to be performed, if any, and the scope of such activities;

“(E) early operational assessments to be performed, if any, and the scope of such assessments;

“(F) operational test and evaluation phases;

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

“(H) the Government entity or independent entity that will perform the test, evaluation, assessment, modeling, and simulation activities.

“(4) UPDATE.—The Chief Acquisition Officer must approve an updated master plan whenever there is a revision to project or program test and evaluation strategy, scope, or phasing.

“(5) LIMITATION.—The Coast Guard may not—

“(A) proceed beyond that phase of the acquisition process that entails approving the supporting acquisition of a capability or asset before the master plan is approved by the Chief Acquisition Officer; or

“(B) award any production contract for a capability, asset, or subsystem for which a master plan is required under this subsection before the master plan is approved by the Chief Acquisition Officer.

“(e) LIFE-CYCLE COST ESTIMATES.—

“(1) IN GENERAL.—The Commandant shall implement mechanisms to ensure the development and regular updating of life-cycle cost estimates for each acquisition with a total acquisition cost that equals or exceeds \$10,000,000 and an expected service life of 10 or more years, and to ensure that these estimates are considered in decisions to develop or produce new or enhanced capabilities and assets.

“(2) TYPES OF ESTIMATES.—In addition to life-cycle cost estimates that may be developed by acquisition program offices, the Commandant shall require that an independent life-cycle cost estimate be developed for each Level 1 or Level 2 acquisition project or program.

“(3) REQUIRED UPDATES.—For each Level 1 or Level 2 acquisition project or program the Commandant shall require that life-cycle cost estimates shall be updated before each milestone decision is concluded and the project or program enters a new acquisition phase.

“§ 573. Preliminary development and demonstration

“(a) IN GENERAL.—The Commandant shall ensure that developmental test and evaluation, operational test and evaluation, life-

cycle cost estimates, and the development and demonstration requirements applied by this chapter to acquisition projects and programs are met to confirm that the projects or programs meet the requirements identified in the mission-analysis and affordability assessment prepared under section 571(a)(2), the operational requirements developed under section 572(a)(1) and the following development and demonstration objectives:

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

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

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

“(b) TESTS AND EVALUATIONS.—

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

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

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

Deadline.

“(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.

Deadline.

Notifications.

“(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—

Deadline.

“(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.

“(B) REPORTS.—Not later than December 31, 2011, and biennially thereafter, the Commandant shall provide a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee

on Commerce, Science, and Transportation of the Senate identifying which, if any, Coast Guard cutters that have been issued a certificate of classification by the American Bureau of Shipping have not been maintained in class and detailing the reasons why they have not been maintained 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.

“§ 574. Acquisition, production, deployment, and support

“(a) IN GENERAL.—The Commandant shall—

“(1) ensure there is a stable and efficient production and support capability to develop an asset or capability for the Coast Guard;

“(2) conduct follow-on testing to confirm and monitor performance and correct deficiencies; and

“(3) conduct acceptance tests and trials prior to the delivery of each asset or system to ensure the delivered asset or system achieves full operational capability.

“(b) ELEMENTS.—The Commandant shall—

“(1) execute production contracts;

“(2) ensure that delivered assets and capabilities meet operational cost and schedules requirements established in the acquisition program baseline;

“(3) validate manpower and training requirements to meet system needs to operate, maintain, support, and instruct the assets or capabilities; and

“(4) prepare an acquisition project or program transition plan to enter into programmatic sustainment, operations, and support.

“§ 575. Acquisition program baseline breach

“(a) IN GENERAL.—The Commandant shall submit a report to the appropriate congressional committees and the Committee on Homeland Security of the House of Representatives as soon as possible, but not later than 30 days, after the Chief Acquisition Officer of the Coast Guard becomes aware of the breach of an acquisition program baseline for any Level 1 or Level 2 acquisition program, by—

“(1) a likely cost overrun greater than 15 percent of the acquisition program baseline for that individual capability or asset or a class of capabilities or assets;

“(2) a likely delay of more than 180 days in the delivery schedule for any individual capability or asset or class of capabilities or assets; or

“(3) an anticipated failure for any individual capability or asset or class of capabilities or assets to satisfy any key

Reports.

Deadline.

performance threshold or parameter under the acquisition program baseline.

“(b) CONTENT.—The report submitted under subsection (a) shall include—

“(1) a detailed description of the breach and an explanation of its cause;

“(2) the projected impact to performance, cost, and schedule;

“(3) an updated acquisition program baseline and the complete history of changes to the original acquisition program baseline;

“(4) the updated acquisition schedule and the complete history of changes to the original schedule;

“(5) a full life-cycle cost analysis for the capability or asset or class of capabilities or assets;

“(6) a remediation plan identifying corrective actions and any resulting issues or risks; and

“(7) a description of how progress in the remediation plan will be measured and monitored.

Certification.

“(c) SUBSTANTIAL VARIANCES IN COSTS OR SCHEDULE.—If a likely cost overrun is greater than 20 percent or a likely delay is greater than 12 months from the costs and schedule described in the acquisition program baseline for any Level 1 or Level 2 acquisition project or program of the Coast Guard, the Commandant shall include in the report a written certification, with a supporting explanation, that—

“(1) the capability or asset or capability or asset class to be acquired under the project or program is essential to the accomplishment of Coast Guard missions;

“(2) there are no alternatives to such capability or asset or capability or asset class that will provide equal or greater capability in both a more cost-effective and timely manner;

“(3) the new acquisition schedule and estimates for total acquisition cost are reasonable; and

“(4) the management structure for the acquisition program is adequate to manage and control performance, cost, and schedule.

“§ 576. Acquisition approval authority

“Nothing in this subchapter shall be construed as altering or diminishing in any way the statutory authority and responsibility of the Secretary of the department in which the Coast Guard is operating, or the Secretary’s designee, to—

“(1) manage and administer department procurements, including procurements by department components, as required by section 701 of the Homeland Security Act of 2002 (6 U.S.C. 341); or

“(2) manage department acquisition activities and act as the Acquisition Decision Authority with regard to the review or approval of a Coast Guard Level 1 or Level 2 acquisition project or program, as required by section 16 of the Office of Federal Procurement Policy Act (41 U.S.C. 414) and related implementing regulations and directives.

“SUBCHAPTER III—DEFINITIONS

“§ 581. Definitions

“In this chapter:

“(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term ‘appropriate congressional committees’ means the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

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

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

“(4) LEVEL 1 ACQUISITION.—The term ‘Level 1 acquisition’ means—

“(A) an acquisition by the Coast Guard—

“(i) the estimated life-cycle costs of which exceed \$1,000,000,000; or

“(ii) the estimated total acquisition costs of which exceed \$300,000,000; or

“(B) any acquisition that the Chief Acquisition Officer of the Coast Guard determines to have a special interest—

“(i) due to—

“(I) the experimental or technically immature nature of the asset;

“(II) the technological complexity of the asset;

“(III) the commitment of resources; or

“(IV) the nature of the capability or set of capabilities to be achieved; or

“(ii) because such acquisition is a joint acquisition.

“(5) LEVEL 2 ACQUISITION.—The term ‘Level 2 acquisition’ means an acquisition by the Coast Guard—

“(A) the estimated life-cycle costs of which are equal to or less than \$1,000,000,000, but greater than \$300,000,000; or

“(B) the estimated total acquisition costs of which are equal to or less than \$300,000,000, but greater than \$100,000,000.

“(6) LIFE-CYCLE COST.—The term ‘life-cycle cost’ means all costs for development, procurement, construction, and operations and support for a particular capability or asset, without regard to funding source or management control.

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

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

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

“(8) SAFETY CONCERN.—The term ‘safety concern’ means any hazard associated with a capability or asset or a subsystem of a capability or asset that is likely to cause serious bodily injury or death to a typical Coast Guard user in testing, maintaining, repairing, or operating the capability, asset, or subsystem or any hazard associated with the capability, asset, or subsystem that is likely to cause major damage to the capability, asset, or subsystem during the course of its normal operation by a typical Coast Guard user.

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

“(A) the testing of a capability or asset and the sub-systems of the capability or asset to determine whether they meet all contractual performance requirements, including technical performance requirements, supportability requirements, and interoperability requirements and related specifications; and

“(B) the evaluation of the results of such testing.

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

“(A) the testing of a capability or asset and the sub-systems of the capability or asset, under conditions similar to those in which the capability or asset and subsystems will actually be deployed, for the purpose of determining the effectiveness and suitability of the capability or asset and subsystems for use by typical Coast Guard users to conduct those missions for which the capability or asset and subsystems are intended to be used; and

“(B) the evaluation of the results of such testing.”.

14 USC 1.

(b) CONFORMING AMENDMENT.—The part analysis for part I of title 14, United States Code, is amended by inserting after the item relating to chapter 13 the following:

“15. Acquisitions 561”.

SEC. 403. NATIONAL SECURITY CUTTERS.

Deadline.
Assessment.

(a) NATIONAL SECURITY CUTTERS 1 AND 2.—Not later than 90 days before the Coast Guard awards any contract or issues any delivery order or task order to strengthen the hull of either of National Security Cutter 1 or 2 to resolve the structural design and performance issues identified in the Department of Homeland Security Inspector General’s Report OIG-07-23 dated January 2007, the Commandant shall submit to the appropriate congressional committees all results of an assessment of the proposed hull strengthening design conducted by the Coast Guard, including—

(1) a description in detail of the extent to which the hull strengthening measures to be implemented on those cutters will enable the cutters to meet contract and performance requirements;

(2) a cost-benefit analysis of the proposed hull strengthening measures for National Security Cutters 1 and 2; and

(3) a description of any operational restrictions that would have to be applied to either National Security Cutter 1 or 2 if the proposed hull strengthening measures were not implemented on either cutter.

Definition.

(b) APPROPRIATE CONGRESSIONAL COMMITTEES.—In this section the term “appropriate congressional committees” means the Committees on Transportation and Infrastructure and Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 404. ACQUISITION WORKFORCE EXPEDITED HIRING AUTHORITY.

(a) IN GENERAL.—For purposes of sections 3304, 5333, and 5753 of title 5, United States Code, the Commandant of the Coast Guard may—

(1) designate any category of acquisition positions within the Coast Guard as shortage category positions; and

(2) use the authorities in such sections to recruit and appoint highly qualified persons directly to positions so designated.

(b) **LIMITATION.**—The Commandant may not appoint a person to a position of employment under this paragraph after September 30, 2012.

(c) **REPORTS.**—The Commandant shall include in reports under section 562(d) of title 14, United States Code, as added by this title, information described in that section regarding positions designated under this section.

TITLE V—COAST GUARD MODERNIZATION

Coast Guard
Modernization
Act of 2010.

SEC. 501. SHORT TITLE.

14 USC 1 note.

This title may be cited as the “Coast Guard Modernization Act of 2010”.

Subtitle A—Coast Guard Leadership

SEC. 511. VICE ADMIRALS.

(a) **VICE ADMIRALS.**—Section 50 of such title is amended to read as follows:

“§ 50. Vice admirals

“(a)(1) The President may designate no more than 4 positions of importance and responsibility that shall be held by officers who—

“(A) while so serving, shall have the grade of vice admiral, with the pay and allowances of that grade; and

“(B) shall perform such duties as the Commandant may prescribe.

“(2) The President may appoint, by and with the advice and consent of the Senate, and reappoint, by and with the advice and consent of the Senate, to any such position an officer of the Coast Guard who is serving on active duty above the grade of captain. The Commandant shall make recommendations for such appointments.

“(3) (A) Except as provided in subparagraph (B), one of the vice admirals designated under paragraph (1) must have at least 10 years experience in vessel inspection, marine casualty investigations, mariner licensing, or an equivalent technical expertise in the design and construction of commercial vessels, with at least 4 years of leadership experience at a staff or unit carrying out marine safety functions and shall serve as the principal advisor to the Commandant on these issues.

“(B) The requirements of subparagraph (A) do not apply to such vice admiral if the subordinate officer serving in the grade of rear admiral with responsibilities for marine safety, security, and stewardship possesses that experience.

“(b)(1) The appointment and the grade of vice admiral shall be effective on the date the officer assumes that duty and, except as provided in paragraph (2) of this subsection or in section 51(d) of this title, shall terminate on the date the officer is detached from that duty.

Effective date.
Termination
date.

“(2) An officer who is appointed to a position designated under subsection (a) shall continue to hold the grade of vice admiral—

“(A) while under orders transferring the officer to another position designated under subsection (a), beginning on the date the officer is detached from that duty and terminating on the date before the day the officer assumes the subsequent duty, but not for more than 60 days;

“(B) while hospitalized, beginning on the day of the hospitalization and ending on the day the officer is discharged from the hospital, but not for more than 180 days; and

“(C) while awaiting retirement, beginning on the date the officer is detached from duty and ending on the day before the officer’s retirement, but not for more than 60 days.

“(c)(1) An appointment of an officer under subsection (a) does not vacate the permanent grade held by the officer.

“(2) An officer serving in a grade above rear admiral who holds the permanent grade of rear admiral (lower half) shall be considered for promotion to the permanent grade of rear admiral as if the officer was serving in the officer’s permanent grade.

“(d) Whenever a vacancy occurs in a position designated under subsection (a), the Commandant shall inform the President of the qualifications needed by an officer serving in that position or office to carry out effectively the duties and responsibilities of that position or office.”

14 USC 50a.

(b) REPEAL.—Section 50a of such title is repealed.

14 USC 51.

(c) CONFORMING AMENDMENTS.—Section 51 of such title is amended—

(1) by striking subsections (a), (b), and (c) and inserting the following:

“(a) An officer, other than the Commandant, who, while serving in the grade of vice admiral, is retired for physical disability shall be placed on the retired list with the highest grade in which that officer served.

“(b) An officer, other than the Commandant, who is retired while serving in the grade of vice admiral, or who, after serving at least 2½ years in the grade of vice admiral, is retired while serving in a lower grade, may in the discretion of the President, be retired with the highest grade in which that officer served.

“(c) An officer, other than the Commandant, who, after serving less than 2½ years in the grade of vice admiral, is retired while serving in a lower grade, shall be retired in his permanent grade.”; and

(2) by striking “Area Commander, or Chief of Staff” in subsection (d)(2) and inserting “or Vice Admiral”.

(d) CONTINUITY OF GRADE.—Section 52 of title 14, United States Code, is amended by inserting “or admiral” after “vice admiral” the first place it appears.

(e) CONTINUATION ON ACTIVE DUTY.—The second sentence of section 290(a) of title 14, United States Code, is amended to read as follows: “Officers, other than the Commandant, serving for the time being or who have served in the grade of vice admiral are not subject to consideration for continuation under this subsection, and as to all other provisions of this section shall be considered as having been continued at the grade of rear admiral.”

(f) CLERICAL AMENDMENTS.—

(1) The section caption for section 47 of such title is amended to read as follows:

“§ 47. Vice commandant; appointment”.

(2) The section caption for section 52 of title 14, United States Code, is amended to read as follows:

“§ 52. Vice admirals and admiral, continuity of grade”.

(3) The table of contents for chapter 3 of such title is amended—

(A) by striking the item relating to section 47 and inserting the following:

“47. Vice Commandant; appointment.”;

(B) by striking the item relating to section 50a;

(C) by striking the item relating to section 50 and inserting the following:

“50. Vice admirals.”; and

(D) by striking the item relating to section 52 and inserting the following:

“52. Vice admirals and admiral, continuity of grade.”.

(g) TECHNICAL CORRECTION.—Section 47 of such title is further amended by striking “subsection” in the fifth sentence and inserting “section”.

(h) TREATMENT OF INCUMBENTS; TRANSITION.—

14 USC 50 note.

(1) Notwithstanding any other provision of law, an officer who, on the date of enactment of this Act, is serving as Chief of Staff, Commander, Atlantic Area, or Commander, Pacific Area—

(A) shall continue to have the grade of vice admiral with pay and allowance of that grade until such time that the officer is relieved of his duties and appointed and confirmed to another position as a vice admiral or admiral; or

(B) for the purposes of transition, may continue at the grade of vice admiral with pay and allowance of that grade, for not more than 1 year after the date of enactment of this Act, to perform the duties of the officer’s former position and any other such duties that the Commandant prescribes.

Subtitle B—Workforce Expertise**SEC. 521. PREVENTION AND RESPONSE STAFF.**

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

“§ 57. Prevention and response workforces

“(a) CAREER PATHS.—The Secretary, acting through the Commandant, shall ensure that appropriate career paths for civilian and military Coast Guard personnel who wish to pursue career paths in prevention or response positions are identified in terms of the education, training, experience, and assignments necessary for career progression of civilians and members of the Armed Forces to the most senior prevention or response positions, as appropriate. The Secretary shall make available published information on such career paths.

Availability.

“(b) QUALIFICATIONS FOR CERTAIN ASSIGNMENTS.—An officer, member, or civilian employee of the Coast Guard assigned as a—

“(1) marine inspector shall have the training, experience, and qualifications equivalent to that required for a similar position at a classification society recognized by the Secretary under section 3316 of title 46 for the type of vessel, system, or equipment that is inspected;

“(2) marine casualty investigator shall have the training, experience, and qualifications in investigation, marine casualty reconstruction, evidence collection and preservation, human factors, and documentation using best investigation practices by Federal and non-Federal entities; or

“(3) marine safety engineer shall have knowledge, skill, and practical experience in—

“(A) the construction and operation of commercial vessels;

“(B) judging the character, strength, stability, and safety qualities of such vessels and their equipment; or

“(C) the qualifications and training of vessel personnel.

“(c) APPRENTICESHIP REQUIREMENT TO QUALIFY FOR CERTAIN CAREERS.—The Commandant may require an officer, member, or employee of the Coast Guard in training for a specialized prevention or response career path to serve an apprenticeship under the guidance of a qualified individual. However, an individual in training to become a marine inspector, marine casualty investigator, or marine safety engineer shall serve a minimum of one-year as an apprentice unless the Commandant authorizes a shorter period for certain qualifications.

“(d) MANAGEMENT INFORMATION SYSTEM.—The Secretary, acting through the Commandant, shall establish a management information system for the prevention and response workforces that shall provide, at a minimum, the following standardized information on persons serving in those workforces:

“(1) Qualifications, assignment history, and tenure in assignments.

“(2) Promotion rates for military and civilian personnel.

“(e) ASSESSMENT OF ADEQUACY OF MARINE SAFETY WORKFORCE.—

“(1) REPORT.—The Secretary, acting through the Commandant, shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by December 1 of each year on the adequacy of the current marine safety workforce to meet that anticipated workload.

“(2) CONTENTS.—The report shall specify the number of civilian and military Coast Guard personnel currently assigned to marine safety positions and shall identify positions that are understaffed to meet the anticipated marine safety workload.

“(f) SECTOR CHIEF OF PREVENTION.—There shall be in each Coast Guard sector a Chief of Prevention who shall be at least a Lieutenant Commander or civilian employee within the grade GS-13 of the General Schedule, and who shall be a—

“(1) marine inspector, qualified to inspect vessels, vessel systems, and equipment commonly found in the sector; and

“(2) qualified marine casualty investigator or marine safety engineer.

“(g) SIGNATORIES OF LETTER OF QUALIFICATION FOR CERTAIN PREVENTION PERSONNEL.—Each individual signing a letter of qualification for marine safety personnel must hold a letter of qualification for the type being certified.

“(h) SECTOR CHIEF OF RESPONSE.—There shall be in each Coast Guard sector a Chief of Response who shall be at least a Lieutenant Commander or civilian employee within the grade GS-13 of the General Schedule in each Coast Guard sector.

“§ 58. Centers of expertise for Coast Guard prevention and response

“(a) ESTABLISHMENT.—The Commandant of the Coast Guard may establish and operate one or more centers of expertise for prevention and response missions of the Coast Guard (in this section referred to as a ‘center’).

“(b) MISSIONS.—Each center shall—

“(1) promote and facilitate education, training, and research;

“(2) develop a repository of information on its missions and specialties; and

“(3) perform any other missions as the Commandant may specify.

“(c) JOINT OPERATION WITH EDUCATIONAL INSTITUTION AUTHORIZED.—The Commandant may enter into an agreement with an appropriate official of an institution of higher education to—

“(1) provide for joint operation of a center; and

“(2) provide necessary administrative services for a center, including administration and allocation of funds.

“(d) ACCEPTANCE OF DONATIONS.—

“(1) Except as provided in paragraph (2), the Commandant may accept, on behalf of a center, donations to be used to defray the costs of the center or to enhance the operation of the center. Those donations may be accepted from any State or local government, any foreign government, any foundation or other charitable organization (including any that is organized or operates under the laws of a foreign country), or any individual.

“(2) The Commandant may not accept a donation under paragraph (1) if the acceptance of the donation would compromise or appear to compromise—

“(A) the ability of the Coast Guard or the department in which the Coast Guard is operating, any employee of the Coast Guard or the department, or any member of the Armed Forces to carry out any responsibility or duty in a fair and objective manner; or

“(B) the integrity of any program of the Coast Guard, the department in which the Coast Guard is operating, or of any person involved in such a program.

“(3) The Commandant shall prescribe written guidance setting forth the criteria to be used in determining whether or not the acceptance of a donation from a foreign source would have a result described in paragraph (2).

Guidelines.

“§ 59. Marine industry training program

“(a) IN GENERAL.—The Commandant shall, by policy, establish a program under which an officer, member, or employee of the Coast Guard may be assigned to a private entity to further the institutional interests of the Coast Guard with regard to marine safety, including for the purpose of providing training to an officer, member, or employee. Policies to carry out the program—

“(1) with regard to an employee of the Coast Guard, shall include provisions, consistent with sections 3702 through 3704 of title 5, as to matters concerning—

“(A) the duration and termination of assignments;

“(B) reimbursements; and

“(C) status, entitlements, benefits, and obligations of program participants; and

“(2) shall require the Commandant, before approving the assignment of an officer, member, or employee of the Coast Guard to a private entity, to determine that the assignment is an effective use of the Coast Guard’s funds, taking into account the best interests of the Coast Guard and the costs and benefits of alternative methods of achieving the same results and objectives.

“(b) ANNUAL REPORT.—Not later than the date of the submission each year of the President’s budget request under section 1105 of title 31, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that describes—

“(1) the number of officers, members, and employees of the Coast Guard assigned to private entities under this section; and

“(2) the specific benefit that accrues to the Coast Guard for each assignment.”

14 USC 41.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is further amended by adding at the end the following new items:

“57. Prevention and response workforces.

“58. Centers of expertise for Coast Guard prevention and response.

“59. Marine industry training programs.”

SEC. 522. MARINE SAFETY MISSION PRIORITIES AND LONG-TERM GOALS.

(a) IN GENERAL.—Chapter 21 of title 46, United States Code, is amended by adding at the end the following new section:

“§ 2116. Marine safety strategy, goals, and performance assessments

“(a) LONG-TERM STRATEGY AND GOALS.—In conjunction with existing federally required strategic planning efforts, the Secretary shall develop a long-term strategy for improving vessel safety and the safety of individuals on vessels. The strategy shall include the issuance each year of an annual plan and schedule for achieving the following goals:

“(1) Reducing the number and rates of marine casualties.

“(2) Improving the consistency and effectiveness of vessel and operator enforcement and compliance programs.

“(3) Identifying and targeting enforcement efforts at high-risk vessels and operators.

“(4) Improving research efforts to enhance and promote vessel and operator safety and performance.

“(b) CONTENTS OF STRATEGY AND ANNUAL PLANS.—

“(1) MEASURABLE GOALS.—The strategy and annual plans shall include specific numeric or measurable goals designed to achieve the goals set forth in subsection (a). The purposes of the numeric or measurable goals are the following:

“(A) To increase the number of safety examinations on all high-risk vessels.

“(B) To eliminate the backlog of marine safety-related rulemakings.

“(C) To improve the quality and effectiveness of marine safety information databases by ensuring that all Coast Guard personnel accurately and effectively report all safety, casualty, and injury information.

“(D) To provide for a sufficient number of Coast Guard marine safety personnel, and provide adequate facilities and equipment to carry out the functions referred to in section 93(c).

“(2) RESOURCE NEEDS.—The strategy and annual plans shall include estimates of—

“(A) the funds and staff resources needed to accomplish each activity included in the strategy and plans; and

“(B) the staff skills and training needed for timely and effective accomplishment of each goal.

“(c) SUBMISSION WITH THE PRESIDENT’S BUDGET.—Beginning with fiscal year 2011 and each fiscal year thereafter, the Secretary shall submit to Congress the strategy and annual plan not later than 60 days following the transmission of the President’s budget submission under section 1105 of title 31.

Effective date.
Deadline.
Plans.

“(d) ACHIEVEMENT OF GOALS.—

“(1) PROGRESS ASSESSMENT.—No less frequently than semi-annually, the Coast Guard Commandant shall assess the progress of the Coast Guard toward achieving the goals set forth in subsection (b). The Commandant shall convey the Commandant’s assessment to the employees of the marine safety workforce and shall identify any deficiencies that should be remedied before the next progress assessment.

Deadline.

“(2) REPORT TO CONGRESS.—The Secretary shall report annually to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate—

“(A) on the performance of the marine safety program in achieving the goals of the marine safety strategy and annual plan under subsection (a) for the year covered by the report;

“(B) on the program’s mission performance in achieving numerical measurable goals established under subsection (b); and

“(C) recommendations on how to improve performance of the program.”.

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

46 USC 2101.

“2116. Marine safety strategy, goals, and performance assessments.”.

(c) CERTIFICATES OF INSPECTION.—Section 3309 of title 46, United States Code, is amended by adding at the end the following:

“(d) A certificate of inspection issued under this section shall be signed by the senior Coast Guard member or civilian employee who inspected the vessel, in addition to the officer in charge of marine inspection.”.

SEC. 523. POWERS AND DUTIES.

Section 93 of title 14, United States Code, is amended by adding at the end the following new subsections:

“(c) **MARINE SAFETY RESPONSIBILITIES.**—In exercising the Commandant’s duties and responsibilities with regard to marine safety, the individual with the highest rank who meets the experience qualifications set forth in section 50(a)(3) shall serve as the principal advisor to the Commandant regarding—

“(1) the operation, regulation, inspection, identification, manning, and measurement of vessels, including plan approval and the application of load lines;

“(2) approval of materials, equipment, appliances, and associated equipment;

“(3) the reporting and investigation of marine casualties and accidents;

“(4) the licensing, certification, documentation, protection and relief of merchant seamen;

“(5) suspension and revocation of licenses and certificates;

“(6) enforcement of manning requirements, citizenship requirements, control of log books;

“(7) documentation and numbering of vessels;

“(8) State boating safety programs;

“(9) commercial instruments and maritime liens;

“(10) the administration of bridge safety;

“(11) administration of the navigation rules;

“(12) the prevention of pollution from vessels;

“(13) ports and waterways safety;

“(14) waterways management; including regulation for regattas and marine parades;

“(15) aids to navigation; and

“(16) other duties and powers of the Secretary related to marine safety and stewardship.

“(d) **OTHER AUTHORITY NOT AFFECTED.**—Nothing in subsection (c) affects—

“(1) the authority of Coast Guard officers and members to enforce marine safety regulations using authority under section 89 of this title; or

“(2) the exercise of authority under section 91 of this title and the provisions of law codified at sections 191 through 195 of title 50 on the date of enactment of this paragraph.”.

SEC. 524. APPEALS AND WAIVERS.

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

“§ 102. Appeals and waivers

“Except for the Commandant of the Coast Guard, any individual adjudicating an appeal or waiver of a decision regarding marine safety, including inspection or manning and threats to the environment, shall—

“(1) be a qualified specialist with the training, experience, and qualifications in marine safety to effectively judge the

facts and circumstances involved in the appeal and make a judgment regarding the merits of the appeal; or

“(2) have a senior staff member who—

“(A) meets the requirements of paragraph (1);

“(B) actively advises the individual adjudicating the appeal; and

“(C) concurs in writing on the decision on appeal.”.

(b) CLERICAL AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following new item: “102. Appeals and waivers.”. 14 USC 81.

SEC. 525. COAST GUARD ACADEMY.

(a) IN GENERAL.—Chapter 9 of title 14, United States Code, is further amended by adding at the end the following new section:

“§ 200. Marine safety curriculum

“The Commandant of the Coast Guard shall ensure that professional courses of study in marine safety are provided at the Coast Guard Academy, and during other officer accession programs, to give Coast Guard cadets and other officer candidates a background and understanding of the marine safety program. These courses may include such topics as program history, vessel design and construction, vessel inspection, casualty investigation, and administrative law and regulations.”.

(b) CLERICAL AMENDMENT.—The analysis for such chapter is further amended by adding at the end the following new item: “200. Marine safety curriculum.”. 14 USC 181.

SEC. 526. REPORT REGARDING CIVILIAN MARINE INSPECTORS.

Not later than 1 year after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on Coast Guard’s efforts to recruit and retain civilian marine inspectors and investigators and the impact of such recruitment and retention efforts on Coast Guard organizational performance.

TITLE VI—MARINE SAFETY

Maritime Safety Act of 2010.

SEC. 601. SHORT TITLE.

This title may be cited as the “Maritime Safety Act of 2010”.

46 USC 101 note.

SEC. 602. VESSEL SIZE LIMITS.

(a) LENGTH, TONNAGE, AND HORSEPOWER.—Section 12113(d)(2) of title 46, United States Code, is amended—

(1) by inserting “and” after the semicolon at the end of subparagraph (A)(i);

(2) by striking “and” at the end of subparagraph (A)(ii);

(3) by striking subparagraph (A)(iii);

(4) by striking the period at the end of subparagraph (B) and inserting a semicolon; and

(5) by inserting at the end the following:

“(C) the vessel is either a rebuilt vessel or a replacement vessel under section 208(g) of the American Fisheries Act (title II of division C of Public Law 105–277; 112

Stat. 2681-627) and is eligible for a fishery endorsement under this section; or

“(D) the vessel is a fish tender vessel that is not engaged in the harvesting or processing of fish.”.

(b) CONFORMING AMENDMENTS.—

(1) VESSEL REBUILDING AND REPLACEMENT.—Section 208(g) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-627) is amended to read as follows:

“(g) VESSEL REBUILDING AND REPLACEMENT.—

“(1) IN GENERAL.—

“(A) REBUILD OR REPLACE.—Notwithstanding any limitation to the contrary on replacing, rebuilding, or lengthening vessels or transferring permits or licenses to a replacement vessel contained in sections 679.2 and 679.4 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2010 and except as provided in paragraph (4), the owner of a vessel eligible under subsection (a), (b), (c), (d), or (e), in order to improve vessel safety and operational efficiencies (including fuel efficiency), may rebuild or replace that vessel (including fuel efficiency) with a vessel documented with a fishery endorsement under section 12113 of title 46, United States Code.

“(B) SAME REQUIREMENTS.—The rebuilt or replacement vessel shall be eligible in the same manner and subject to the same restrictions and limitations under such subsection as the vessel being rebuilt or replaced.

“(C) TRANSFER OF PERMITS AND LICENSES.—Each fishing permit and license held by the owner of a vessel or vessels to be rebuilt or replaced under subparagraph (A) shall be transferred to the rebuilt or replacement vessel or its owner, as necessary to permit such rebuilt or replacement vessel to operate in the same manner as the vessel prior to the rebuilding or the vessel it replaced, respectively.

“(2) RECOMMENDATIONS OF NORTH PACIFIC FISHERY MANAGEMENT COUNCIL.—The North Pacific Fishery Management Council may recommend for approval by the Secretary such conservation and management measures, including size limits and measures to control fishing capacity, in accordance with the Magnuson-Stevens Act as it considers necessary to ensure that this subsection does not diminish the effectiveness of fishery management plans of the Bering Sea and Aleutian Islands Management Area or the Gulf of Alaska.

“(3) SPECIAL RULE FOR REPLACEMENT OF CERTAIN VESSELS.—

“(A) IN GENERAL.—Notwithstanding the requirements of subsections (b)(2), (c)(1), and (c)(2) of section 12113 of title 46, United States Code, a vessel that is eligible under subsection (a), (b), (c), or (e) and that qualifies to be documented with a fishery endorsement pursuant to section 213(g) may be replaced with a replacement vessel under paragraph (1) if the vessel that is replaced is validly documented with a fishery endorsement pursuant to section 213(g) before the replacement vessel is documented with

a fishery endorsement under section 12113 of title 46, United States Code.

“(B) APPLICABILITY.—A replacement vessel under subparagraph (A) and its owner and mortgagee are subject to the same limitations under section 213(g) that are applicable to the vessel that has been replaced and its owner and mortgagee.

“(4) SPECIAL RULES FOR CERTAIN CATCHER VESSELS.—

“(A) IN GENERAL.—A replacement for a covered vessel described in subparagraph (B) is prohibited from harvesting fish in any fishery (except for the Pacific whiting fishery) managed under the authority of any Regional Fishery Management Council (other than the North Pacific Fishery Management Council) established under section 302(a) of the Magnuson-Stevens Act.

“(B) COVERED VESSELS.—A covered vessel referred to in subparagraph (A) is—

“(i) a vessel eligible under subsection (a), (b), or (c) that is replaced under paragraph (1); or

“(ii) a vessel eligible under subsection (a), (b), or (c) that is rebuilt to increase its registered length, gross tonnage, or shaft horsepower.

“(5) LIMITATION ON FISHERY ENDORSEMENTS.—Any vessel that is replaced under this subsection shall thereafter not be eligible for a fishery endorsement under section 12113 of title 46, United States Code, unless that vessel is also a replacement vessel described in paragraph (1).

“(6) GULF OF ALASKA LIMITATION.—Notwithstanding paragraph (1), the Secretary shall prohibit from participation in the groundfish fisheries of the Gulf of Alaska any vessel that is rebuilt or replaced under this subsection and that exceeds the maximum length overall specified on the license that authorizes fishing for groundfish pursuant to the license limitation program under part 679 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2010.

“(7) AUTHORITY OF PACIFIC COUNCIL.—Nothing in this section shall be construed to diminish or otherwise affect the authority of the Pacific Council to recommend to the Secretary conservation and management measures to protect fisheries under its jurisdiction (including the Pacific whiting fishery) and participants in such fisheries from adverse impacts caused by this Act.”

(2) REPEAL OF EXEMPTION OF CERTAIN VESSELS.—Section 203(g) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-620) is repealed.

(3) FISHERY COOPERATIVE EXIT PROVISIONS.—Section 210(b) of the American Fisheries Act (title II of division C of Public Law 105-277; 112 Stat. 2681-629) is amended—

(A) by moving the matter beginning with “the Secretary shall” in paragraph (1) 2 ems to the right; and

(B) by adding at the end the following:

“(7) FISHERY COOPERATIVE EXIT PROVISIONS.—

“(A) FISHING ALLOWANCE DETERMINATION.—For purposes of determining the aggregate percentage of directed fishing allowances under paragraph (1), when a catcher

vessel is removed from the directed pollock fishery, the fishery allowance for pollock for the vessel being removed—

“(i) shall be based on the catch history determination for the vessel made pursuant to section 679.62 of title 50, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2010; and

“(ii) shall be assigned, for all purposes under this title, in the manner specified by the owner of the vessel being removed to any other catcher vessel or among other catcher vessels participating in the fishery cooperative if such vessel or vessels remain in the fishery cooperative for at least one year after the date on which the vessel being removed leaves the directed pollock fishery.

“(B) ELIGIBILITY FOR FISHERY ENDORSEMENT.—Except as provided in subparagraph (C), a vessel that is removed pursuant to this paragraph shall be permanently ineligible for a fishery endorsement, and any claim (including relating to catch history) associated with such vessel that could qualify any owner of such vessel for any permit to participate in any fishery within the exclusive economic zone of the United States shall be extinguished, unless such removed vessel is thereafter designated to replace a vessel to be removed pursuant to this paragraph.

“(C) LIMITATIONS ON STATUTORY CONSTRUCTION.—Nothing in this paragraph shall be construed—

“(i) to make the vessels AJ (United States official number 905625), DONA MARTITA (United States official number 651751), NORDIC EXPLORER (United States official number 678234), and PROVIDIAN (United States official number 1062183) ineligible for a fishery endorsement or any permit necessary to participate in any fishery under the authority of the New England Fishery Management Council or the Mid-Atlantic Fishery Management Council established, respectively, under subparagraphs (A) and (B) of section 302(a)(1) of the Magnuson-Stevens Act; or

“(ii) to allow the vessels referred to in clause (i) to participate in any fishery under the authority of the Councils referred to in clause (i) in any manner that is not consistent with the fishery management plan for the fishery developed by the Councils under section 303 of the Magnuson-Stevens Act.”.

Reports.

SEC. 603. COLD WEATHER SURVIVAL TRAINING.

The Commandant of the Coast Guard shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the efficacy of cold weather survival training conducted by the Coast Guard over the preceding 5 years. The report shall include plans for conducting such training in fiscal years 2010 through 2013.

SEC. 604. FISHING VESSEL SAFETY.

(a) SAFETY STANDARDS.—Section 4502 of title 46, United States Code, is amended—

(1) in subsection (a), by—

(A) striking paragraphs (6) and (7) and inserting the following:

“(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”;

(B) redesignating paragraph (8) as paragraph (7);

(2) in subsection (b)—

(A) in paragraph (1) in the matter preceding subparagraph (A), by striking “documented”;

(B) in paragraph (1)(A), by striking “the Boundary Line” and inserting “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”;

(C) in paragraph (2)(B), by striking “lifeboats or life rafts” and inserting “a survival craft that ensures that no part of an individual is immersed in water”;

(D) in paragraph (2)(D), by inserting “marine” before “radio”;

(E) in paragraph (2)(E), by striking “radar reflectors, nautical charts, and anchors” and inserting “nautical charts, and publications”;

(F) in paragraph (2)(F), by striking “, including medicine chests” and inserting “and medical supplies sufficient for the size and area of operation of the vessel”; and

(G) by amending paragraph (2)(G) to read as follows: “(G) ground tackle sufficient for the vessel.”;

(3) by amending subsection (f) to read as follows:

“(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; and

“(2) shall examine at dockside a vessel described in subsection (b) at least once every 2 years, and shall issue a certificate of compliance to a vessel meeting the requirements of this chapter.”; and

(4) by adding at the end the following:

“(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.

Records.

Deadline.
Certification.

Regulations.
Certification.
Deadline.

“(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.

Public
information.
Database.

“(4) The Secretary shall establish a publicly accessible 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.

Grants.

“(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 2010 through 2014 for grants under this subsection.

Grants.

“(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 year 2010 through 2014 for activities under this subsection.”.

(b) CONFORMING AMENDMENT.—Section 4506(b) of title 46, United States Code, is repealed.

(c) ADVISORY COMMITTEE.—

(1) CHANGE OF NAME.—Section 4508 of title 46, United States Code, is amended—

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

“§ 4508. Commercial Fishing Safety Advisory Committee”;

and

(B) in subsection (a) by striking “Industry Vessel”.

(2) MEMBERSHIP REQUIREMENTS.—Section 4508(b)(1) of that title is amended—

(A) by striking “seventeen” and inserting “eighteen”;

(B) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking “from the commercial fishing industry who—” and inserting “who shall represent the commercial fishing industry and who—”; and

(ii) in clause (ii), by striking “an uninspected” and inserting “a”;

(C) by striking subparagraph (B) and inserting the following:

“(B) three members who shall represent the general public, including, whenever possible—

“(i) an independent expert or consultant in maritime safety;

“(ii) a marine surveyor who provides services to vessels to which this chapter applies; and

“(iii) a person familiar with issues affecting fishing communities and families of fishermen;”;

(D) in subparagraph (C)—

(i) in the matter preceding clause (i), by striking “representing each of—” and inserting “each of whom shall represent—”;

(ii) in clause (i), by striking “or marine surveyors;” and inserting “and marine engineers;”;

(iii) in clause (iii), by striking “and” after the semicolon at the end;

(iv) in clause (iv), by striking the period at the end and inserting “; and”; and

(v) by adding at the end the following new clause: “(v) owners of vessels to which this chapter applies.”.

(3) TERMINATION.—Section 4508(e)(1) of that title is amended by striking “September 30, 2010.” and inserting “September 30, 2020.”.

(4) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 45 of title 46, United States Code, is amended by striking the item relating to such section and inserting the following:

46 USC 4501.

“4508. Commercial Fishing Safety Advisory Committee.”.

(d) LOADLINES FOR VESSELS 79 FEET OR GREATER IN LENGTH.—

(1) LIMITATION ON EXEMPTION FOR FISHING VESSELS.—Section 5102(b)(3) of title 46, United States Code, is amended by inserting after “vessel” the following “, unless the vessel is built after July 1, 2012”.

(2) ALTERNATE PROGRAM FOR CERTAIN FISHING VESSELS.—Section 5103 of title 46, United States Code, is amended by adding at the end the following:

“(c) A fishing vessel built on or before July 1, 2012, that undergoes a substantial change to the dimension of or type of the vessel completed after the later of July 1, 2012, or the date the Secretary establishes standards for an alternate loadline compliance program, shall comply with such an alternative loadline compliance program that is developed in cooperation with the commercial fishing industry and prescribed by the Secretary.”.

(e) CLASSING OF VESSELS.—

(1) IN GENERAL.—Section 4503 of title 46, United States Code, is amended—

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

“§ 4503. Fishing, fish tender, and fish processing vessel certification”;

(B) in subsection (a) by striking “fish processing”; and

(C) by adding at the end the following:

Applicability.

“(c) This section applies to a vessel to which section 4502(b) of this title applies that is at least 50 feet overall in length and is built after July 1, 2012.

Effective date.

“(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, 2012; and

“(C) is 25 years of age or older.

“(2) A fishing vessel, fish processing vessel, or fish tender vessel built before July 1, 2012, that undergoes a substantial change to the dimension of or type of vessel completed after the later of July 1, 2012, or the date the Secretary establishes standards for an alternate safety compliance program, shall comply with such an alternative safety compliance program that is developed in cooperation with the commercial fishing industry and prescribed by the Secretary.

“(3) Alternative safety compliance programs may be developed for purposes of paragraph (1) for specific regions and fisheries.

Effective date.
Contracts.

“(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.

Applicability.

“(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.”.

Certification.
46 USC 4501.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 45 of title 46, United States Code, is amended by striking the item relating to such section and inserting the following:

“4503. Fishing, fish tender, and fish processing vessel certification.”.

(f) **ALTERNATIVE SAFETY COMPLIANCE PROGRAM.**—No later than January 1, 2017, the Secretary of the department in which the Coast Guard is operating shall prescribe an alternative safety compliance program referred to in section 4503(d)(1) of the title 46, United States Code, as amended by this section.

Deadline.
46 USC 4503
note.

SEC. 605. MARINER RECORDS.

Section 7502 of title 46, United States Code, is amended—

(1) by inserting “(a)” before “The”;

(2) by striking “computerized records” and inserting “records, including electronic records,”; and

(3) by adding at the end the following:

“(b) The Secretary may prescribe regulations requiring a vessel owner or managing operator of a commercial vessel, or the employer of a seaman on that vessel, to maintain records of each individual engaged on the vessel subject to inspection under chapter 33 on matters of engagement, discharge, and service for not less than 5 years after the date of the completion of the service of that individual on the vessel. The regulations may require that a vessel owner, managing operator, or employer shall make these records available to the individual and the Coast Guard on request.

Time period.

“(c) A person violating this section, or a regulation prescribed under this section, is liable to the United States Government for a civil penalty of not more than \$5,000.”

Penalty.

SEC. 606. DELETION OF EXEMPTION OF LICENSE REQUIREMENT FOR OPERATORS OF CERTAIN TOWING VESSELS.

Section 8905 of title 46, United States Code, is amended—

(1) by striking subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

SEC. 607. LOG BOOKS.

(a) **IN GENERAL.**—Chapter 113 of title 46, United States Code, is amended by adding at the end the following:

“§ 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 logbook, which shall be kept available for review by the Secretary on request.

“(b) The log book 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.”

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

46 USC 11301.

“11304. Additional logbook and entry requirements.”

SEC. 608. SAFE OPERATIONS AND EQUIPMENT STANDARDS.

(a) **IN GENERAL.**—Chapter 21 of title 46, United States Code, is further amended by adding at the end the following new sections:

“§ 2117. Termination for unsafe operation

“An individual authorized to enforce this title—

“(1) may remove a certificate required by this title from a vessel that is operating in a condition that does not comply with the provisions of the certificate;

“(2) may order the individual in charge of a vessel that is operating that does not have on board the certificate required by this title to return the vessel to a mooring and to remain there until the vessel is in compliance with this title; and

“(3) may direct the individual in charge of a vessel to which this title applies to immediately take reasonable steps necessary for the safety of individuals on board the vessel if the official observes the vessel being operated in an unsafe condition that the official believes creates an especially hazardous condition, including ordering the individual in charge to return the vessel to a mooring and to remain there until the situation creating the hazard is corrected or ended.

“§ 2118. Establishment of equipment standards

“(a) In establishing standards for approved equipment required on vessels subject to part B of this title, the Secretary shall establish standards that are—

“(1) based on performance using the best available technology that is economically achievable; and

“(2) operationally practical.

“(b) Using the standards established under subsection (a), the Secretary may also certify lifesaving equipment that is not required to be carried on vessels subject to part B of this title to ensure that such equipment is suitable for its intended purpose.

“(c) At least once every 10 years the Secretary shall review and revise the standards established under subsection (a) to ensure that the standards meet the requirements of this section.”.

Deadline.
Review.

46 USC 2101.

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

“2117. Termination for unsafe operation.

“2118. Establishment of equipment standards.”.

SEC. 609. APPROVAL OF SURVIVAL CRAFT.

(a) IN GENERAL.—Chapter 31 of title 46, United States Code, is amended by adding at the end the following new section:

“§ 3104. Survival craft

“(a) Except as provided in subsection (b), the Secretary may not approve a survival craft as a safety device for purposes of this part, unless the craft ensures that no part of an individual is immersed in water.

“(b) The Secretary may authorize a survival craft that does not provide protection described in subsection (a) to remain in service until not later than January 1, 2015, if—

“(1) it was approved by the Secretary before January 1, 2010; and

“(2) it is in serviceable condition.”.

46 USC 3101.

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

“3104. Survival craft.”.

SEC. 610. SAFETY MANAGEMENT.

(a) **VESSELS TO WHICH REQUIREMENTS APPLY.**—Section 3202 of title 46, United States Code, is amended—

(1) in subsection (a) by striking the heading and inserting “FOREIGN VOYAGES AND FOREIGN VESSELS.—”;

(2) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

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

“(b) **OTHER PASSENGER VESSELS.**—This chapter applies to a vessel that is—

“(1) a passenger vessel or small passenger vessel; and

“(2) is transporting more passengers than a number prescribed by the Secretary based on the number of individuals on the vessel that could be killed or injured in a marine casualty.”;

(4) in subsection (d), as so redesignated, by striking “subsection (b)” and inserting “subsection (c)”; and

(5) in subsection (d)(4), as so redesignated, by inserting “that is not described in subsection (b) of this section” after “waters”.

(b) **SAFETY MANAGEMENT SYSTEM.**—Section 3203 of title 46, United States Code, is amended by adding at the end the following new subsection:

“(c) In prescribing regulations for passenger vessels and small passenger vessels, the Secretary shall consider—

Regulations.

“(1) the characteristics, methods of operation, and nature of the service of these vessels; and

“(2) with respect to vessels that are ferries, the sizes of the ferry systems within which the vessels operate.”.

SEC. 611. PROTECTION AGAINST DISCRIMINATION.

(a) **IN GENERAL.**—Section 2114 of title 46, United States Code, is amended—

(1) in subsection (a)(1)(A), by striking “or” after the semicolon;

(2) in subsection (a)(1)(B), by striking the period at the end and inserting a semicolon;

(3) by adding at the end of subsection (a)(1) the following new subparagraphs:

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

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

Notification.

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

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

“(G) the seaman accurately reported hours of duty under this part.”; and

(4) by amending subsection (b) to read as follows:

“(b) A seaman alleging discharge or discrimination in violation of subsection (a) of this section, or another person at the seaman’s request, may file a complaint with respect to such allegation in

the same manner as a complaint may be filed under subsection (b) of section 31105 of title 49. Such complaint shall be subject to the procedures, requirements, and rights described in that section, including with respect to the right to file an objection, the right of a person to file for a petition for review under subsection (c) of that section, and the requirement to bring a civil action under subsection (d) of that section.”

46 USC 2114
note.

(b) EXISTING ACTIONS.—This section shall not affect the application of section 2114(b) of title 46, United States Code, as in effect before the date of enactment of this Act, to an action filed under that section before that date.

SEC. 612. OIL FUEL TANK PROTECTION.

Section 3306 of title 46, United States Code, is amended by adding at the end the following new subsection:

Compliance.

“(k)(1) Each vessel of the United States that is constructed under a contract entered into after the date of enactment of the Maritime Safety Act of 2010, or that is delivered after January 1, 2011, with an aggregate capacity of 600 cubic meters or more of oil fuel, shall comply with the requirements of Regulation 12A under Annex I to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, entitled ‘Oil Fuel Tank Protection’.

“(2) The Secretary may prescribe regulations to apply the requirements described in Regulation 12A to vessels described in paragraph (1) that are not otherwise subject to that convention. Any such regulation shall be considered to be an interpretive rule for the purposes of section 553 of title 5.

Definition.

“(3) In this subsection the term ‘oil fuel’ means any oil used as fuel in connection with the propulsion and auxiliary machinery of the vessel in which such oil is carried.”

SEC. 613. OATHS.

Section 7105 of title 46, United States Code, is amended by striking “before a designated official”.

SEC. 614. DURATION OF LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS’ DOCUMENTS.

(a) MERCHANT MARINER’S DOCUMENTS.—Section 7302(f) of title 46, United States Code, is amended to read as follows:

“(f) PERIODS OF VALIDITY AND RENEWAL OF MERCHANT MARINERS’ DOCUMENTS.—

“(1) IN GENERAL.—Except as provided in subsection (g), a merchant mariner’s document issued under this chapter is valid for a 5-year period and may be renewed for additional 5-year periods.

“(2) ADVANCE RENEWALS.—A renewed merchant mariner’s document may be issued under this chapter up to 8 months in advance but is not effective until the date that the previously issued merchant mariner’s document expires or until the completion of any active suspension or revocation of that previously issued merchant mariner’s document, whichever is later.”

(b) DURATION OF LICENSES.—Section 7106 of such title is amended to read as follows:

“§ 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, whichever is later.”.

(c) CERTIFICATES OF REGISTRY.—Section 7107 of such title is amended to read as follows:

“§ 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, whichever is later.”.

SEC. 615. AUTHORIZATION TO EXTEND THE DURATION OF LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS’ DOCUMENTS.

(a) MERCHANT MARINER LICENSES AND DOCUMENTS.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

“§ 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 73 if the Secretary determines that the extension is required to enable the Coast Guard to eliminate a backlog in processing applications for those licenses or certificates of registry or in response to a national emergency or natural disaster, as deemed necessary by the Secretary; or

“(2) issue for not more than five years an expiring license or certificate of registry issued for an individual under chapter 73 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 or in response to a national emergency or natural disaster, as deemed necessary by the Secretary; or

“(2) issue for not more than five years an expiring merchant mariner’s document issued for an individual under chapter 73 for the exclusive purpose of aligning the expiration date of such merchant mariner’s document with the expiration date of a merchant mariner’s document.

“(c) MANNER OF EXTENSION.—Any extensions granted under this section may be granted to individual seamen or a specifically identified group of seamen.”

46 USC 7501.

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

“7507. Authority to extend the duration of licenses, certificates of registry, and merchant mariner documents.”

SEC. 616. MERCHANT MARINER ASSISTANCE 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 Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report regarding the feasibility of—

(1) expanding the streamlined evaluation process program that was affiliated with the Houston Regional Examination Center of the Coast Guard to all processing centers of the Coast Guard nationwide;

(2) including proposals to simplify the application process for a license as an officer, staff officer, or operator and for a merchant mariner’s document to help eliminate errors by merchant mariners when completing the application form (CG-719B), including instructions attached to the application form and a modified application form for renewals with questions pertaining only to the period of time since the previous application;

(3) providing notice to an applicant of the status of the pending application, including a process to allow the applicant to check on the status of the application by electronic means; and

(4) ensuring that all information collected with respect to applications for new or renewed licenses, merchant mariner documents, and certificates of registry is retained in a secure electronic format.

SEC. 617. OFFSHORE SUPPLY VESSELS.

(a) REMOVAL OF TONNAGE LIMITS.—

(1) DEFINITION.—

(A) IN GENERAL.—Section 2101(19) of title 46, United States Code, is amended by striking “of more than 15 gross tons but less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title”.

(B) EXEMPTION.—Section 5209(b)(1) of the Oceans Act of 1992 (Public Law 102-587; 46 U.S.C. 2101 note) is

amended by striking “vessel.” and inserting “vessel of less than 500 gross tons as measured under section 14502, or an alternate tonnage measured under section 14302 of such title as prescribed by the Secretary under section 14104 of such title.”.

(2) APPLICATION.—Section 3702(b) of title 46, United States Code, is amended by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(b) SCALE OF EMPLOYMENT: ABLE SEAMEN.—Section 7312(d) of title 46, United States Code, is amended to read as follows:

“(d) Individuals qualified as able seamen—offshore. supply vessel under section 7310 of this title may constitute all of the able seamen required on board a vessel of less than 500 gross tons as measured under section 14502 of this title or 6,000 gross tons as measured under section 14302 of this title engaged in support of exploration, exploitation, or production of offshore mineral or energy resources. Individuals qualified as able seamen—limited under section 7308 of this title may constitute all of the able seamen required on board a vessel of at least 500 gross tons as measured under section 14502 of this title or 6,000 gross tons as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title engaged in support of exploration, exploitation, or production of offshore mineral or energy resources.”.

(c) MINIMUM NUMBER OF LICENSED INDIVIDUALS.—Section 8301(b) of title 46, United States Code, is amended to read as follows:

“(b)(1) An offshore supply vessel of less than 500 gross tons as measured under section 14502 of this title or 6,000 gross tons as measured under section 14302 of this title on a voyage of less than 600 miles shall have a licensed mate. If the vessel is on a voyage of at least 600 miles, however, the vessel shall have 2 licensed mates.

“(2) An offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title on a voyage of less than 600 miles shall have at least two licensed mates, provided the offshore supply vessel meets the requirements of section 8104(g)(2). An offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title on a voyage of at least 600 miles shall have three licensed mates.

“(3) An offshore supply vessel of more than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title, may not be operated without a licensed engineer.”.

(d) WATCHES.—Section 8104(g) of title 46, United States Code, is amended—

(1) by inserting “(1)” after “(g)”; and

(2) by adding at the end the following:

“(2) Paragraph (1) applies to an offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of this title if the individuals engaged on the vessel are in compliance with hours of service requirements (including recording and record-keeping of that service) as prescribed by the Secretary.”.

(e) OIL FUEL TANK PROTECTION.—

(1) APPLICATION.—An offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of title

Applicability.

46 USC 3703
note.
Compliance.

46, United States Code, that is constructed under a contract entered into after the date of enactment of this Act, or that is delivered after August 1, 2010, with an aggregate capacity of 600 cubic meters or more of oil fuel, shall comply with the requirements of Regulation 12A under Annex I to the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, entitled Oil Fuel Tank Protection, regardless of whether such vessel is engaged in the coastwise trade or on an international voyage.

(2) DEFINITION.—In this subsection the term “oil fuel” means any oil used as fuel in connection with the propulsion and auxiliary machinery of the vessel in which such oil is carried.

(f) REGULATIONS.—

(1) IN GENERAL.—Not later than January 1, 2012, the Secretary of the department in which the Coast Guard is operating shall promulgate regulations to implement the amendments and authorities enacted by this section for offshore supply vessels of at least 6,000 gross tons as measured under section 14302 of title 46, United States Code, and to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on such vessels. The final rule issued pursuant to such rulemaking may supersede the interim final rule promulgated under paragraph (2) of this subsection. In promulgating regulations under this subsection, the Secretary shall take into consideration the characteristics of offshore supply vessels, their methods of operation, and their service in support of exploration, exploitation, or production of offshore mineral or energy resources.

(2) INTERIM FINAL RULE AUTHORITY.—As soon as is practicable and without regard to the provisions of chapters 5 and 6 of title 5, United States Code, the Secretary shall issue an interim final rule as a temporary regulation implementing this section (including the amendments made by this section) for offshore supply vessels of at least 6,000 gross tons as measured under section 14302 of title 46, United States Code, and to ensure the safe carriage of oil, hazardous substances, and individuals in addition to the crew on such vessels.

(3) INTERIM PERIOD.—After the effective date of this Act, prior to the effective date of the regulations prescribed by paragraph (2) of this subsection, and without regard to the provisions of chapters 5 and 6 of title 5, United States Code, and the offshore supply vessel tonnage limits of applicable regulations and policy guidance promulgated prior to the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating may—

(A) issue a certificate of inspection under section 3309 of title 46, United States Code, to an offshore supply vessel of at least 6,000 gross tons as measured under section 14302 of that title if the Secretary determines that such vessel’s arrangements and equipment meet the current Coast Guard requirements for certification as a cargo and miscellaneous vessel;

(B) authorize a master, mate, or engineer who possesses an ocean or near coastal license and endorsement under part 11 of subchapter B of title 46, Code of Federal Regulations, (or any successor regulation) that qualifies

46 USC 3703
note.
Deadline.

the licensed officer for service on offshore supply vessels of at least 3,000 gross tons but less than 6,000 gross tons, as measured under section 14302 of title 46, United States Code, to operate offshore supply vessels of at least 6,000 gross tons, as measured under such section; and

(C) authorize any such master, mate, or engineer who also possesses an ocean or near coastal license and endorsement under such part that qualifies the licensed officer for service on non trade-restricted vessels of at least 1,600 gross tons but less than 3,000 gross tons, as measured under such section, to increase the tonnage limitation of such license and endorsement under section 402(c) of such part, using service on vessels certificated under both subchapters I and L of such title and measured only under such section, except that such tonnage limitation shall not exceed 10,000 gross tons as measured under such section.

SEC. 618. ASSOCIATED EQUIPMENT.

Section 2101(1)(B) of title 46, United States Code, is amended by inserting “with the exception of emergency locator beacons for recreational vessels operating beyond 3 nautical miles from the baselines from which the territorial sea of the United States is measured or beyond 3 nautical miles from the coastline of the Great Lake,” before “does”.

SEC. 619. LIFESAVING DEVICES ON UNINSPECTED VESSELS.

Section 4102(b) of title 46, United States Code, is amended to read as follows:

“(b) The Secretary shall prescribe regulations requiring the installation, maintenance, and use of life preservers and other lifesaving devices for individuals on board uninspected vessels.”.

Regulations.

SEC. 620. STUDY OF BLENDED FUELS IN MARINE APPLICATION.

Deadlines.

(a) SURVEY.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, acting through the Commandant of the Coast Guard, shall submit a survey of published data and reports, pertaining to the use, safety, and performance of blended fuels in marine applications, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committees on Commerce, Science, and Transportation of the Senate.

(2) INCLUDED INFORMATION.—To the extent possible, the survey required in subsection (a), shall include data and reports on—

(A) the impact of blended fuel on the operation, durability, and performance of recreational and commercial marine engines, vessels, and marine engine and vessel components and associated equipment;

(B) the safety impacts of blended fuels on consumers that own and operate recreational and commercial marine engines and marine engine components and associated equipment; and

(C) to the extent available, fires and explosions on board vessels propelled by engines using blended fuels.

(b) STUDY.—

(1) **IN GENERAL.**—Not later than 36 months after the date of enactment of this Act, the Secretary, acting through the Commandant, shall conduct a comprehensive study on the use, safety, and performance of blended fuels in marine applications. The Secretary is authorized to conduct such study in conjunction with—

- (A) any other Federal agency;
- (B) any State government or agency;
- (C) any local government or agency, including local police and fire departments; and
- (D) any private entity, including engine and vessel manufacturers.

(2) **EVALUATION.**—The study shall include an evaluation of—

- (A) the impact of blended fuel on the operation, durability and performance of recreational and commercial marine engines, vessels, and marine engine and vessel components and associated equipment;
- (B) the safety impacts of blended fuels on consumers that own and operate recreational and commercial marine engines and marine engine components and associated equipment; and
- (C) fires and explosions on board vessels propelled by engines using blended fuels.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary of Homeland Security to carry out the survey and study under this section \$1,000,000.

SEC. 621. RENEWAL OF ADVISORY COMMITTEES.

(a) **GREAT LAKES PILOTAGE ADVISORY COMMITTEE.**—Section 9307(f)(1) of title 46, United States Code, is amended by striking “September 30, 2010.” and inserting “September 30, 2020.”.

(b) **NATIONAL BOATING SAFETY ADVISORY COUNCIL.**—Section 13110 of title 46, United States Code, is amended—

- (1) in subsection (d), by striking the first sentence; and
- (2) in subsection (e), by striking “September 30, 2010.” and inserting “September 30, 2020.”.

(c) **HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.**—Section 18(h) of the Coast Guard Authorization Act of 1991 (Public Law 102-241 as amended by Public Law 104-324) is amended by striking “September 30, 2010.” and inserting “September 30, 2020.”.

105 Stat. 2213.

(d) **LOWER MISSISSIPPI RIVER WATERWAY SAFETY ADVISORY COMMITTEE.**—Section 19 of the Coast Guard Authorization Act of 1991 (Public Law 102-241) is amended—

105 Stat. 2215.

- (1) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking “twenty-four” and inserting “twenty-five”; and

(B) by adding at the end the following new paragraph: “(12) One member representing the Associated Federal Pilots and Docking Masters of Louisiana.”; and

(2) in subsection (g), by striking “September 30, 2010.” and inserting “September 30, 2020.”.

(e) **TOWING SAFETY ADVISORY COMMITTEE.**—The Act entitled “An Act To establish a Towing Safety Advisory Committee in the Department of Transportation”, approved October 6, 1980, (33 U.S.C. 1231a) is amended—

(1) by striking subsection (a) and inserting the following:

“(a) There is established a Towing Safety Advisory Committee (hereinafter referred to as the ‘Committee’). The Committee shall consist of eighteen members with particular expertise, knowledge, and experience regarding shallow-draft inland and coastal waterway navigation and towing safety as follows:

Establishment.

“(1) Seven members representing the barge and towing industry, reflecting a regional geographic balance.

“(2) One member representing the offshore mineral and oil supply vessel industry.

“(3) One member representing holders of active licensed Masters or Pilots of towing vessels with experience on the Western Rivers and the Gulf Intracoastal Waterway.

“(4) One member representing the holders of active licensed Masters of towing vessels in offshore service.

“(5) One member representing Masters who are active ship-docking or harbor towing vessel.

“(6) One member representing licensed or unlicensed towing vessel engineers with formal training and experience.

“(7) Two members representing each of the following groups:

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

“(B) Shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge).

“(8) Two members representing the general public.”; and

(2) in subsection (e), by striking “September 30, 2010.”

and inserting “September 30, 2020.”

(f) NAVIGATION SAFETY ADVISORY COUNCIL.—Section 5 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended—

(1) by striking subsections (a) and (b) and inserting the following:

“(a) ESTABLISHMENT OF COUNCIL.—

“(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall establish a Navigation Safety Advisory Council (hereinafter referred to as the ‘Council’), consisting of not more than 21 members. All members shall have expertise in Inland and International vessel navigation Rules of the Road, aids to maritime navigation, maritime law, vessel safety, port safety, or commercial diving safety. Upon appointment, all non-Federal members shall be designated as representative members to represent the viewpoints and interests of one of the following groups or organizations:

Designation.

“(A) Commercial vessel owners or operators.

“(B) Professional mariners.

“(C) Recreational boaters.

“(D) The recreational boating industry.

“(E) State agencies responsible for vessel or port safety.

“(F) The Maritime Law Association.

“(2) PANELS.—Additional persons may be appointed to panels of the Council to assist the Council in performance of its functions.

“(3) NOMINATIONS.—The Secretary, through the Coast Guard Commandant, shall not less often than once a year publish a notice in the Federal Register soliciting nominations for membership on the Council.

Deadline.
Federal Register,
publication.
Notice.

Consultation.
Recommendations.

“(b) FUNCTIONS.—The Council shall advise, consult with, and make recommendations to the Secretary, through the Coast Guard Commandant, on matters relating to maritime collisions, rammings, groundings, Inland Rules of the Road, International Rules of the Road, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems. Any advice and recommendations made by the Council to the Secretary shall reflect the independent judgment of the Council on the matter concerned. The Council shall meet at the call of the Coast Guard Commandant, but in any event not less than twice during each calendar year. All proceedings of the Council shall be public, and a record of the proceedings shall be made available for public inspection.”; and

Deadlines.

Records.
Public information.

(2) in subsection (d), by striking “September 30, 2010.” and inserting “September 30, 2020.”.

(g) DELAWARE RIVER AND BAY OIL SPILL ADVISORY COMMITTEE.—

(1) IN GENERAL.—Section 607 of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241; 120 Stat. 556) is amended—

(A) in subsection (c)(2), by striking “Not later than 18 months after the date that the Commandant completes appointment of the members of the Committee,” and inserting “Not later than December 31, 2010,”;

(B) in subsection (h), by striking “2007” and inserting “2011”; and

(C) by striking subsection (i) and inserting the following:

Deadlines.

“(i) TERMINATION.—The Committee shall terminate 30 days after it transmits its report, pursuant to subsection (c)(2), but no later than December 31, 2010, whichever is earlier.”.

(2) EFFECTIVE DATE.—The amendments made by this subsection are deemed to have taken effect as if they were enacted on July 11, 2006.

(3) CHARTER.—Any charter pertaining to the Delaware River and Bay Oil Spill Advisory Committee is deemed not to have lapsed, and to have remained in effect, and, notwithstanding any other provision of law or policy, shall terminate 30 days after the date the Committee transmits its report, pursuant to section 607(c)(2) of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241; 120 Stat. 557), but not later than December 31, 2010, whichever is earlier.

(4) APPOINTMENTS TO COMMITTEE.—Any appointment to the Delaware River and Bay Oil Spill Advisory Committee is deemed not to have lapsed, and to have remained in effect, and, notwithstanding any other provision of law or policy, shall terminate 30 days after the Committee transmits its report, pursuant to section 607(c)(2) of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109-241; 120 Stat. 557), but not later than December 31, 2010, whichever is earlier.

SEC. 622. DELEGATION OF AUTHORITY.

(a) IN GENERAL.—Section 3316 of title 46, United States Code, is amended by adding at the end the following new subsection:

“(d)(1) The Secretary may delegate to the American Bureau of Shipping or another classification society recognized by the Secretary as meeting acceptable standards for such a society, for a United States offshore facility, the authority to—

“(A) review and approve plans required for issuing a certificate of inspection, a certificate of compliance, or any other certification and related documents issued by the Coast Guard pursuant to regulations issued under section 30 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356); and

“(B) conduct inspections and examinations.

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

“(A) the foreign society has offices and maintains records in the United States; and

“(B)(i) the government of the foreign country in which the foreign society is headquartered delegates that authority to the American Bureau of Shipping; or

“(ii) the Secretary has entered into an agreement with the government of the foreign country in which the foreign society is headquartered that—

Contracts.

“(I) ensures the government of the foreign country will accept plan review, inspections, or examinations conducted by the American Bureau of Shipping and provide equivalent access to inspect, certify, and provide related services to offshore facilities located in that country or operating under the authority of that country; and

“(II) is in full accord with principles of reciprocity in regards to any delegation contemplated by the Secretary under paragraph (1).

“(3) If an inspection or examination is conducted under authority delegated under this subsection, the person to which the authority was delegated—

“(A) shall maintain in the United States complete files of all information derived from or necessarily connected with the inspection or examination for at least 2 years after the United States offshore facility ceases to be certified; and

Records.

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

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

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

“(4) For purposes of this subsection—

Definitions.

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

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

subject to regulation under section 30 of the Outer Continental Shelf Lands Act (43 U.S.C. 1356).”

(b) REVIEW AND APPROVAL OF CLASSIFICATION SOCIETY REQUIRED.—Section 3316(c) of title 46, United States Code, is amended by striking so much as precedes paragraph (2) and inserting the following:

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

TITLE VII—OIL POLLUTION PREVENTION

Deadlines.

33 USC 1321
note.

SEC. 701. RULEMAKINGS.

(a) STATUS REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the status of all Coast Guard rulemakings required or otherwise being developed (but for which no final rule has been issued as of the date of enactment of this Act) under section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321).

(2) INFORMATION REQUIRED.—The Secretary shall include in the report required in paragraph (1)—

(A) a detailed explanation with respect to each such rulemaking as to—

- (i) what steps have been completed;
- (ii) what areas remain to be addressed; and
- (iii) the cause of any delays; and

(B) the date by which a final rule may reasonably be expected to be issued.

33 USC 1321
note.

(b) FINAL RULES.—The Secretary shall issue a final rule in each pending rulemaking described in subsection (a) as soon as practicable, but in no event later than 18 months after the date of enactment of this Act.

46 USC 3306
note.

(c) TOWING VESSELS.—No later than 90 days after the date of enactment of this Act, the Secretary shall issue a notice of proposed rulemaking regarding inspection requirements for towing vessels required under section 3306(j) of title 46, United States Code. The Secretary shall issue a final rule pursuant to that rulemaking no later than 1 year after the date of enactment of this Act.

46 USC 3703
note.
Deadline.

SEC. 702. OIL TRANSFERS FROM VESSELS.

(a) REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations to reduce the risks of oil spills in operations involving the transfer of oil from or to a tank vessel. The regulations—

(1) shall focus on operations that have the highest risks of discharge, including operations at night and in inclement weather;

(2) shall consider—

(A) requirements for the use of equipment, such as putting booms in place for transfers, safety, and environmental impacts;

(B) operational procedures such as manning standards, communications protocols, and restrictions on operations in high-risk areas; or

(C) both such requirements and operational procedures;

and

(3) shall take into account the safety of personnel and effectiveness of available procedures and equipment for preventing or mitigating transfer spills.

(b) APPLICATION WITH STATE LAWS.—The regulations promulgated under subsection (a) do not preclude the enforcement of any State law or regulation the requirements of which are at least as stringent as requirements under the regulations (as determined by the Secretary) that—

(1) applies in State waters; and

(2) does not conflict with, or interfere with the enforcement of, requirements and operational procedures under the regulations.

SEC. 703. IMPROVEMENTS TO REDUCE HUMAN ERROR AND NEAR MISS INCIDENTS.

46 USC 3703
note.

(a) REPORT.—Within 1 year after the date of enactment of this Act, the Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House Committee on Transportation and Infrastructure that, using available data—

(1) identifies the types of human errors that, combined, could cause oil spills, with particular attention to human error caused by fatigue, in the past 10 years;

(2) in consultation with representatives of industry and labor and experts in the fields of marine casualties and human factors, identifies the most frequent types of near-miss oil spill incidents involving vessels such as collisions, allisions, groundings, and loss of propulsion in the past 10 years;

(3) describes the extent to which there are gaps in the data required under paragraphs (1) and (2), including gaps in the ability to define and identify fatigue, and explains the reason for those gaps; and

(4) includes recommendations by the Secretary and representatives of industry and labor and experts in the fields of marine casualties and human factors to address the identified types of errors and any such gaps in the data.

(b) MEASURES.—Based on the findings contained in the report required by subsection (a), the Secretary shall take appropriate action to reduce the risk of oil spills caused by human error.

(c) CONFIDENTIALITY OF VOLUNTARILY SUBMITTED INFORMATION.—The identity of a person making a voluntary disclosure under this section, and any information obtained from any such voluntary disclosure, shall be treated as confidential.

(d) DISCOVERY OF VOLUNTARILY SUBMITTED INFORMATION.—

(1) **IN GENERAL.**—Except as provided in this subsection, a party in a judicial proceeding may not use discovery to obtain information or data collected or received by the Secretary for use in the report required in subsection (a).

(2) **EXCEPTION.**—

(A) Notwithstanding paragraph (1), a court may allow discovery by a party in a judicial proceeding of data described in paragraph (1) if, after an in camera review of the information or data, the court decides that there is a compelling reason to allow the discovery.

(B) When a court allows discovery in a judicial proceeding as permitted under this paragraph, the court shall issue a protective order—

(i) to limit the use of the data to the judicial proceeding; and

(ii) to prohibit dissemination of the data to any person who does not need access to the data for the proceeding.

(C) A court may allow data it has decided is discoverable under this paragraph to be admitted into evidence in a judicial proceeding only if the court places the data under seal to prevent the use of the data for a purpose other than for the proceeding.

(3) **APPLICATION.**—Paragraph (1) shall not apply to—

(A) any disclosure made with actual knowledge that the disclosure was false, inaccurate, or misleading; or

(B) any disclosure made with reckless disregard as to the truth or falsity of that disclosure.

(e) **RESTRICTION ON USE OF DATA.**—Data that is voluntarily submitted for the purpose of the study required under subsection (a) shall not be used in an administrative action under chapter 77 of title 46, United States Code.

SEC. 704. OLYMPIC COAST NATIONAL MARINE SANCTUARY.

The Secretary of the Department in which the Coast Guard is operating and the Under Secretary of Commerce for Oceans and Atmosphere shall revise the area to be avoided off the coast of the State of Washington so that restrictions apply to all vessels required to prepare a response plan pursuant to section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) (other than fishing or research vessels while engaged in fishing or research within the area to be avoided).

33 USC 1321a.

SEC. 705. PREVENTION OF SMALL OIL SPILLS.

(a) **PREVENTION AND EDUCATION PROGRAM.**—The Under Secretary of Commerce for Oceans and Atmosphere, in consultation with the Secretary of the Department in which the Coast Guard is operating and other appropriate agencies, shall establish an oil spill prevention and education program for small vessels. The program shall provide for assessment, outreach, and training and voluntary compliance activities to prevent and improve the effective response to oil spills from vessels and facilities not required to prepare a vessel response plan under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), including recreational vessels, commercial fishing vessels, marinas, and aquaculture facilities. The Under Secretary may provide grants to sea grant colleges and institutes designated under section 207 of the National Sea Grant

College Program Act (33 U.S.C. 1126) and to State agencies, tribal governments, and other appropriate entities to carry out—

(1) regional assessments to quantify the source, incidence and volume of small oil spills, focusing initially on regions in the country where, in the past 10 years, the incidence of such spills is estimated to be the highest;

(2) voluntary, incentive-based clean marina programs that encourage marina operators, recreational boaters, and small commercial vessel operators to engage in environmentally sound operating and maintenance procedures and best management practices to prevent or reduce pollution from oil spills and other sources;

(3) cooperative oil spill prevention education programs that promote public understanding of the impacts of spilled oil and provide useful information and techniques to minimize pollution, including methods to remove oil and reduce oil contamination of bilge water, prevent accidental spills during maintenance and refueling and properly cleanup and dispose of oil and hazardous substances; and

(4) support for programs, including outreach and education to address derelict vessels and the threat of such vessels sinking and discharging oil and other hazardous substances, including outreach and education to involve efforts to the owners of such vessels.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Under Secretary of Commerce for Oceans and Atmosphere to carry out this section, \$10,000,000 for each of fiscal years 2010 through 2014.

SEC. 706. IMPROVED COORDINATION WITH TRIBAL GOVERNMENTS.

33 USC 1321b.

(a) **IN GENERAL.**—Within 6 months after the date of enactment of this Act, the Secretary of the Department in which the Coast Guard is operating shall complete the development of a tribal consultation policy, which recognizes and protects to the maximum extent practicable tribal treaty rights and trust assets in order to improve the Coast Guard's consultation and coordination with the tribal governments of federally recognized Indian tribes with respect to oil spill prevention, preparedness, response and natural resource damage assessment.

Deadline.
Consultation
policy.

(b) **INCLUSION OF TRIBAL GOVERNMENT.**—The Secretary of the Department in which the Coast Guard is operating shall ensure that, as soon as practicable after identifying an oil spill that is likely to have a significant impact on natural or cultural resources owned or directly utilized by a federally recognized Indian tribe, the Coast Guard will—

(1) ensure that representatives of the tribal government of the affected tribes are included as part of the incident command system established by the Coast Guard to respond to the spill;

(2) share information about the oil spill with the tribal government of the affected tribe; and

(3) to the extent practicable, involve tribal governments in deciding how to respond to the spill.

(c) **COOPERATIVE ARRANGEMENTS.**—The Coast Guard may enter into memoranda of agreement and associated protocols with Indian tribal governments in order to establish cooperative arrangements for oil pollution prevention, preparedness, and response. Such

memoranda may be entered into prior to the development of the tribal consultation and coordination policy to provide Indian tribes grant and contract assistance. Such memoranda of agreement and associated protocols with Indian tribal governments may include—

(1) arrangements for the assistance of the tribal government to participate in the development of the National Contingency Plan and local Area Contingency Plans to the extent they affect tribal lands, cultural and natural resources;

(2) arrangements for the assistance of the tribal government to develop the capacity to implement the National Contingency Plan and local Area Contingency Plans to the extent they affect tribal lands, cultural and natural resources;

(3) provisions on coordination in the event of a spill, including agreements that representatives of the tribal government will be included as part of the regional response team co-chaired by the Coast Guard and the Environmental Protection Agency to establish policies for responding to oil spills;

(4) arrangements for the Coast Guard to provide training of tribal incident commanders and spill responders for oil spill preparedness and response;

(5) demonstration projects to assist tribal governments in building the capacity to protect tribal treaty rights and trust assets from oil spills; and

(6) such additional measures the Coast Guard determines to be necessary for oil pollution prevention, preparedness, and response.

(d) **FUNDING FOR TRIBAL PARTICIPATION.**—Subject to the availability of appropriations, the Commandant of the Coast Guard shall provide assistance to participating tribal governments in order to facilitate the implementation of cooperative arrangements under subsection (c) and ensure the participation of tribal governments in such arrangements. There are authorized to be appropriated to the Commandant \$500,000 for each of fiscal years 2010 through 2014 to be used to carry out this section.

SEC. 707. REPORT ON AVAILABILITY OF TECHNOLOGY TO DETECT THE LOSS OF OIL.

Within 1 year after the date of enactment of this Act, the Secretary of the Department in which the Coast Guard is operating shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the availability, feasibility, and potential cost of technology to detect the loss of oil carried as cargo or as fuel on tank and non-tank vessels greater than 400 gross tons.

SEC. 708. USE OF OIL SPILL LIABILITY TRUST FUND.

(a) **IN GENERAL.**—Section 1012(a)(5) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(5)) is amended—

(1) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

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

“(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;”.

(b) AUDITS; ANNUAL REPORTS.—Section 1012 of the Oil Pollution Act of 1990 (33 U.S.C. 2712) is amended—

(1) by striking subsection (g) and inserting the following:

“(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).”;

(2) by adding at the end thereof the following:

“(l) REPORTS.—

“(1) IN GENERAL.—Within one year after the date of enactment of the Coast Guard Authorization Act of 2010, and annually thereafter, 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).

“(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).”.

33 USC 1321c.

SEC. 709. INTERNATIONAL EFFORTS ON ENFORCEMENT.

The Secretary of the department in which the Coast Guard is operating, in consultation with the heads of other appropriate Federal agencies, shall ensure that the Coast Guard pursues stronger enforcement in the International Maritime Organization of agreements related to oil discharges, including joint enforcement operations, training, and stronger compliance mechanisms.

Deadlines.

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

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

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

SEC. 711. TUG ESCORTS FOR LADEN OIL TANKERS.

Deadlines.

(a) COMPARABILITY ANALYSIS.—

Canada.

(1) **IN GENERAL.**—Within 1 year after the date of enactment of this Act, the Commandant, in consultation with the Secretary of State, is strongly encouraged to enter into negotiations with the Government of Canada to update the comparability analysis which serves as the basis for the Cooperative Vessel Traffic Service agreement between the United States and Canada for the management of maritime traffic in Puget Sound, the Strait of Georgia, Haro Strait, Rosario Strait, and the Strait of Juan de Fuca. The updated analysis shall, at a minimum, consider—

(A) requirements for laden tank vessels to be escorted by tug boats;

(B) vessel emergency response towing capability at the entrance to the Strait of Juan de Fuca; and

(C) spill response capability throughout the shared water, including oil spill response planning requirements for vessels bound for one nation transiting through the waters of the other nation.

(2) **CONSULTATION REQUIREMENT.**—In conducting the analysis required under this subsection, the Commandant shall consult with the State of Washington and affected tribal governments.

(3) **RECOMMENDATIONS.**—Within 18 months after the date of enactment of this Act, the Commandant shall submit recommendations based on the analysis required under this subsection to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The recommendations shall consider a full range of options for the management of maritime traffic, including Federal legislation, promulgation of Federal rules, and the establishment of cooperative agreements for shared funding of spill prevention and response systems.

(b) DUAL ESCORT VESSELS FOR DOUBLE HULLED TANKERS IN PRINCE WILLIAM SOUND, ALASKA.—

(1) IN GENERAL.—Section 4116(c) of the Oil Pollution Act of 1990 (46 U.S.C. 3703 note) is amended—

(A) by striking “Not later than 6 months after the date of the enactment of this Act, the” and inserting “(1) IN GENERAL.—The”; and

(B) by adding at the end the following:

“(2) PRINCE WILLIAM SOUND, ALASKA.—

“(A) IN GENERAL.—The requirement in paragraph (1) relating to single hulled tankers in Prince William Sound, Alaska, described in that paragraph being escorted by at least 2 towing vessels or other vessels considered to be appropriate by the Secretary (including regulations promulgated in accordance with section 3703(a)(3) of title 46, United States Code, as set forth in part 168 of title 33, Code of Federal Regulations (as in effect on March 1, 2009) implementing this subsection with respect to those tankers) shall apply to double hulled tankers over 5,000 gross tons transporting oil in bulk in Prince William Sound, Alaska.

Applicability.

“(B) IMPLEMENTATION OF REQUIREMENTS.—The Secretary of the department in which the Coast Guard is operating shall prescribe interim final regulations to carry out subparagraph (A) as soon as practicable without notice and hearing pursuant to section 553 of title 5 of the United States Code.”

Regulations.

(2) EFFECTIVE DATE.—The amendments made by subsection (b) take effect on the date that is 90 days after the date of enactment of this Act.

46 USC 3703 note.

(c) PRESERVATION OF STATE AUTHORITY.—Nothing in this Act or in any other provision of Federal law related to the regulation of maritime transportation of oil shall affect, or be construed or interpreted as preempting, the authority of any State or political subdivision thereof which require the escort by one or more tugs of laden oil tankers in the areas which are specified in section 4116(c) of the Oil Pollution Act of 1990 (46 U.S.C. 3703 note).

46 USC 3703 note.

(d) VESSEL TRAFFIC RISK ASSESSMENT.—

(1) REQUIREMENT.—The Commandant of the Coast Guard, acting through the appropriate Area Committee established under section 311(j)(4) of the Federal Water Pollution Control Act, shall prepare a vessel traffic risk assessment for Cook Inlet, Alaska, within 1 year after the date of enactment of this Act.

Alaska.
Deadline.

(2) CONTENTS.—The assessment shall describe, for the region covered by the assessment—

(A) the amount and character of present and estimated future shipping traffic in the region; and

(B) the current and projected use and effectiveness in reducing risk, of—

(i) traffic separation schemes and routing measures;

(ii) long-range vessel tracking systems developed under section 70115 of title 46, United States Code;

(iii) towing, response, or escort tugs;

(iv) vessel traffic services;

(v) emergency towing packages on vessels;

(vi) increased spill response equipment including equipment appropriate for severe weather and sea conditions;

(vii) the Automatic Identification System developed under section 70114 of title 46, United States Code;

(viii) particularly sensitive sea areas, areas to be avoided, and other traffic exclusion zones;

(ix) aids to navigation; and

(x) vessel response plans.

(3) **RECOMMENDATIONS.**—

(A) **IN GENERAL.**—The assessment shall include any appropriate recommendations to enhance the safety, or lessen potential adverse environmental impacts, of marine shipping.

(B) **CONSULTATION.**—Before making any recommendations under paragraph (1) for a region, the Area Committee shall consult with affected local, State, and Federal government agencies, representatives of the fishing industry, Alaska Natives from the region, the conservation community, and the merchant shipping and oil transportation industries.

(4) **PROVISION TO CONGRESS.**—The Commandant shall provide a copy of the assessment to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 712. EXTENSION OF FINANCIAL RESPONSIBILITY.

Section 1016(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2716(a)) is amended—

(1) by striking “or” after the semicolon in paragraph (1);

(2) by inserting “or” after the semicolon in paragraph (2);

and

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

“(3) any tank vessel over 100 gross tons using any place subject to the jurisdiction of the United States;”.

SEC. 713. LIABILITY FOR USE OF SINGLE-HULL VESSELS.

Section 1001(32)(A) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(32)(A)) is amended by inserting “In the case of a vessel, the term ‘responsible party’ also includes the owner of oil being transported in a tank vessel with a single hull after December 31, 2010 (other than a vessel described in section 3703a(b)(3) of title 46, United States Code).” after “vessel.”.

TITLE VIII—PORT SECURITY

SEC. 801. AMERICA’S WATERWAY WATCH PROGRAM.

(a) **IN GENERAL.**—Chapter 701 of title 46, United States Code, is amended by adding at the end thereof the following:

“§ 70122. Waterway watch program

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

“(b) **PURPOSE.**—The Secretary shall administer the Program in a manner that promotes voluntary reporting of activities that may indicate that a person or persons may be preparing to engage

or engaging in a violation of law relating to a threat or an act of terrorism (as that term is defined in section 3077 of title 18) against a vessel, facility, port, or waterway.

“(c) INFORMATION; TRAINING.—

“(1) INFORMATION.—The Secretary may establish, as an element of the Program, a network of individuals and community-based organizations that encourage the public and industry to recognize activities referred to in subsection (b), promote voluntary reporting of such activity, and enhance the situational awareness within the Nation’s ports and waterways. Such network shall, to the extent practicable, be conducted in cooperation with Federal, State, and local law enforcement agencies.

“(2) TRAINING.—The Secretary may provide training in—
 “(A) observing and reporting on covered activities; and
 “(B) sharing such reports and coordinating the response by Federal, State, and local law enforcement agencies.

“(d) VOLUNTARY PARTICIPATION.—Participation in the Program—

“(1) shall be wholly voluntary;

“(2) shall not be a prerequisite to eligibility for, or receipt of, any other service or assistance from, or to participation in, any other program of any kind; and

“(3) shall not require disclosure of information regarding the individual reporting covered activities or, for proprietary purposes, the location of such individual.

“(e) COORDINATION.—The Secretary shall coordinate the Program with other like watch programs. The Secretary shall submit, concurrent with the President’s budget submission for each fiscal year, a report on coordination of the Program and like watch programs within the Department of Homeland Security to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Homeland Security of the House of Representatives.

Reports.

“(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of this section \$3,000,000 for each of fiscal years 2011 through 2016. Such funds shall remain available until expended.”

(b) CLERICAL AMENDMENT.—The table of contents for chapter 701 of title 46, United States Code, is amended by inserting after the item relating to section 70121 the following:

46 USC 70101.

“70122. Waterway watch program.”

SEC. 802. TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL.

(a) IN GENERAL.—Not later than 120 days after completing the pilot program under section 70105(k)(1) of title 46, United States Code, to test TWIC access control technologies at port facilities and vessels nationwide, the Secretary of Homeland Security shall submit to the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and to the Comptroller General a report containing an assessment of the results of the pilot. The report shall include—

Deadline.

(1) the findings of the pilot program with respect to key technical and operational aspects of implementing TWIC technologies in the maritime sector;

(2) a comprehensive listing of the extent to which established metrics were achieved during the pilot program; and

(3) an analysis of the viability of those technologies for use in the maritime environment, including any challenges to implementing those technologies and strategies for mitigating identified challenges.

(b) GAO ASSESSMENT.—The Comptroller General shall review the report and submit to the Committee on Homeland Security and the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate an assessment of the report’s findings and recommendations.

SEC. 803. INTERAGENCY OPERATIONAL CENTERS FOR PORT SECURITY.

Section 70107A(b) of title 46, United States Code, is amended—

(1) by striking paragraph (3);

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

(3) by inserting before paragraph (2), as so redesignated, the following:

“(1)(A) include—

“(i) information management systems, and

“(ii) sensor management systems; and

“(B) where practicable, provide for the physical co-location of the Coast Guard and, as the Secretary determines appropriate, representatives of the United States Customs and Border Protection, the United States Immigration and Customs Enforcement, the Transportation Security Administration, the Department of Justice, the Department of Defense, and other Federal agencies, State and local law enforcement or port security personnel, members of the Area Maritime Security Committee, and other public and private sector stakeholders adversely affected by a transportation security incident or transportation disruption;” and

(4) in paragraph (2), as so redesignated—

(A) by striking “existing centers, including—” and inserting “existing centers;” and

(B) by striking subparagraph (A) and (B); and

(5) by adding “and” at the end of paragraph (3), as so redesignated.

SEC. 804. DEPLOYABLE, SPECIALIZED FORCES.

(a) IN GENERAL.—Section 70106 of title 46, United States Code, is amended to read as follows:

“§ 70106. Deployable, specialized forces

“(a) ESTABLISHMENT.—

“(1) IN GENERAL.—To enhance the domestic maritime security capability of the United States, the Secretary shall establish deployable specialized forces of varying capabilities as are needed to safeguard the public and protect vessels, harbors, ports, facilities, and cargo in waters subject to the jurisdiction of the United States from destruction, loss or injury from crime, or sabotage due to terrorist activity, and to respond to such activity in accordance with the transportation security plans developed under section 70103.

“(2) ENHANCED TEAMS.—Such specialized forces shall include no less than two enhanced teams to serve as deployable

forces capable of combating terrorism, engaging in interdiction, law enforcement, and advanced tactical maritime security operations to address known or potentially armed security threats (including non-compliant actors at sea), and participating in homeland security, homeland defense, and counterterrorism exercises in the maritime environment.

“(b) MISSION.—The combined force of the specialized forces established under subsection (a) shall be trained, equipped, and capable of being deployed to—

“(1) deter, protect against, and rapidly respond to threats of maritime terrorism;

“(2) conduct maritime operations to protect against and disrupt illegal use, access to, or proliferation of weapons of mass destruction;

“(3) enforce moving or fixed safety or security zones established pursuant to law;

“(4) conduct high speed intercepts;

“(5) board, search, and seize any article or thing on or at, respectively, a vessel or facility found to present a risk to the vessel or facility, or to a port;

“(6) rapidly deploy to supplement United States armed forces domestically or overseas;

“(7) respond to criminal or terrorist acts so as to minimize, insofar as possible, the disruption caused by such acts;

“(8) assist with facility vulnerability assessments required under this chapter; and

“(9) carry out any other missions of the Coast Guard as are assigned to it by the Secretary.

“(c) MINIMIZATION OF RESPONSE TIMES.—The enhanced teams established under subsection (a)(2) shall, to the extent practicable, be stationed in such a way so as to minimize the response time to maritime terrorist threats and potential or actual transportation security incidents.

“(d) COORDINATION WITH OTHER AGENCIES.—To the maximum extent feasible, the combined force of the specialized forces established under subsection (a) shall coordinate their activities with other Federal, State, and local law enforcement and emergency response agencies.”

(b) CLERICAL AMENDMENT.—The table of contents for chapter 701 of title 46, United States Code, is amended by striking the item relating to section 70106 and inserting the following:

46 USC 70101.

“70106. Deployable, specialized forces.”

SEC. 805. COAST GUARD DETECTION CANINE TEAM PROGRAM EXPANSION.

46 USC 70106 note.

(a) DEFINITIONS.—For purposes of this section:

(1) CANINE DETECTION TEAM.—The term “detection canine team” means a canine and a canine handler that are trained to detect narcotics or explosives, or other threats as defined by the Secretary.

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

(b) DETECTION CANINE TEAMS.—

(1) INCREASED CAPACITY.—Not later than 1 year after the date of enactment of this Act, and subject to the availability of appropriations, the Secretary shall—

Deadline.

(A) begin to increase the number of detection canine teams certified by the Coast Guard for the purposes of maritime-related security by no fewer than 10 canine teams annually through fiscal year 2012; and

(B) encourage owners and operators of port facilities, passenger cruise liners, oceangoing cargo vessels, and other vessels identified by the Secretary to strengthen security through the use of highly trained detection canine teams.

(2) CANINE PROCUREMENT.—The Secretary, acting through the Commandant of the Coast Guard, shall procure detection canine teams as efficiently as possible, including, to the greatest extent possible, through increased domestic breeding, while meeting the performance needs and criteria established by the Commandant.

(c) DEPLOYMENT.—The Secretary shall prioritize deployment of the additional canine teams to ports based on risk, consistent with the Security and Accountability For Every Port Act of 2006 (Public Law 109–347).

SEC. 806. COAST GUARD PORT ASSISTANCE PROGRAM.

(a) FOREIGN PORT ASSESSMENT.—Chapter 701 of title 46, United States Code, is amended—

(1) by adding at the end of section 70108 the following:

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

(2) by striking “If the Secretary, after conducting an assessment under section 70108, finds that a port in a foreign country does not maintain effective antiterrorism measures,” in section 70109(a) and inserting “Unless the Secretary finds that a port in a foreign country maintains effective antiterrorism measures,”; and

(3) by striking “If the Secretary finds that a foreign port does not maintain effective antiterrorism measures,” in section 70110(a) and inserting “Unless the Secretary finds that a foreign port maintains effective antiterrorism measures.”.

(b) ASSISTANCE PROGRAM.—Section 70110 of title 46, United States Code, is amended by adding at the end the following:

“(f) COAST GUARD ASSISTANCE PROGRAM.—

“(1) IN GENERAL.—The Secretary may lend, lease, donate, or otherwise provide equipment, and provide technical training and support, to the owner or operator of a foreign port or facility—

“(A) to assist in bringing the port or facility into compliance with applicable International Ship and Port Facility Code standards; and

“(B) to assist the port or facility in correcting deficiencies identified in periodic port assessments and reassessments required under section 70108 of this title.

“(2) CONDITIONS.—The Secretary—

“(A) may provide such assistance based upon an assessment of the risks to the security of the United States and the inability of the owner or operator of the port or facility to bring the port or facility into compliance with those standards and to maintain compliance with, or exceed, such standards;

“(B) may not provide such assistance unless the port or facility has been subjected to a comprehensive port security assessment by the Coast Guard; and

“(C) may only lend, lease, or otherwise provide equipment that the Secretary has first determined is not required by the Coast Guard for the performance of its missions.”.

(c) SAFETY AND SECURITY ASSISTANCE FOR FOREIGN PORTS.—

(1) IN GENERAL.—Section 70110(e)(1) of title 46, United States Code, is amended by striking the second sentence and inserting the following: “The Secretary shall establish a strategic plan to utilize those assistance programs to assist ports and facilities that are found by the Secretary under subsection (a) not to maintain effective antiterrorism measures in the implementation of port security antiterrorism measures.”.

(2) CONFORMING AMENDMENTS.—

(A) Section 70110 of title 46, United States Code, is amended—

(i) by inserting “OR FACILITIES” after “PORTS” in the section heading;

(ii) by inserting “or facility” after “port” each place it appears; and

(iii) by striking “PORTS” in the heading for subsection (e) and inserting “PORTS, FACILITIES,”.

(B) Section 70108(c) of such title is amended—

(i) by striking paragraph (2); and

(ii) by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively.

(C) The table of contents for chapter 701 of title 46, United States Code, is amended by striking the item relating to section 70110 and inserting the following:

46 USC 70101.

“70110. Actions and assistance for foreign ports or facilities and United States territories.”.

SEC. 807. MARITIME BIOMETRIC IDENTIFICATION.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is further amended by adding at the end the following:

“§ 70123. Mobile biometric identification

“(a) IN GENERAL.—Within one year after the date of the enactment of the Coast Guard Authorization Act of 2010, the Secretary shall conduct, in the maritime environment, a program for the mobile biometric identification of suspected individuals, including terrorists, to enhance border security and for other purposes.

Deadline.

“(b) REQUIREMENTS.—The Secretary shall ensure the program required in this section is coordinated with other biometric identification programs within the Department of Homeland Security.

“(c) DEFINITION.—For the purposes of this section, the term ‘biometric identification’ means use of fingerprint and digital photography images and facial and iris scan technology and any other technology considered applicable by the Department of Homeland Security.”.

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

46 USC 70101.

“70123. Mobile biometric identification.”.

Deadline.

(c) **COST ANALYSIS.**—Within 90 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit 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 an analysis of the cost of expanding the Coast Guard’s biometric identification capabilities for use by the Coast Guard’s Deployable Operations Group, cutters, stations, and other deployable maritime teams considered appropriate by the Secretary, and any other appropriate Department of Homeland Security maritime vessels and units. The analysis may include a tiered plan for the deployment of this program that gives priority to vessels and units more likely to encounter individuals suspected of making illegal border crossings through the maritime environment.

(d) **STUDY ON EMERGING BIOMETRIC CAPABILITIES.**—

(1) **STUDY REQUIRED.**—The Secretary of Homeland Security shall submit 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 study on the use by the Coast Guard and other departmental entities of the combination of biometric technologies to rapidly identify individuals for security purposes. Such study shall focus on—

(A) increased accuracy of facial recognition;

(B) enhancement of existing iris recognition technology;

and

(C) other emerging biometric technologies capable of assisting in confirming the identification of individuals.

(2) **PURPOSE OF STUDY.**—The purpose of the study required by paragraph (1) is to facilitate the use of a combination biometrics, including facial and iris recognition, to provide a higher probability of success in identification than a single approach and to achieve transformational advances in the flexibility, authenticity, and overall capability of integrated biometric detectors. The operational goal of the study should be to provide the capability to nonintrusively collect biometrics in an accurate and expeditious manner to assist the Coast Guard and the Department of Homeland Security in fulfilling its mission to protect and support national security.

46 USC 70105
note.

SEC. 808. PILOT PROGRAM FOR FINGERPRINTING OF MARITIME WORKERS.

Deadline.
Procedures.

(a) **IN GENERAL.**—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish procedures providing for an individual who is required to be fingerprinted for purposes of obtaining a transportation security card under section 70105 of title 46, United States Code, the ability to be fingerprinted at any of not less than 20 facilities operated by or under contract with an agency of the Department of Homeland Security that fingerprints the public for the Department. These facilities shall be in addition to facilities established under section 70105 of title 46, United States Code.

(b) **EXPIRATION.**—The requirement made by subsection (a) expires 1 year after the date the Secretary establishes the facilities required under that subsection.

SEC. 809. TRANSPORTATION SECURITY CARDS ON VESSELS.

Section 70105(b)(2) of title 46, United States Code, is amended—

(1) in subparagraph (B), by inserting after “title” the following: “allowed unescorted access to a secure area designated in a vessel security plan approved under section 70103 of this title”; and

(2) in subparagraph (D), by inserting after “tank vessel” the following: “allowed unescorted access to a secure area designated in a vessel security plan approved under section 70103 of this title”.

SEC. 810. MARITIME SECURITY ADVISORY COMMITTEES.

Section 70112 of title 46, United States Code, is amended—

(1) by amending subsection (b)(5) to read as follows:

“(5)(A) The National Maritime Security Advisory Committee shall be composed of—

“(i) at least 1 individual who represents the interests of the port authorities;

“(ii) at least 1 individual who represents the interests of the facilities owners or operators;

“(iii) at least 1 individual who represents the interests of the terminal owners or operators;

“(iv) at least 1 individual who represents the interests of the vessel owners or operators;

“(v) at least 1 individual who represents the interests of the maritime labor organizations;

“(vi) at least 1 individual who represents the interests of the academic community;

“(vii) at least 1 individual who represents the interests of State or local governments; and

“(viii) at least 1 individual who represents the interests of the maritime industry.

“(B) Each Area Maritime Security Advisory Committee shall be composed of individuals who represents the interests of the port industry, terminal operators, port labor organizations, and other users of the port areas.”; and

(2) in subsection (g)—

(A) in paragraph (1)(A), by striking “2008,” and inserting “2020.”; and

(B) in paragraph (2), by striking “2006” and inserting “2018”.

SEC. 811. SEAMEN’S SHORESIDE ACCESS.

Each facility security plan approved under section 70103(c) of title 46, United States Code, shall provide a system for seamen assigned to a vessel at that facility, pilots, and representatives of seamen’s welfare and labor organizations to board and depart the vessel through the facility in a timely manner at no cost to the individual.

46 USC 70103
note.

SEC. 812. WATERSIDE SECURITY OF ESPECIALLY HAZARDOUS CARGO.

(a) NATIONAL STUDY.—

(1) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall—

(A) initiate a national study to identify measures to improve the security of maritime transportation of especially hazardous cargo; and

46 USC 70101
note.

(B) coordinate with other Federal agencies, the National Maritime Security Advisory Committee, and appropriate State and local government officials through the Area Maritime Security Committees and other existing coordinating committees, to evaluate the waterside security of vessels carrying, and waterfront facilities handling, especially hazardous cargo.

(2) MATTERS TO BE INCLUDED.—The study conducted under this subsection shall include—

(A) an analysis of existing risk assessment information relating to waterside security generated by the Coast Guard and Area Maritime Security Committees as part of the Maritime Security Risk Analysis Model;

(B) a review and analysis of appropriate roles and responsibilities of maritime stakeholders, including Federal, State, and local law enforcement and industry security personnel, responsible for waterside security of vessels carrying, and waterfront facilities handling, especially hazardous cargo, including—

(i) the number of ports in which State and local law enforcement entities are providing any services to enforce Coast Guard-imposed security zones around vessels transiting to, through, or from United States ports or to conduct security patrols in United States ports;

(ii) the number of formal agreements entered into between the Coast Guard and State and local law enforcement entities to engage State and local law enforcement entities in the enforcement of Coast Guard-imposed security zones around vessels transiting to, through, or from United States ports or the conduct of port security patrols in United States ports, the duration of those agreements, and the aid that State and local entities are engaged to provide through such agreements;

(iii) the extent to which the Coast Guard has set national standards for training, equipment, and resources to ensure that State and local law enforcement entities engaged in enforcing Coast Guard-imposed security zones around vessels transiting to, through, or from United States ports or in conducting port security patrols in United States ports (or both) can deter to the maximum extent practicable a transportation security incident;

(iv) the extent to which the Coast Guard has assessed the ability of State and local law enforcement entities to carry out the security assignments that they have been engaged to perform, including their ability to meet any national standards for training, equipment, and resources that have been established by the Coast Guard in order to ensure that those entities can deter to the maximum extent practicable a transportation security incident;

(v) the extent to which State and local law enforcement entities are able to meet national standards for training, equipment, and resources established by the Coast Guard to ensure that those entities can deter

to the maximum extent practicable a transportation security incident;

(vi) the differences in law enforcement authority, and particularly boarding authority, between the Coast Guard and State and local law enforcement entities, and the impact that these differences have on the ability of State and local law enforcement entities to provide the same level of security that the Coast Guard provides during the enforcement of Coast Guard-imposed security zones and the conduct of security patrols in United States ports; and

(vii) the extent of resource, training, and equipment differences between State and local law enforcement entities and the Coast Guard units engaged in enforcing Coast Guard-imposed security zones around vessels transiting to, through, or from United States ports or conducting security patrols in United States ports;

(C) recommendations for risk-based security measures to improve waterside security of vessels carrying, and waterfront facilities handling, especially hazardous cargo; and

(D) identification of security funding alternatives, including an analysis of the potential for cost-sharing by the public and private sectors as well as any challenges associated with such cost-sharing.

(3) INFORMATION PROTECTION.—In carrying out the coordination necessary to effectively complete the study, the Commandant shall implement measures to ensure the protection of any sensitive security information, proprietary information, or classified information collected, reviewed, or shared during collaborative engagement with maritime stakeholders and other Government entities, except that nothing in this paragraph shall constitute authority to withhold information from—

(A) the Congress; or

(B) first responders requiring such information for the protection of life or property.

(4) REPORT.—Not later than 12 months after the date of enactment of this Act, the Secretary of the Department in which the Coast Guard is operating shall submit 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 on the results of the study under this subsection.

(b) NATIONAL STRATEGY.—Not later than 6 months after submission of the report required by subsection (a), the Secretary of the department in which the Coast Guard is operating shall develop, in conjunction with appropriate Federal agencies, a national strategy for the waterside security of vessels carrying, and waterfront facilities handling, especially hazardous cargo. The strategy shall utilize the results of the study required by subsection (a).

Deadline.

(c) SECURITY OF ESPECIALLY HAZARDOUS CARGO.—Section 70103 of title 46, United States Code, is amended by adding at the end the following:

“(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.”.

(d) DEFINITIONS.—For the purposes of this section, the following definitions apply:

(1) ESPECIALLY HAZARDOUS CARGO.—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.

(2) AREA MARITIME SECURITY COMMITTEE.—The term “Area Maritime Security Committee” means each of those committees responsible for producing Area Maritime Transportation Security Plans under chapter 701 of title 46, United States Code.

(3) TRANSPORTATION SECURITY INCIDENT.—The term “transportation security incident” has the same meaning as that term has in section 70101 of title 46, United States Code.

SEC. 813. REVIEW OF LIQUEFIED NATURAL GAS FACILITIES.

Consistent with other provisions of law, the Secretary of the department in which the Coast Guard is operating shall make a recommendation, after considering recommendations made by the States, to the Federal Energy Regulatory Commission as to whether the waterway to a proposed waterside liquefied natural gas facility is suitable or unsuitable for the marine traffic associated with such facility.

SEC. 814. USE OF SECONDARY AUTHENTICATION FOR TRANSPORTATION SECURITY CARDS.

Section 70105 of title 46, United States Code, is amended by adding at the end the following new subsection:

“(n) The Secretary may use a secondary authentication system to verify the identification of individuals using transportation security cards when the individual’s fingerprints are not able to be taken or read.”.

SEC. 815. ASSESSMENT OF TRANSPORTATION SECURITY CARD ENROLLMENT SITES.

46 USC 70105
note.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall prepare an assessment of the enrollment sites for transportation security cards issued under section 70105 of title 46, United States Code, including—

Deadline.

(1) the feasibility of keeping those enrollment sites open after the date of enactment of this Act; and

(2) the quality of customer service, including the periods of time individuals are kept on hold on the telephone, whether appointments are kept, and processing times for applications.

(b) TIMELINES AND BENCHMARKS.—The Secretary shall develop timelines and benchmarks for implementing the findings of the assessment as the Secretary deems necessary.

SEC. 816. ASSESSMENT OF THE FEASIBILITY OF EFFORTS TO MITIGATE THE THREAT OF SMALL BOAT ATTACK IN MAJOR PORTS.

Reports.

The Secretary of the department in which the Coast Guard is operating shall assess and report to Congress on the feasibility of efforts to mitigate the threat of small boat attack in security zones of major ports, including specifically the use of transponders, radio frequency identification devices, and high-frequency surface radar systems to track small boats.

SEC. 817. REPORT AND RECOMMENDATION FOR UNIFORM SECURITY BACKGROUND CHECKS.

Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report that contains—

(1) a review of background checks and forms of identification required under State and local transportation security programs;

(2) a determination as to whether the background checks and forms of identification required under such programs duplicate or conflict with Federal programs; and

(3) recommendations on limiting the number of background checks and forms of identification required under such programs to reduce or eliminate duplication with Federal programs.

SEC. 818. TRANSPORTATION SECURITY CARDS: ACCESS PENDING ISSUANCE; DEADLINES FOR PROCESSING; RECEIPT.

(a) ACCESS; DEADLINES.—Section 70105 of title 46, United States Code, is further amended by adding at the end the following new subsections:

“(o) ESCORTING.—The Secretary shall coordinate with owners and operators subject to this section to allow any individual who has a pending application for a transportation security card under this section or is waiting for reissuance of such card, including any individual whose card has been lost or stolen, and who needs to perform work in a secure or restricted area to have access to such area for that purpose through escorting of such individual in accordance with subsection (a)(1)(B) by another individual who holds a transportation security card. Nothing in this subsection shall be construed as requiring or compelling an owner or operator to provide escorted access.

Review.

“(p) PROCESSING TIME.—The Secretary shall review an initial transportation security card application and respond to the applicant, as appropriate, including the mailing of an Initial Determination of Threat Assessment letter, within 30 days after receipt of the initial application. The Secretary shall, to the greatest extent practicable, review appeal and waiver requests submitted by a transportation security card applicant, and send a written decision or request for additional information required for the appeal or waiver determination, within 30 days after receipt of the applicant’s appeal or waiver written request. For an applicant that is required to submit additional information for an appeal or waiver determination, the Secretary shall send a written decision, to the greatest extent practicable, within 30 days after receipt of all requested information.”.

46 USC 70105
note.

(b) RECEIPT OF CARDS.—

(1) REPORT BY COMPTROLLER GENERAL.—Within 180 days after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Homeland Security of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report assessing the costs, technical feasibility, and security measures associated with implementing procedures to deliver a transportation security card to an approved applicant’s place of residence in a secure manner or to allow an approved applicant to receive the card at an enrollment center of the individual’s choosing.

(2) PROCESS FOR ALTERNATIVE MEANS OF RECEIPT.—If the Comptroller General finds in the final report under paragraph (1) that it is feasible for a transportation security card to be sent to an approved applicant’s place of residence in a secure manner, the Secretary shall, within 1 year after the date of issuance of the final report by the Comptroller General, implement a secure process to permit an individual approved for a transportation security card to receive the card at the applicant’s place of residence or at the enrollment center of the individual’s choosing. The individual shall be responsible

for any additional cost associated with the secure delivery of a transportation security card.

SEC. 819. HARMONIZING SECURITY CARD EXPIRATIONS.

Section 70105(b) of title 46, United States Code, is amended by adding at the end the following new paragraph:

“(6) The Secretary may extend for up to one year the expiration of a biometric transportation security card required by this section to align the expiration with the expiration of a license, certificate of registry, or merchant mariner document required under chapter 71 or 73.”.

SEC. 820. CLARIFICATION OF RULEMAKING AUTHORITY.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is further amended by adding at the end the following:

“SEC. 70124. REGULATIONS.

“Unless otherwise provided, the Secretary may issue regulations necessary to implement this chapter.”.

(b) CLERICAL AMENDMENT.—The table of contents for chapter 701 of such title is further amended by adding at the end the following new item:

“70124. Regulations.”.

46 USC 70101.

SEC. 821. PORT SECURITY TRAINING AND CERTIFICATION.

(a) PORT SECURITY TRAINING PROGRAM.—Chapter 701 of title 46, United States Code, is further amended by adding at the end the following:

“§ 70125. Port security training for facility security officers

“(a) FACILITY SECURITY OFFICERS.—The Secretary shall establish comprehensive facility security officer training requirements designed to provide full security training that would lead to certification of such officers. In establishing the requirements, the Secretary shall—

“(1) work with affected industry stakeholders; and

“(2) evaluate—

“(A) the requirements of subsection (b);

“(B) existing security training programs employed at marine terminal facilities; and

“(C) existing port security training programs developed by the Federal Government.

“(b) REQUIREMENTS.—The training program shall provide validated training that—

“(1) provides training at the awareness, performance, management, and planning levels;

“(2) utilizes multiple training mediums and methods;

“(3) establishes a validated provisional on-line certification methodology;

“(4) provide for continuing education and training for facility security officers beyond certification requirements, including a program to educate on the dangers and issues associated with the shipment of hazardous and especially hazardous cargo;

“(5) addresses port security topics, including—

“(A) facility security plans and procedures, including how to develop security plans and security procedure requirements when threat levels are elevated;

- “(B) facility security force operations and management;
- “(C) physical security and access control at facilities;
- “(D) methods of security for preventing and countering cargo theft;
- “(E) container security;
- “(F) recognition and detection of weapons, dangerous substances, and devices;
- “(G) operation and maintenance of security equipment and systems;
- “(H) security threats and patterns;
- “(I) security incident procedures, including procedures for communicating with governmental and nongovernmental emergency response providers; and
- “(J) evacuation procedures;

“(6) is consistent with, and supports implementation of, the National Incident Management System, the National Response Plan, the National Infrastructure Protection Plan, the National Preparedness Guidance, the National Preparedness Goal, the National Maritime Transportation Security Plan, and other such national initiatives;

“(7) is evaluated against clear and consistent performance measures;

“(8) addresses security requirements under facility security plans;

“(9) addresses requirements under the International Code for the Security of Ships and Port Facilities to address shore leave for mariners and access to visitors, representatives of seafarers’ welfare organizations, and labor organizations; and

“(10) such other subject matters as may be prescribed by the Secretary.

“(c) CONTINUING SECURITY TRAINING.—The Secretary, in coordination with the Secretary of Transportation, shall work with State and local law enforcement agencies and industry stakeholders to develop and certify the following additional security training requirements for Federal, State, and local officials with security responsibilities at United States seaports:

“(1) A program to familiarize them with port and shipping operations, requirements of the Maritime Transportation Security Act of 2002 (Public Law 107–295), and other port and cargo security programs that educates and trains them with respect to their roles and responsibilities.

“(2) A program to familiarize them with dangers and potential issues with respect to shipments of hazardous and especially hazardous cargoes.

“(3) A program of continuing education as deemed necessary by the Secretary.

“(d) TRAINING PARTNERS.—In developing curriculum and delivering training established pursuant to subsections (a) and (c), the Secretary, in coordination with the Maritime Administrator of the Department of Transportation and consistent with section 109 of the Maritime Transportation Security Act of 2002 [46 U.S.C. 70101 note], shall work with institutions with maritime expertise and with industry stakeholders with security expertise to develop appropriate training capacity to ensure that training can be provided in a geographically balanced manner to personnel seeking certification under subsection (a) or education and training under subsection (c).

“(e) ESTABLISHED GRANT PROGRAM.—The Secretary shall issue regulations or grant solicitations for grants for homeland security or port security to ensure that activities surrounding the development of curriculum and the provision of training and these activities are eligible grant activities under both grant programs.”

Regulations.

(b) CONFORMING AMENDMENT.—Section 113 of the SAFE Port Act (6 U.S.C. 911) is repealed.

Repeal.

(c) TABLE OF CONTENTS AMENDMENT.—The table of contents for chapter 701 of title 46, United States Code, is further amended by adding at the end the following:

46 USC 70101.

“70125. Port security training for facility security officers.”.

SEC. 822. INTEGRATION OF SECURITY PLANS AND SYSTEMS WITH LOCAL PORT AUTHORITIES, STATE HARBOR DIVISIONS, AND LAW ENFORCEMENT AGENCIES.

Section 70102 of title 46, United States Code, is amended by adding at the end thereof the following:

“(c) SHARING OF ASSESSMENT INTEGRATION OF PLANS AND EQUIPMENT.—The owner or operator of a facility, consistent with any Federal security restrictions, shall—

“(1) make a current copy of the vulnerability assessment conducted under subsection (b) available to the port authority with jurisdiction of the facility and appropriate State or local law enforcement agencies; and

Records.

“(2) integrate, to the maximum extent practical, any security system for the facility with compatible systems operated or maintained by the appropriate State, law enforcement agencies, and the Coast Guard.”.

SEC. 823. TRANSPORTATION SECURITY CARDS.

Section 70105 of title 46, United States Code, is further amended by adding at the end thereof the following:

“(q) RECEIPT AND ACTIVATION OF TRANSPORTATION SECURITY CARD.—

“(1) IN GENERAL.—Not later than one year after the date of publication of final regulations required by subsection (k)(3) of this section the Secretary shall develop a plan to permit the receipt and activation of transportation security cards at any vessel or facility described in subsection (a) of this section that desires to implement this capability. This plan shall comply, to the extent possible, with all appropriate requirements of Federal standards for personal identity verification and credential.

Deadline.
Plan.

“(2) LIMITATION.—The Secretary may not require any such vessel or facility to provide on-site activation capability.”.

SEC. 824. PRE-POSITIONING INTEROPERABLE COMMUNICATIONS EQUIPMENT AT INTERAGENCY OPERATIONAL CENTERS.

Section 70107A of title 46, United States Code, is amended—

(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and

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

“(e) DEPLOYMENT OF INTEROPERABLE COMMUNICATIONS EQUIPMENT AT INTERAGENCY OPERATIONAL CENTERS.—The Secretary, subject to the availability of appropriations, shall ensure that interoperable communications technology is deployed at all interagency operational centers established under subsection (a) and that such technology and equipment has been tested in live operational environments before deployment.”.

6 USC 945 note.

SEC. 825. INTERNATIONAL PORT AND FACILITY INSPECTION COORDINATION.

(a) COORDINATION.—The Secretary of the department in which the Coast Guard is operating shall, to the extent practicable, conduct the assessments required by the following provisions of law concurrently, or develop a process by which they are integrated and conducted by the Coast Guard:

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

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

- (1) to conduct an assessment of a foreign port at any time;
- (2) to compel the Secretary to conduct an assessment of a foreign port so as to ensure that 2 or more assessments are conducted concurrently; or
- (3) to cancel an assessment of a foreign port if the Secretary is unable to conduct 2 or more assessments concurrently.

Notification.

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

SEC. 826. AREA TRANSPORTATION SECURITY INCIDENT MITIGATION PLAN.

Section 70103(b)(2) of title 46, United States Code, is amended—

- (1) by redesignating subparagraphs (E) through (G) as subparagraphs (F) through (H), respectively; and
- (2) by inserting after subparagraph (D) the following:

“(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;”.

Deadlines.

SEC. 827. RISK BASED RESOURCE ALLOCATION.

46 USC 70101 note.

(a) NATIONAL STANDARD.—Within 1 year after the date of enactment of this Act, in carrying out chapter 701 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating shall develop and utilize a national standard and formula for prioritizing and addressing assessed security risks at United State ports and facilities on or adjacent to the waterways of the United States, such as the Maritime Security Risk Assessment Model that has been tested by the Department of Homeland Security.

(b) **USE BY MARITIME SECURITY COMMITTEES.**—Within 2 years after the date of enactment of this Act, the Secretary shall require each Area Maritime Security Committee to use this standard to regularly evaluate each port’s assessed risk and prioritize how to mitigate the most significant risks.

(c) **OTHER USES OF STANDARD.**—The Secretary shall utilize the standard when considering departmental resource allocations and grant making decisions.

(d) **USE OF MARITIME RISK ASSESSMENT MODEL.**—Within 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall make the United States Coast Guard’s Maritime Security Risk Assessment Model available, in an unclassified version, on a limited basis to regulated vessels and facilities to conduct true risk assessments of their own facilities and vessels using the same criteria employed by the Coast Guard when evaluating a port area, facility, or vessel.

SEC. 828. PORT SECURITY ZONES.

(a) **IN GENERAL.**—Section 701 of title 46, United States Code, is amended by adding at the end the following:

“SUBCHAPTER II—PORT SECURITY ZONES

“§ 70131. **Definitions**

“In this subchapter:

“(1) **LAW ENFORCEMENT AGENCY.**—The term ‘law enforcement agency’ means an agency of a State, a political subdivision of a State, or a Federally recognized tribe that is authorized by law to supervise the prevention, detection, investigation, or prosecution of any violation of criminal law.

“(2) **SECURITY ZONE.**—The term ‘security zone’ means a security zone, established by the Commandant of the Coast Guard or the Commandant’s designee pursuant to section 1 of title II of the Act of June 15, 1917 (50 U.S.C. 191) or section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)), for a vessel carrying especially hazardous cargo when such vessel—

“(A) enters, or operates within, the internal waters of the United States and the territorial sea of the United States; or

“(B) transfers such cargo or residue in any port or place, under the jurisdiction of the United States, within the territorial sea of the United States or the internal waters of the United States.

“§ 70132. **Credentialing standards, training, and certification for State and local support for the enforcement of security zones for the transportation of especially hazardous cargo**

“(a) **STANDARD.**—The Commandant of the Coast Guard shall establish, by regulation, national standards for training and credentialing of law enforcement personnel—

“(1) to enforce a security zone; or

“(2) to assist in the enforcement of a security zone.

“(b) **TRAINING.**—

“(1) The Commandant of the Coast Guard—

Regulations.

Publication.

“(A) shall develop and publish a training curriculum for—

“(i) law enforcement personnel to enforce a security zone;

“(ii) law enforcement personnel to enforce or assist in the enforcement of a security zone; and

“(iii) personnel who are employed or retained by a facility or vessel owner to assist in the enforcement of a security zone; and

“(B) may—

“(i) test and deliver such training, the curriculum for which is developed pursuant to subparagraph (A);

“(ii) enter into an agreement under which a public entity (including a Federal agency) or private entity may test and deliver such training, the curriculum for which has been developed pursuant to subparagraph (A); and

“(iii) may accept a program, conducted by a public entity (including a Federal agency) or private entity, through which such training is delivered the curriculum for which is developed pursuant to subparagraph (A).

“(2) Any Federal agency that provides such training, and any public or private entity that receives moneys, pursuant to section 70107(b)(8) of this title, to provide such training, shall provide such training—

“(A) to law enforcement personnel who enforce or assist in the enforcement of a security zone; and

“(B) on an availability basis to—

“(i) law enforcement personnel who assist in the enforcement of a security zone; and

“(ii) personnel who are employed or retained by a facility or vessel owner or operator to assist in the enforcement of a security zone.

“(3) If a Federal agency provides the training, the head of such agency may, notwithstanding any other provision of law, accept payment from any source for such training, and any amount received as payment shall be credited to the appropriation, current at the time of collection, charged with the cost thereof and shall be merged with, and available for, the same purposes of such appropriation.

“(4) Notwithstanding any other provision of law, any moneys, awarded by the Department of Homeland Security in the form of awards or grants, may be used by the recipient to pay for training of personnel to assist in the enforcement of security zones and limited access areas.

“(c) CERTIFICATION; TRAINING PARTNERS.—In developing and delivering training under the training program, the Secretary, in coordination with the Maritime Administrator of the Department of Transportation, and consistent with section 109 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note), shall—

“(1) work with government training facilities, academic institutions, private organizations, employee organizations, and other entities that provide specialized, state-of-the-art training for governmental and nongovernmental emergency responder providers or commercial seaport personnel and management;

“(2) utilize, as appropriate, government training facilities, courses provided by community colleges, public safety academies, State and private universities, and other facilities; and

“(3) certify organizations that offer the curriculum for training and certification.”.

(b) GRANTS; ADMINISTRATION.—Section 70107 of title 46, United States Code, is amended—

(1) by striking “services.” in subsection (a) and inserting “services and to train law enforcement personnel under section 70132 of this title.”;

(2) by adding at the end of subsection (b) the following:

“(8) The cost of training law enforcement personnel—

“(A) to enforce a security zone under section 70132 of this title; or

“(B) assist in the enforcement of a security zone.”;

(3) by adding at the end of subsection (c)(2) the following:

“(C) TRAINING.—There are no matching requirements for grants under subsection (a) to train law enforcement agency personnel in the enforcement of security zones under section 70132 of this title or in assisting in the enforcement of such security zones.”; and

(4) by striking “2011” in subsection (l) and inserting “2013”.

(c) CONFORMING AMENDMENTS.—

(1) SUBCHAPTER I DESIGNATION.—Chapter 701 of title 46, United States Code, is amended by inserting before section 70101 the following:

“SUBCHAPTER I—GENERAL”.

(2) TABLE OF CONTENTS AMENDMENTS.—The table of contents for chapter 701 of title 46, United States Code, is amended—

(3) by inserting before the item relating to section 70101 the following:

“Subchapter I—General”;

and

(4) by adding at the end the following:

“SUBCHAPTER II—PORT SECURITY ZONES

“70131. Definitions.

“70132. Credentialing standards, training, and certification for State and local support for the enforcement of security zones for the transportation of especially hazardous cargo.”.

TITLE IX—MISCELLANEOUS PROVISIONS

SEC. 901. WAIVERS.

(a) GENERAL COASTWISE WAIVER.—Notwithstanding section 12112 and chapter 551 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 for the following vessels:

(1) ZIPPER (State of New York regulation number NY3205EB).

46 USC 70101.

(2) GULF DIVER IV (United States official number 553457).

(b) GALLANT LADY.—Section 1120(c) of the Coast Guard Authorization Act of 1996 (110 Stat. 3977) is amended—

(1) in paragraph (1)—

(A) by striking “of Transportation” and inserting “of the department in which the Coast Guard is operating”; and

(B) by striking subparagraph (A) and inserting the following:

“(A) the vessel GALLANT LADY (Feadship hull number 672, approximately 168 feet in length).”;

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

“(3) CONDITION.—The only nonrecreational activity authorized for the vessel referred to in subparagraph (A) of paragraph (1) is the transportation of individuals on behalf of an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code, for which the owner of the vessel receives no compensation.”;

(3) by striking paragraph (4) and redesignating paragraph (5) as paragraph (4); and

(4) in paragraph (4) (as so redesignated) by striking all after “shall expire” and inserting “on the date of the sale of the vessel by the owner.”.

(c) ACTIVITY OF CERTAIN VESSELS.—

(1) IN GENERAL.—Section 12102 of title 46, United States Code, is amended by adding at the end the following:

“(d) AQUACULTURE WAIVER.—

“(1) PERMITTING OF NONQUALIFIED VESSELS TO PERFORM CERTAIN AQUACULTURE SUPPORT OPERATIONS.—Notwithstanding section 12113 and any other law, the Secretary of Transportation may issue a waiver allowing a documented vessel with a registry endorsement or a foreign flag vessel to be used in operations that treat aquaculture fish for or protect aquaculture fish from disease, parasitic infestation, or other threats to their health if the Secretary finds, after publishing a notice in the Federal Register, that a suitable vessel of the United States is not available that could perform those services.

“(2) PROHIBITION.—Vessels operating under a waiver issued under this subsection may not engage in any coastwise transportation.”.

(2) IMPLEMENTING AND INTERIM REGULATIONS.—The Secretary of the department in which the Coast Guard is operating shall, in accordance with section 553 of title 5, United States Code, and after public notice and comment, promulgate regulations necessary and appropriate to implement this subsection. The Secretary may grant interim permits pending the issuance of such regulations upon receipt of applications containing the required information.

Federal Register,
publication.
Notice.

Notice.
Public comments.
46 USC 12102
note.

SEC. 902. CREW WAGES ON PASSENGER VESSELS.

(a) FOREIGN AND INTERCOASTAL VOYAGES.—

(1) CAP ON PENALTY WAGES.—Section 10313(g) of title 46, United States Code, is amended—

(A) by striking “When” and inserting “(1) Subject to paragraph (2), when”; and

(B) by adding at the end the following:

“(2) The total amount required to be paid under paragraph (1) with respect to all claims in a class action suit by seamen on a passenger vessel capable of carrying more than 500 passengers for wages under this section against a vessel master, owner, or operator or the employer of the seamen shall not exceed ten times the unpaid wages that are the subject of the claims.

“(3) A class action suit for wages under this subsection must be commenced within three years after the later of—

Deadline.

“(A) the date of the end of the last voyage for which the wages are claimed; or

“(B) the receipt, by a seaman who is a claimant in the suit, of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.”

(2) DEPOSITS.—Section 10315 of such title is amended by adding at the end the following:

“(f) DEPOSITS IN SEAMAN ACCOUNT.—By written request signed by the seaman, a seaman employed on a passenger vessel capable of carrying more than 500 passengers may authorize the master, owner, or operator of the vessel, or the employer of the seaman, to make deposits of wages of the seaman into a checking, savings, investment, or retirement account, or other account to secure a payroll or debit card for the seaman if—

“(1) the wages designated by the seaman for such deposit are deposited in a United States or international financial institution designated by the seaman;

“(2) such deposits in the financial institution are fully guaranteed under commonly accepted international standards by the government of the country in which the financial institution is licensed;

“(3) a written wage statement or pay stub, including an accounting of any direct deposit, is delivered to the seaman no less often than monthly; and

“(4) while on board the vessel on which the seaman is employed, the seaman is able to arrange for withdrawal of all funds on deposit in the account in which the wages are deposited.”

(b) COASTWISE VOYAGES.—

(1) CAP ON PENALTY WAGES.—Section 10504(c) of such title is amended—

(A) by striking “When” and inserting “(1) Subject to subsection (d), and except as provided in paragraph (2), when”; and

(B) by inserting at the end the following:

“(2) The total amount required to be paid under paragraph (1) with respect to all claims in a class action suit by seamen on a passenger vessel capable of carrying more than 500 passengers for wages under this section against a vessel master, owner, or operator or the employer of the seamen shall not exceed ten times the unpaid wages that are the subject of the claims.

“(3) A class action suit for wages under this subsection must be commenced within three years after the later of—

Deadline.

“(A) the date of the end of the last voyage for which the wages are claimed; or

“(B) the receipt, by a seaman who is a claimant in the suit, of a payment of wages that are the subject of the suit that is made in the ordinary course of employment.”

(2) DEPOSITS.—Section 10504 of such title is amended by adding at the end the following:

“(f) DEPOSITS IN SEAMAN ACCOUNT.—On written request signed by the seaman, a seaman employed on a passenger vessel capable of carrying more than 500 passengers may authorize, the master, owner, or operator of the vessel, or the employer of the seaman, to make deposits of wages of the seaman into a checking, savings, investment, or retirement account, or other account to secure a payroll or debit card for the seaman if—

“(1) the wages designated by the seaman for such deposit are deposited in a United States or international financial institution designated by the seaman;

“(2) such deposits in the financial institution are fully guaranteed under commonly accepted international standards by the government of the country in which the financial institution is licensed;

“(3) a written wage statement or pay stub, including an accounting of any direct deposit, is delivered to the seaman no less often than monthly; and

“(4) while on board the vessel on which the seaman is employed, the seaman is able to arrange for withdrawal of all funds on deposit in the account in which the wages are deposited.”.

SEC. 903. TECHNICAL CORRECTIONS.

(a) COAST GUARD AND MARITIME TRANSPORTATION ACT OF 2006.—Effective with enactment of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109–241), such Act is amended—

Effective date.
16 USC 460kkk
note.

46 USC 8104.

33 USC 2704.

16 USC 777m.

41 USC 11.

41 USC 11.

46 USC 2109.

46 USC 6308.

46 USC 6308.

16 USC 460kkk.

33 USC 494.

(1) in section 311(b) (120 Stat. 530) by inserting “paragraphs (1) and (2) of” before “section 8104(o)”;

(2) in section 603(a)(2) (120 Stat. 554) by striking “33 U.S.C. 2794(a)(2)” and inserting “33 U.S.C. 2704(a)(2)”;

(3) in section 901(r)(2) (120 Stat. 566) by striking “the” the second place it appears;

(4) in section 902(c) (120 Stat. 566) by inserting “of the United States” after “Revised Statutes”;

(5) in section 902(e) (120 Stat. 567) is amended—

(A) by inserting “and” after the semicolon at the end of paragraph (1);

(B) by striking “and” at the end of paragraph (2)(A); and

(C) by redesignating paragraphs (3) and (4) as subparagraphs (C) and (D) of paragraph (2), respectively, and aligning the left margin of such subparagraphs with the left margin of subparagraph (A) of paragraph (2);

(6) in section 902(e)(2)(C) (as so redesignated) by striking “this section” and inserting “this paragraph”;

(7) in section 902(e)(2)(D) (as so redesignated) by striking “this section” and inserting “this paragraph”;

(8) in section 902(h)(1) (120 Stat. 567)—

(A) by striking “Bisti/De-Na-Zin” and all that follows through “Protection” and inserting “Omnibus Parks and Public Lands Management”; and

(B) by inserting a period after “Commandant of the Coast Guard”; and

(9) in section 902(k) (120 Stat. 568) is amended—

(A) by inserting “the Act of March 23, 1906, commonly known as” before “the General Bridge”;

(B) by striking “491” and inserting “494,”; and

(C) by inserting “each place it appears” before “and inserting”.

(b) TITLE 14.—

(1) The analysis for chapter 7 of title 14, United States Code, is amended by adding a period at the end of the item relating to section 149. 14 USC 141.

(2) The analysis for chapter 17 of title 14, United States Code, is amended by adding a period at the end of the item relating to section 677. 14 USC 631.

(3) The analysis for chapter 9 of title 14, United States Code, is amended by adding a period at the end of the item relating to section 198. 14 USC 181.

(4) Section 182 of title 14, United States Code, is amended by striking the third sentence.

(c) TITLE 46.—

(1) The analysis for chapter 81 of title 46, United States Code, is amended by adding a period at the end of the item relating to section 8106. 14 USC 8101.

(2) Section 70105(c)(3)(C) of such title is amended by striking “National Intelligence Director” and inserting “Director of National Intelligence”.

(d) DEEPWATER PORT ACT OF 1974.—Section 5(c)(2) of the Deepwater Port Act of 1974 (33 U.S.C. 1504(c)(2)) is amended by aligning the left margin of subparagraph (K) with the left margin of subparagraph (L).

(e) OIL POLLUTION ACT OF 1990.—

(1) Section 1004(a)(2) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(2)) is amended by striking the first comma following “\$800,000”.

(2) The table of sections in section 2 of such Act is amended by inserting a period at the end of the item relating to section 7002.

(f) COAST GUARD AUTHORIZATION ACT OF 1996.—The table of sections in section 2 of the Coast Guard Authorization Act of 1996 is amended in the item relating to section 103 by striking “reports” and inserting “report”.

SEC. 904. MANNING REQUIREMENT.

Section 421 of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109–241; 120 Stat. 547) is amended—

(1) in subsection (a), by striking “in the 48-month period beginning on the date of enactment of this Act if,” and inserting “until the date of expiration of this section if,”;

(2) in subsection (b), by striking “Subsection (a)(1)” and inserting “Subsection (a)”;

(3) in subsection (d), by striking “48 months after the date of enactment of this Act.” and inserting “on December 31, 2012.”; and

(4) by redesignating subsection (e) as subsection (f) and inserting after subsection (d) the following:

“(e) SAFETY INSPECTIONS.—A vessel may not engage a foreign citizen to meet a manning requirement under this section unless it has an annual safety examination by an individual authorized to enforce part B of subtitle II of title 46, United States Code.”. Deadline.

33 USC 494a.

SEC. 905. STUDY OF BRIDGES OVER NAVIGABLE WATERS.

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 comprehensive study on the proposed construction or alteration of any bridge, drawbridge, or causeway over navigable waters with a channel depth of 25 feet or greater of the United States that may impede or obstruct future navigation to or from port facilities.

SEC. 906. LIMITATION ON JURISDICTION OF STATES TO TAX CERTAIN SEAMEN.

Section 11108(b)(2)(B) of title 46, United States Code, is amended to read as follows:

“(B) who performs regularly assigned duties while engaged as a master, officer, or crewman on a vessel operating on navigable waters in 2 or more States.”.

SEC. 907. LAND CONVEYANCE, COAST GUARD PROPERTY IN MARQUETTE COUNTY, MICHIGAN, TO THE CITY OF MARQUETTE, MICHIGAN.**(a) CONVEYANCE AUTHORIZED.—**

(1) **IN GENERAL.**—The Commandant of the Coast Guard may convey as surplus property, under section 550 of title 40, United States Code, and other relevant Federal Laws governing the disposal of Federal surplus property, to the City of Marquette, Michigan (in this section referred to as the “City”), all right, title, and interest of the United States in and to a parcel of real property, together with any improvements thereon, located in Marquette County, Michigan, that is under the administrative control of the Coast Guard, consisting of approximately 5.5 acres of real property, as depicted on the Van Neste survey (#204072), dated September 7, 2006, together with the land between the intermediate traverse line as shown on such survey and the ordinary high water mark, the total comprising 9 acres, more or less, and commonly identified as Coast Guard Station Marquette and Lighthouse Point.

Determination.

(2) **COSTS OF CONVEYANCE.**—The responsibility for all reasonable and necessary costs, including real estate transaction and environmental documentation costs, associated with the transaction shall be determined by the Commandant of the Coast Guard and the City.

(b) **RETENTION OF CERTAIN EASEMENTS.**—In conveying the property under subsection (a), the Commandant of the Coast Guard may retain such easements over the property as the Commandant considers appropriate for access to aids to navigation.

(c) **LIMITATIONS.**—The property to be conveyed under subsection (a) may not be conveyed under that subsection until—

(1) the Coast Guard has relocated Coast Guard Station Marquette to a newly constructed station;

(2) any environmental remediation required under Federal law with respect to the property has been completed; and

(3) the Commandant of the Coast Guard determines that retention of the property by the United States is not required to carry out Coast Guard missions or functions.

(d) **CONDITIONS OF TRANSFER.**—All conditions placed within the deed of title of the property to be conveyed under subsection (a) shall be construed as covenants running with the land.

(e) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Commandant of the Coast Guard.

(f) **ADDITIONAL TERMS AND CONDITIONS.**—The Commandant of the Coast Guard may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) as the Commandant considers appropriate to protect the interests of the United States.

SEC. 908. MISSION REQUIREMENT ANALYSIS FOR NAVIGABLE PORTIONS OF THE RIO GRANDE RIVER, TEXAS, INTERNATIONAL WATER BOUNDARY.

Not later than 90 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall prepare a mission requirement analysis for the navigable portions of the Rio Grande River, Texas, international water boundary. The analysis shall take into account the Coast Guard's involvement on the Rio Grande River by assessing Coast Guard missions, assets, and personnel assigned along the Rio Grande River. The analysis shall also identify what would be needed for the Coast Guard to increase search and rescue operations, migrant interdiction operations, and drug interdiction operations. In carrying out this section, the Secretary shall work with all appropriate entities to facilitate the collection of information under this section as necessary and shall report the analysis to the Congress.

Deadline.

Reports.

SEC. 909. CONVEYANCE OF COAST GUARD PROPERTY IN CHEBOYGAN, MICHIGAN.

(a) **CONVEYANCE AUTHORIZED.**—Notwithstanding any other provision of law, the Commandant of the Coast Guard is authorized to convey, at fair market value, all right, title, and interest of the United States in and to a parcel of real property, consisting of approximately 3 acres, more or less, that is under the administrative control of the Coast Guard and located at 900 S. Western Avenue in Cheboygan, Michigan.

(b) **RIGHT OF FIRST REFUSAL.**—The Cornerstone Christian Academy, located in Cheboygan, MI, shall have the right of first refusal to purchase, at fair market value, all or a portion of the real property described in subsection (a).

(c) **DESCRIPTION OF PROPERTY.**—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Commandant of the Coast Guard.

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

- (1) determined by appraisal, in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice; and
- (2) subject to the approval of the Commandant.

(e) **COSTS OF CONVEYANCE.**—The responsibility for all reasonable and necessary costs, including real estate transaction and environmental documentation costs, associated with the transaction

Determination.

shall be determined by the Commandant of the Coast Guard and the purchaser.

(f) **ADDITIONAL TERMS AND CONDITIONS.**—The Commandant of the Coast Guard may require such additional terms and conditions in connection with the conveyance under subsection (a) as is considered appropriate to protect the interests of the United States.

SEC. 910. ALTERNATIVE LICENSING PROGRAM FOR OPERATORS OF UNINSPECTED PASSENGER VESSELS ON LAKE TEXOMA IN TEXAS AND OKLAHOMA.

Contracts.

(a) **IN GENERAL.**—Upon the request of the Governor of the State of Texas or the Governor of the State of Oklahoma, the Secretary of the department in which the Coast Guard is operating shall enter into an agreement with the Governor of the State whereby the State shall license operators of uninspected passenger vessels operating on Lake Texoma in Texas and Oklahoma in lieu of the Secretary issuing the license pursuant to section 8903 of title 46, United States Code, and the regulations issued thereunder, but only if the State plan for licensing the operators of uninspected passenger vessels—

(1) meets the equivalent standards of safety and protection of the environment as those contained in subtitle II of title 46, United States Code, and regulations issued thereunder;

(2) includes—

(A) standards for chemical testing for such operators;

(B) physical standards for such operators;

(C) professional service and training requirements for such operators; and

(D) criminal history background check for such operators;

(3) provides for the suspension and revocation of State licenses;

(4) makes an individual, who is ineligible for a license issued under title 46, United States Code, ineligible for a State license; and

(5) provides for a report that includes—

(A) the number of applications that, for the preceding year, the State rejected due to failure to—

(i) meet chemical testing standards;

(ii) meet physical standards;

(iii) meet professional service and training requirements; and

(iv) pass criminal history background check for such operators;

(B) the number of licenses that, for the preceding year, the State issued;

(C) the number of license investigations that, for the preceding year, the State conducted;

(D) the number of licenses that, for the preceding year, the State suspended or revoked, and the cause for such suspensions or revocations; and

(E) the number of injuries, deaths, collisions, and loss or damage associated with uninspected passenger vessels operations that, for the preceding year, the State investigated.

(b) **ADMINISTRATION.**—

(1) The Governor of the State may delegate the execution and enforcement of the State plan, including the authority to license and the duty to report information pursuant to subsection (a), to any subordinate State officer. The Governor shall provide, to the Secretary, written notice of any delegation.

(2) The Governor (or the Governor's designee) shall provide written notice of any amendment to the State plan no less than 45 days prior to the effective date of such amendment.

(3) At the request of the Secretary, the Governor of the State (or the Governor's designee) shall grant, on a biennial basis, the Secretary access to State records and State personnel for the purpose of auditing State execution and enforcement of the State plan.

(c) APPLICATION.—

(1) The requirements of section 8903 of title 46, United States Code, and the regulations issued thereunder shall not apply to any person operating under the authority of a State license issued pursuant to an agreement under this section.

(2) The State shall not compel a person, operating under the authority of a license issued either by another State, pursuant to a valid agreement under this section, or by the Secretary, pursuant to section 8903 of title 46, United States Code, to—

(A) hold a license issued by the State, pursuant to an agreement under this section; or

(B) pay any fee, associated with licensing, because the person does not hold a license issued by the State, pursuant to an agreement under this section.

Nothing in this paragraph shall limit the authority of the State to impose requirements or fees for privileges, other than licensing, that are associated with the operation of uninspected passenger vessels on Lake Texoma.

(3) For the purpose of enforcement, if an individual is issued a license—

(A) by a State, pursuant to an agreement entered into under to this section; or

(B) by the Secretary, pursuant to section 8903 of title 46, United States Code,

then the individual shall be entitled to lawfully operate an uninspected passenger vessel on Lake Texoma in Texas and Oklahoma without further requirement to hold an additional operator's license.

(d) TERMINATION.—

(1) If—

(A) the Secretary finds that the State plan for the licensing the operators of uninspected passenger vessels—

(i) does not meet the equivalent standards of safety and protection of the environment as those contained in subtitle II of title 46, United States Code, and regulations issued thereunder;

(ii) does not include—

(I) standards for chemical testing for such operators,

(II) physical standards for such operators,

(III) professional service and training requirements for such operators, or

(IV) background and criminal investigations for such operators;

Notice.
Deadline.

Records.

Notices.
Deadlines.

(iii) does not provide for the suspension and revocation of State licenses; or

(iv) does not make an individual, who is ineligible for a license issued under title 46, United States Code, ineligible for a State license; or

(B) the Governor (or the Governor’s designee) fails to report pursuant to subsection (b), the Secretary shall terminate the agreement authorized by this section, provided that the Secretary provides written notice to the Governor of the State 60 days in advance of termination. The findings of fact and conclusions of the Secretary, if based on a preponderance of the evidence, shall be conclusive.

(2) The Governor of the State may terminate the agreement authorized by this section, provided that the Governor provides written notice to the Secretary 60 days in advance of the termination date.

(e) EXISTING AUTHORITY.—Nothing in this section shall affect or diminish the authority or jurisdiction of any Federal or State officer to investigate, or require reporting of, marine casualties.

(f) DEFINITIONS.—For the purposes of this section, the term “uninspected passenger vessel” has the same meaning such term has in section 2101(42)(B) of title 46, United States Code.

Deadline.
Reports.

SEC. 911. STRATEGY REGARDING DRUG TRAFFICKING VESSELS.

Within 180 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating, acting through the Commandant of the Coast Guard, shall submit a report to Congress on its comprehensive strategy to combat the illicit flow of narcotics, weapons, bulk cash, and other contraband through the use of submersible and semi-submersible vessels. The strategy shall be developed in coordination with other Federal agencies engaged in detection, interdiction, or apprehension of such vessels. At a minimum, the report shall include the following:

(1) An assessment of the threats posed by submersible and semi-submersible vessels, including the number of such vessels that have been detected or interdicted.

(2) Information regarding the Federal personnel, technology and other resources available to detect and interdict such vessels.

(3) An explanation of the Coast Guard’s plan, working with other Federal agencies as appropriate, to detect and interdict such vessels.

(4) An assessment of additional personnel, technology, or other resources necessary to address such vessels.

SEC. 912. USE OF FORCE AGAINST PIRACY.

(a) IN GENERAL.—Chapter 81 of title 46, United States Code, is amended by adding at the end the following new section:

“§ 8107. Use of force against piracy

Regulations.

“(a) LIMITATION ON LIABILITY.—An owner, operator, time charterer, master, mariner, or individual who uses force or authorizes the use of force to defend a vessel of the United States against an act of piracy shall not be liable for monetary damages for any injury or death caused by such force to any person engaging in an act of piracy if such force was in accordance with standard rules for the use of force in self-defense of vessels prescribed by the Secretary.

“(b) PROMOTION OF COORDINATED ACTION.—To carry out the purpose of this section, the Secretary of the department in which the Coast Guard is operating shall work through the International Maritime Organization to establish agreements to promote coordinated action among flag- and port-states to deter, protect against, and rapidly respond to piracy against the vessels of, and in the waters under the jurisdiction of, those nations, and to ensure limitations on liability similar to those established by subsection (a).”

Contracts.

“(c) DEFINITION.—For the purpose of this section, the term ‘act of piracy’ means any act of aggression, search, restraint, depredation, or seizure attempted against a vessel of the United States by an individual not authorized by the United States, a foreign government, or an international organization recognized by the United States to enforce law on the high seas.”

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

46 USC 8101.

“8107. Use of force against piracy.”

(c) STANDARD RULES FOR THE USE OF FORCE FOR SELF-DEFENSE OF VESSELS OF THE UNITED STATES.—Not later than 180 days after the date of enactment of this act, the secretary of the department in which the coast guard is operating, in consultation with representatives of industry and labor, shall develop standard rules for the use of force for self-defense of vessels of the United States.

46 USC 8107
note.
Deadline.

SEC. 913. TECHNICAL AMENDMENTS TO CHAPTER 313 OF TITLE 46, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 313 of title 46, United States Code, is amended—

(1) by striking “of Transportation” in sections 31302, 31306, 31321, 31330, and 31343 each place it appears;

(2) by striking “and” after the semicolon in section 31301(5)(F);

(3) by striking “office.” in section 31301(6) and inserting “office; and”; and

(4) by adding at the end of section 31301 the following:

“(7) ‘Secretary’ means the Secretary of the Department of Homeland Security, unless otherwise noted.”

Definition.

(b) SECRETARY AS MORTGAGEE.—Section 31308 of such title is amended by striking “When the Secretary of Commerce or Transportation is a mortgagee under this chapter, the Secretary” and inserting “The Secretary of Commerce or Transportation, as a mortgagee under this chapter,”.

(c) SECRETARY OF TRANSPORTATION.—Section 31329(d) of such title is amended by striking “Secretary.” and inserting “Secretary of Transportation.”.

(d) MORTGAGEE.—

(1) Section 31330(a)(1) of such title, as amended by subsection (a)(1) of this section, is amended—

(A) by inserting “or” after the semicolon in subparagraph (B);

(B) by striking “Secretary; or” in subparagraph (C) and inserting “Secretary.”; and

(C) by striking subparagraph (D).

(2) Section 31330(a)(2) is amended—

(A) by inserting “or” after the semicolon in subparagraph (B);

(B) by striking “faith; or” in subparagraph (C) and inserting “faith.”; and

(C) by striking subparagraph (D).

14 USC 92 note. **SEC. 914. CONVEYANCE OF COAST GUARD VESSELS FOR PUBLIC PURPOSES.**

(a) **IN GENERAL.**—Whenever the transfer of ownership of a Coast Guard vessel or aircraft to an eligible entity for use for educational, cultural, historical, charitable, recreational, or other public purposes is authorized by law or declared excess by the Commandant, the Coast Guard shall transfer the vessel or aircraft to the General Services Administration for conveyance to the eligible entity.

(b) **CONDITIONS OF CONVEYANCE.**—The General Services Administration may not convey a vessel or aircraft to an eligible entity as authorized by law unless the eligible entity agrees—

(1) to provide the documentation needed by the General Services Administration to process a request for aircraft or vessels under section 102.37.225 of title 41, Code of Federal Regulations;

(2) to comply with the special terms, conditions, and restrictions imposed on aircraft and vessels under section 102.37.460 of such title;

(3) to make the vessel available to the United States Government if it is needed for use by the Commandant of the Coast Guard in time of war or a national emergency; and

(4) to hold the United States Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, that occurs after conveyance of the vessel, except for claims arising from use of the vessel by the United States Government under paragraph (3).

(c) **OTHER OBLIGATIONS UNAFFECTED.**—Nothing in this section amends or affects any obligation of the Coast Guard or any other person under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) or any other law regarding use or disposal of hazardous materials including asbestos and polychlorinated biphenyls.

(d) **ELIGIBLE ENTITY DEFINED.**—In this section, the term “eligible entity” means a State or local government, nonprofit corporation, educational agency, community development organization, or other entity that agrees to comply with the conditions established under this section.

SEC. 915. ASSESSMENT OF CERTAIN AIDS TO NAVIGATION AND TRAFFIC FLOW.

Deadline. (a) **INFORMATION ON USAGE.**—Within 60 days after the date of enactment of this Act, the Commandant of the Coast Guard shall—

Determination. (1) determine the types and numbers of vessels typically transiting or utilizing that portion of the Atlantic Intracoastal Waterway beginning at a point that is due East of the outlet of the Cutler Drain Canal C-100 in Dade County, Florida, and ending at the Dade County line, during a period of 30 days; and

(2) provide the information on usage compiled under this subsection to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(b) ASSESSMENT OF CERTAIN AIDS TO NAVIGATION.—Within 90 days after the date of enactment of this Act, the Commandant of the Coast Guard shall—

Deadline.

(1) review and assess the buoys, markers, and other aids to navigation in and along that portion of the Atlantic Intra-coastal Waterway specified in subsection (a), to determine the adequacy and sufficiency of such aids, and the need to replace such aids, install additional aids, or both; and

(2) submit a report on the assessment required by this section to the committees.

Reports.

(c) SUBMISSION OF PLAN.—Within 180 days after the date of enactment of this Act, the Commandant shall submit a plan to the committees to address the needs identified under subsection (b).

Deadline.

SEC. 916. FRESNEL LENS FROM PRESQUE ISLE LIGHT STATION IN PRESQUE ISLE, MICHIGAN.

(a) DETERMINATION; ANALYSES.—

(1) DETERMINATION.—The Commandant of the Coast Guard shall determine the necessity and adequacy of the existing Federal aids to navigation at Presque Isle Light Station, Presque Isle, Michigan (hereinafter “Light Station”), and submit such determination to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. The Commandant may base such determination on the Waterways Analysis and Management System study of such Federal aid to navigation, provided that such study was completed not more than 1 year prior to the date of enactment of this section.

(2) ANALYSES.—The Commandant of the Coast Guard shall conduct—

(A) an analysis of the feasibility of restoring the Fresnel Lens from the Light Station to operating condition, the capacity of the Coast Guard to maintain the Fresnel Lens as a Federal aid to navigation, and the impact on the Fresnel Lens as an artifact if used as a Federal aid to navigation; and

(B) a comparative analysis of the cost of restoring, reinstalling, operating, and maintaining the Fresnel Lens (including life-cycle costs) and the cost of operating and maintaining the existing Federal aid to navigation at the Light Station (including life-cycle costs).

(3) SUBMISSION.—Not later than 1 year after the date of enactment of this section, the Commandant of the Coast Guard shall submit the determination and analyses, conducted pursuant to this subsection, to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

Deadline.

(b) TRANSFER POSSESSION OF LENS AUTHORIZED.—

(1) TRANSFER OF POSSESSION.—Notwithstanding any other provision of law, the Commandant of the Coast Guard may

transfer to the Township of Presque Isle, Michigan (hereinafter “Township”), possession of the Fresnel Lens from the Light Station for the purpose of conserving and displaying such Fresnel Lens as an artifact in an exhibition facility at or near the Light Station.

(2) **CONDITION.**—As a condition of the transfer of possession pursuant to paragraph (1)—

(A) all Federal aids to navigation located at, on, or in the Light Station in operation on the date of transfer of possession shall remain the personal property of the United States and continue to be operated and maintained by the United States for as long as needed for navigational purposes;

(B) there is reserved to the United States the right to maintain, remove, replace, or install any Federal aid to navigation located at, on, or in the Light Station as may be necessary for navigational purposes; and

(C) the Township shall neither interfere nor allow interference in any manner with any Federal aid to navigation, nor hinder activities required for the operation and maintenance of any Federal aid to navigation.

(3) **ALTERNATIVE DISPLAY.**—

(A) In the event that—

(i) the Commandant of the Coast Guard, pursuant to a Waterways Analysis and Management System study, discontinues the existing Federal aids to navigation at, on, or in the Light Station; and

(ii) the Township demonstrates to the satisfaction of the Commandant that the Township can restore, reinstall, and display the Fresnel Lens from the Light Station in the lantern room of such Light Station in a manner that conserves such Fresnel Lens as an artifact,

the Township is authorized, notwithstanding paragraph (1), to display such Fresnel Lens in the lantern room of such Light Station.

(B) Nothing in this paragraph shall be construed to prevent the Township from installing a replica of the Fresnel Lens in the lantern room of such Light Station.

(c) **CONVEYANCE, TRANSFER OF ADDITIONAL PERSONAL PROPERTY.**—Notwithstanding any other provision of law, the Commandant may convey or transfer possession of any personal property of the United States, pertaining to the Fresnel Lens or the Light Station, as an artifact to the Township.

(d) **TERMS; REVERSIONARY INTEREST.**—As a condition of transfer of possession of personal property of the United States, pursuant to subsection (c), the Commandant may require the Township to comply with terms and conditions necessary to protect and conserve such personal property. Upon notice that the Commandant has determined that the Township has not complied with such terms and conditions, the Township shall immediately transfer possession of such personal property to the Coast Guard, except to the extent otherwise approved by the Commandant.

(e) **CONVEYANCE WITHOUT CONSIDERATION.**—The conveyance or transfer of possession of any personal property of the United States (including the Fresnel Lens) under this section shall be without consideration.

(f) **DELIVERY OF PROPERTY.**—The Commandant shall deliver any personal property, conveyed or transferred pursuant to this section (including the Fresnel Lens)—

- (1) at the place where such property is located on the date of the conveyance;
- (2) in condition on the date of conveyance; and
- (3) without cost to the United States.

(g) **MAINTENANCE OF PROPERTY.**—As a condition of the transfer of possession of the Fresnel Lens and any other personal property of the United States to the Township under this section, the Commandant shall enter into an agreement with the Township under which the Township agrees to hold the United States harmless for any claim arising with respect to the Fresnel Lens or such personal property.

Contracts.

(h) **LIMITATION ON FUTURE TRANSFERS.**—The instruments providing for the transfer of possession of the Fresnel Lens or any other personal property of the United States under this section shall—

(1) require that any further transfer of an interest in the Fresnel Lens or personal property may not be made without the advance approval of the Commandant; and

(2) provide that, if the Commandant determines that an interest in the Fresnel Lens or personal property was transferred without such approval—

Determination.

(A) all right, title, and interest in the Fresnel Lens or personal property shall revert to the United States, and the United States shall have the right to immediate possession of the Fresnel Lens or personal property; and

(B) the recipient of the Fresnel Lens or personal property shall pay the United States for costs incurred by the United States in recovering the Fresnel Lens or personal property.

Payments.

(i) **ADDITIONAL TERMS AND CONDITIONS.**—The Commandant may require such additional terms and conditions in connection with the conveyance or transfer of personal property of the United States (including the Fresnel Lens) authorized by this section as the Commandant considers appropriate to protect the interests of the United States.

SEC. 917. MARITIME LAW ENFORCEMENT.

(a) **PENALTIES.**—Subsection (b) of section 2237 of title 18, United States Code, is amended to read as follows:

“(b)(1) Except as otherwise provided in this subsection, whoever knowingly violates subsection (a) shall be fined under this title or imprisoned for not more than 5 years, or both.

“(2)(A) If the offense is one under paragraph (1) or (2)(A) of subsection (a) and has an aggravating factor set forth in subparagraph (B) of this paragraph, the offender shall be fined under this title or imprisoned for any term of years or life, or both.

“(B) The aggravating factor referred to in subparagraph (A) is that the offense—

“(i) results in death; or

“(ii) involves—

“(I) an attempt to kill;

“(II) kidnapping or an attempt to kidnap; or

“(III) an offense under section 2241.

“(3) If the offense is one under paragraph (1) or (2)(A) of subsection (a) and results in serious bodily injury (as defined in section 1365), the offender shall be fined under this title or imprisoned for not more than 15 years, or both.

“(4) If the offense is one under paragraph (1) or (2)(A) of subsection (a), involves knowing transportation under inhumane conditions, and is committed in the course of a violation of section 274 of the Immigration and Nationality Act, or chapter 77 or section 113 (other than under subsection (a)(4) or (a)(5) of such section) or 117 of this title, the offender shall be fined under this title or imprisoned for not more than 15 years, or both.”.

(b) DEFINITION.—Section 2237(e) of title 18, United States Code, is amended—

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

“(3) the term ‘vessel subject to the jurisdiction of the United States’ has the meaning given the term in section 70502 of title 46;”;

(2) in paragraph (4), by striking “section 2 of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903).” and inserting “section 70502 of title 46; and”; and

(3) by adding at the end the following new paragraph:

“(5) the term ‘transportation under inhumane conditions’ means—

“(A) transportation—

“(i) of one or more persons in an engine compartment, storage compartment, or other confined space;

“(ii) at an excessive speed; or

“(iii) of a number of persons in excess of the rated capacity of the vessel; or

“(B) intentional grounding of a vessel in which persons are being transported.”.

14 USC 663 note. **SEC. 918. CAPITAL INVESTMENT PLAN.**

The Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure and the Committee on Commerce, Science, and Transportation of the Senate the Coast Guard’s 5-year capital investment plan concurrent with the President’s budget submission for each fiscal year.

SEC. 919. REPORTS.

Notwithstanding any other provision of law, in fiscal year 2011 the total amount of appropriated funds obligated or expended by the Coast Guard during any fiscal year in connection with any study or report required by law may not exceed the total amount of appropriated funds obligated or expended by the Coast Guard for such purpose in fiscal year 2010. In order to comply with the requirements of this limitation, the Commandant of the Coast Guard shall establish for each fiscal year a rank order of priority for studies and reports that can be conducted or completed during the fiscal year consistent with this limitation and shall post the list on the Coast Guard’s public website.

Web posting.

SEC. 920. COMPLIANCE PROVISION.

The budgetary effects of this Act, for purposes of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled “Budgetary Effects of PAYGO Legislation” for this Act, jointly submitted for printing in the Congressional Record by the Chairmen of the House and

Senate Budget Committees, provided that such statement has been submitted prior to the vote on passage in the House acting first on this conference report or amendments between the Houses.

SEC. 921. CONVEYANCE OF COAST GUARD PROPERTY IN PORTLAND, MAINE.

Section 347 of the Maritime Transportation Security Act of 2002 (116 Stat. 2108; as amended by section 706 of Public Law 109–347 (120 Stat. 1946)) is amended in subsection (i), by adding at the end the following new paragraph:

“(3) PUBLIC AQUARIUM.—For purposes of this section, the term ‘aquarium’ or ‘public aquarium’ as used in this section or in the deed delivered to the Corporation or any agreement entered into pursuant to this section, means any new building constructed by the Corporation adjacent to the pier and bulkhead in compliance with the waterfront provisions of the City of Portland Code of Ordinances.”

Definition.

TITLE X—CLEAN HULLS

Subtitle A—General Provisions

SEC. 1011. DEFINITIONS.

33 USC 3801.

In this title:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the Environmental Protection Agency.

(2) ANTIFOULING SYSTEM.—The term “antifouling system” means a coating, paint, surface treatment, surface, or device that is used or intended to be used on a vessel to control or prevent attachment of unwanted organisms.

(3) CONVENTION.—The term “Convention” means the International Convention on the Control of Harmful Anti-Fouling Systems on Ships, 2001, including its annexes, and including any amendments to the Convention or annexes which have entered into force for the United States.

(4) FPSO.—The term “FPSO” means a floating production, storage, or offloading unit.

(5) FSU.—The term “FSU” means a floating storage unit.

(6) GROSS TONNAGE.—The term “gross tonnage” as defined in chapter 143 of title 46, United States Code, means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in annex 1 to the International Convention on Tonnage Measurement of Ships, 1969.

(7) INTERNATIONAL VOYAGE.—The term “international voyage” means a voyage by a vessel entitled to fly the flag of one country to or from a port, shipyard, offshore terminal, or other place under the jurisdiction of another country.

(8) ORGANOTIN.—The term “organotin” means any compound or additive of tin bound to an organic ligand, that is used or intended to be used as biocide in an antifouling system.

(9) PERSON.—The term “person” means—

(A) any individual, partnership, association, corporation, or organized group of persons whether incorporated or not;

(B) any department, agency, or instrumentality of the United States, except as provided in section 3(b)(2); or

(C) any other government entity.

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

(11) SELL OR DISTRIBUTE.—The term “sell or distribute” means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, import, export, hold for import, hold for export, or receive and (having so received) deliver or offer to deliver.

(12) VESSEL.—The term “vessel” has the meaning given that term in section 3 of title 1, United States Code, including hydrofoil boats, air cushion watercraft, submersibles, floating craft, fixed or floating platforms, floating storage units, and floating production, storage, and offloading units.

(13) TERRITORIAL SEA.—The term “territorial sea” means the territorial sea as described in Presidential Proclamation No. 5928 on December 27, 1988.

(14) UNITED STATES.—The term “United States” means the several States of the United States, the District of Columbia, Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction.

(15) USE.—The term “use” includes application, reapplication, installation, or any other employment of an antifouling system.

33 USC 3802.

SEC. 1012. COVERED VESSELS.

(a) INCLUDED VESSEL.—Except as provided in subsection (b), after the Convention enters into force for the United States, the following vessels are subject to the requirements of this title:

(1) A vessel documented under chapter 121 of title 46, United States Code, or one operated under the authority of the United States, wherever located.

(2) Any vessel permitted by a Federal agency to operate on the Outer Continental Shelf.

(3) Any other vessel when—

(A) in the internal waters of the United States;

(B) in any port, shipyard, offshore terminal, or other place in the United States;

(C) lightering in the territorial sea; or

(D) to the extent consistent with international law, anchoring in the territorial sea of the United States.

(b) EXCLUDED VESSELS.—

(1) IN GENERAL.—The following vessels are not subject to the requirements of this title:

(A) Any warship, naval auxiliary, or other vessel owned or operated by a foreign state, and used, for the time being, only on government noncommercial service.

(B) Except as provided in paragraph (2), any warship, naval auxiliary, or other vessel owned or operated by the United States and used for the time being only on government noncommercial service.

(2) APPLICATION TO UNITED STATES GOVERNMENT VESSELS.—

(A) IN GENERAL.—The Administrator may apply any requirement of this title to one or more classes of vessels described in paragraph (1)(B), if the head of the Federal

department or agency under which those vessels operate concurs in that application.

(B) LIMITATION FOR COMBAT-RELATED VESSEL.—Subparagraph (A) shall not apply to combat-related vessels.

SEC. 1013. ADMINISTRATION AND ENFORCEMENT.

(a) IN GENERAL.—Unless otherwise specified in this title, with respect to a vessel, the Secretary shall administer and enforce the Convention and this title.

(b) ADMINISTRATOR.—Except with respect to section 1031(b) and (c), the Administrator shall administer and enforce subtitle C.

(c) REGULATIONS.—The Administrator and the Secretary may each prescribe and enforce regulations as may be necessary to carry out their respective responsibilities under this title.

SEC. 1014. COMPLIANCE WITH INTERNATIONAL LAW.

Any action taken under this title shall be taken in accordance with treaties to which the United States is a party and other international obligations of the United States.

SEC. 1015. UTILIZATION OF PERSONNEL, FACILITIES OR EQUIPMENT OF OTHER FEDERAL DEPARTMENTS AND AGENCIES.

The Secretary and the Administrator may utilize by agreement, with or without reimbursement, personnel, facilities, or equipment of other Federal departments and agencies in administering the Convention, this title, or any regulations prescribed under this title.

Subtitle B—Implementation of the Convention

SEC. 1021. CERTIFICATES.

33 USC 3821.

(a) CERTIFICATE REQUIRED.—On entry into force of the Convention for the United States, any vessel of at least 400 gross tons that engages in one or more international voyages (except fixed or floating platforms, FSUs, and FPSOs) shall carry an International Antifouling System Certificate.

(b) ISSUANCE OF CERTIFICATE.—On entry into force of the Convention, on a finding that a successful survey required by the Convention has been completed, a vessel of at least 400 gross tons that engages in at least one international voyage (except fixed or floating platforms, FSUs, and FPSOs) shall be issued an International Antifouling System Certificate. The Secretary may issue the Certificate required by this section. The Secretary may delegate this authority to an organization that the Secretary determines is qualified to undertake that responsibility.

(c) MAINTENANCE OF CERTIFICATE.—The Certificate required by this section shall be maintained as required by the Secretary.

(d) CERTIFICATES ISSUED BY OTHER PARTY COUNTRIES.—A Certificate issued by any country that is a party to the Convention has the same validity as a Certificate issued by the Secretary under this section.

(e) VESSELS OF NONPARTY COUNTRIES.—Notwithstanding subsection (a), a vessel of at least 400 gross tons, having the nationality of or entitled to fly the flag of a country that is not a party

to the Convention, may demonstrate compliance with this title through other appropriate documentation considered acceptable by the Secretary.

33 USC 3822.

SEC. 1022. DECLARATION.

(a) **REQUIREMENTS.**—On entry into force of the Convention for the United States, a vessel of at least 24 meters in length, but less than 400 gross tons engaged on an international voyage (except fixed or floating platforms, FSUs, and FPSOs) must carry a declaration described in subsection (b) that is signed by the owner or owner’s authorized agent. That declaration shall be accompanied by appropriate documentation, such as a paint receipt or a contractor invoice, or contain an appropriate endorsement.

(b) **CONTENT OF DECLARATION.**—The declaration must contain a clear statement that the antifouling system on the vessel complies with the Convention. The Secretary may prescribe the form and other requirements of the declaration.

33 USC 3823.

SEC. 1023. OTHER COMPLIANCE DOCUMENTATION.

In addition to the requirements under sections 1021 and 1022, the Secretary may require vessels to hold other documentation considered necessary to verify compliance with this title.

33 USC 3824.

SEC. 1024. PROCESS FOR CONSIDERING ADDITIONAL CONTROLS.

(a) **ACTIONS BY ADMINISTRATOR.**—The Administrator may—

(1) participate in the technical group described in Article 7 of the Convention, and in any other body convened pursuant to the Convention for the consideration of new or additional controls on antifouling systems;

(2) evaluate any risks of adverse effects on nontarget organisms or human health presented by a given antifouling system such that the amendment of annex 1 of the Convention may be warranted;

(3) undertake an assessment of relevant environmental, technical, and economic considerations necessary to evaluate any proposals for new or additional controls of antifouling systems under the Convention, including benefits in the United States and elsewhere associated with the production and use in the United States and elsewhere, of the subject antifouling system; and

(4) develop recommendations based on that assessment.

(b) **REFERRALS TO TECHNICAL GROUP.**—

Public information.

(1) **CONVENING OF SHIPPING COORDINATING COMMITTEE.**—On referral of any antifouling system to the technical group described in article 7 of the Convention for consideration of new or additional controls, the Secretary of State shall convene a public meeting of the Shipping Coordinating Committee for the purpose of receiving information and comments regarding controls on such antifouling system. The Secretary of State shall publish advance notice of such meeting in the Federal Register and on the State Department’s Web site. The Administrator shall assemble and maintain a public docket containing notices pertaining to that meeting, any comments responding to those notices, the minutes of that meeting, and materials presented at that meeting.

Federal Register, publication, Notice, Web posting.

(2) **REPORT BY TECHNICAL GROUP.**—The Administrator shall promptly make any report by the technical group described in the Convention available to the public through the docket

established pursuant to subsection (b) and announce the availability of that report in the Federal Register. The Administrator shall provide an opportunity for public comment on the report for a period of not less than 30 days from the time the availability of the report is announced in the Federal Register.

Public comments.

(3) **CONSIDERATION OF COMMENTS.**—To the extent practicable, the Administrator shall take any comments into consideration in developing recommendations under subsection (a).

SEC. 1025. SCIENTIFIC AND TECHNICAL RESEARCH AND MONITORING; COMMUNICATION AND INFORMATION. 33 USC 3825.

The Secretary, the Administrator, and the Administrator of the National Oceanic and Atmospheric Administration may each undertake scientific and technical research and monitoring pursuant to article 8 of the Convention and to promote the availability of relevant information concerning—

- (1) scientific and technical activities undertaken in accordance with the Convention;
- (2) marine scientific and technological programs and their objectives; and
- (3) the effects observed from any monitoring and assessment programs relating to antifouling systems.

SEC. 1026. COMMUNICATION AND EXCHANGE OF INFORMATION. 33 USC 3826.

(a) **IN GENERAL.**—Except as provided in subsection (b), with respect to those antifouling systems regulated by the Administrator, the Administrator shall provide to any party to the Convention that requests it, relevant information on which the decision to regulate was based, including information provided for in annex 3 to the Convention, or other information suitable for making an appropriate evaluation of the antifouling system.

(b) **LIMITATION.**—This section shall not be construed to authorize the provision of information the disclosure of which is otherwise prohibited by law.

Subtitle C—Prohibitions and Enforcement Authority

SEC. 1031. PROHIBITIONS. 33 USC 3841.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, it is unlawful for any person—

- (1) to act in violation of this title, or any regulation prescribed under this title;
- (2) to sell or distribute in domestic or international commerce organotin or an antifouling system containing organotin;
- (3) to manufacture, process, or use organotin to formulate an antifouling system;
- (4) to apply an antifouling system containing organotin on any vessel to which this title applies; or
- (5) after the Convention enters into force for the United States, to apply or otherwise use in a manner inconsistent with the Convention, an antifouling system on any vessel that is subject to this title.

(b) **VESSEL HULLS.**—Except as provided in subsection (c), no vessel shall bear on its hull or outer surface any antifouling system containing organotin, regardless of when such system was applied,

unless that vessel bears an overcoating which forms a barrier to organotin leaching from the underlying antifouling system.

(c) LIMITATIONS.—

(1) EXCEPTED VESSEL.—Subsection (b) does not apply to fixed or floating platforms, FSUs, or FPSOs that were constructed prior to January 1, 2003, and that have not been in dry dock on or after that date.

(2) SALE, MANUFACTURE, ETC.—This section does not apply to—

(A) the sale, distribution, or use pursuant to any agreement between the Administrator and any person that results in an earlier prohibition or cancellation date than specified in this title; or

(B) the manufacture, processing, formulation, sale, distribution, or use of organotin or antifouling systems containing organotin used or intended for use only for sonar domes or in conductivity sensors in oceanographic instruments.

33 USC 3842.

SEC. 1032. INVESTIGATIONS AND INSPECTIONS BY SECRETARY.

(a) IN GENERAL.—The Secretary may conduct investigations and inspections regarding a vessel's compliance with this title or the Convention.

(b) VIOLATIONS; SUBPOENAS.—

(1) IN GENERAL.—In any investigation under this section, the Secretary may issue a subpoena to require the attendance of a witness or the production of documents or other evidence if—

(A) before the issuance of the subpoena, the Secretary requests a determination by the Attorney General of the United States as to whether the subpoena will interfere with a criminal investigation; and

(B) the Attorney General—

Determination.

(i) determines that the subpoena will not interfere with a criminal investigation; or

Deadline.

(ii) fails to make a determination under clause (i) before the date that is 30 days after the date on which the Secretary makes a request under subparagraph (A).

(2) ENFORCEMENT.—In the case of refusal to obey a subpoena issued to any person under this subsection, the Secretary may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance.

(c) FURTHER ACTION.—On completion of an investigation, the Secretary may take whatever further action the Secretary considers appropriate under the Convention or this title.

(d) COOPERATION.—The Secretary may cooperate with other parties to the Convention in the detection of violations and in enforcement of the Convention. Nothing in this section affects or alters requirements under any other laws.

33 USC 3843.

SEC. 1033. EPA ENFORCEMENT.

(a) INSPECTIONS, SUBPOENAS.—

(1) IN GENERAL.—For purposes of enforcing this title or any regulation prescribed under this title, officers or employees of the Environmental Protection Agency or of any State designated by the Administrator may enter at reasonable times

any location where there is being held or may be held organotin or any other substance or antifouling system regulated under the Convention, for the purpose of inspecting and obtaining samples of any containers or labeling for organotin or other substance or system regulated under the Convention.

(2) SUBPOENAS.—

(A) IN GENERAL.—In any investigation under this section, the Administrator may issue a subpoena to require the attendance of a witness or the production of documents or other evidence if—

(i) before the issuance of the subpoena, the Administrator requests a determination by the Attorney General of the United States as to whether the subpoena will interfere with a criminal investigation; and

Determination.

(ii) the Attorney General—

(I) determines that the subpoena will not interfere with a criminal investigation; or

(II) fails to make a determination under subclause (I) before the date that is 30 days after the date on which the Administrator makes a request under clause (i).

Deadline.

(B) ENFORCEMENT.—In the case of refusal to obey a subpoena issued to any person under this paragraph, the Administrator may request the Attorney General to invoke the aid of the appropriate district court of the United States to compel compliance.

(b) STOP MANUFACTURE, SALE, USE, OR REMOVAL ORDERS.—Consistent with section 1013, whenever any organotin or other substance or system regulated under the Convention is found by the Administrator and there is reason to believe that a manufacturer, seller, distributor, or user has violated or is in violation of any provision of this title, or that such organotin or other substance or system regulated under the Convention has been or is intended to be manufactured, distributed, sold, or used in violation of this title, the Administrator may issue a stop manufacture, sale, use, or removal order to any person that owns, controls, or has custody of such organotin or other substance or system regulated under the Convention. After receipt of that order the person may not manufacture, sell, distribute, use, or remove the organotin or other substance or system regulated under the Convention described in the order except in accordance with the order.

SEC. 1034. ADDITIONAL AUTHORITY OF THE ADMINISTRATOR.

The Administrator, in consultation with the Secretary, may establish, as necessary, terms and conditions regarding the removal and disposal of antifouling systems prohibited or restricted under this title.

Subtitle D—Action on Violation, Penalties, and Referrals

SEC. 1041. CRIMINAL ENFORCEMENT.

33 USC 3851.

Any person who knowingly violates paragraph (2), (3), (4), or (5) of section 1031(a) or section 1031(b) shall be fined under

title 18, United States Code, or imprisoned not more than 6 years, or both.

33 USC 3852.

SEC. 1042. CIVIL ENFORCEMENT.

(a) CIVIL PENALTY.—

(1) IN GENERAL.—Any person who is found by the Secretary or the Administrator, as appropriate, after notice and an opportunity for a hearing, to have—

(A) violated the Convention, this title, or any regulation prescribed under this title, is liable to the United States Government for a civil penalty of not more than \$37,500 for each violation; or

(B) made a false, fictitious, or fraudulent statement or representation in any matter in which a statement or representation is required to be made to the Secretary under the Convention, this title, or any regulations prescribed under this title, is liable to the United States for a civil penalty of not more than \$50,000 for each such statement or representation.

(2) RELATIONSHIP TO OTHER LAW.—This subsection shall not limit or affect the authority of the Government under section 1001 of title 18, United States Code.

Notice.

(b) ASSESSMENT OF PENALTY.—The amount of the civil penalty shall be assessed by the Secretary or Administrator, as appropriate, by written notice.

(c) LIMITATION FOR RECREATIONAL VESSEL.—A civil penalty imposed under subsection (a) against the owner or operator of a recreational vessel, as that term is defined in section 2101 of title 46, United States Code, for a violation of the Convention, this title, or any regulation prescribed under this title involving that recreational vessel, may not exceed \$5,000 for each violation.

(d) DETERMINATION OF PENALTY.—For purposes of penalties under this section, each day of a continuing violation constitutes a separate violation. In determining the amount of the penalty, the Secretary or Administrator 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, the economic impact of the penalty on the violator, the economic benefit to the violator and other matters as justice may require.

(e) REWARD.—An amount equal to not more than one-half of any civil penalty assessed by the Secretary or Administrator under this section may, subject to the availability of appropriations, be paid by the Secretary or Administrator, respectively, to any person who provided information that led to the assessment or imposition of the penalty.

(f) REFERRAL TO ATTORNEY GENERAL.—If any person fails to pay a civil penalty assessed under this section after it has become final, or comply with an order issued under this title, the Secretary or Administrator, as appropriate, may refer the matter to the Attorney General of the United States for collection in any appropriate district court of the United States.

(g) COMPROMISE, MODIFICATION, OR REMISSION.—Before referring any civil penalty that is subject to assessment or has been assessed under this section to the Attorney General, the Secretary, or Administrator, as appropriate, may compromise, modify, or remit, with or without conditions, the civil penalty.

(h) **NONPAYMENT PENALTY.**—Any person who fails to pay on a timely basis a civil penalty assessed under this section shall also be liable to the United States for interest on the penalty at an annual rate equal to 11 percent compounded quarterly, attorney fees and costs for collection proceedings, and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. That nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of that person’s penalties and nonpayment penalties that are unpaid as of the beginning of that quarter.

SEC. 1043. LIABILITY IN REM.

33 USC 3853.

A vessel operated in violation of the Convention, this title, or any regulation prescribed under this title, is liable in rem for any fine imposed under section 18, United States Code, or civil penalty assessed pursuant to section 1042, and may be proceeded against in the United States district court of any district in which the vessel may be found.

SEC. 1044. VESSEL CLEARANCE OR PERMITS; REFUSAL OR REVOCATION; BOND OR OTHER SURETY.

33 USC 3854.

If any vessel that is subject to the Convention or this title, or its owner, operator, or person in charge, is liable for a fine or civil penalty under section 1042 or 1043, or if reasonable cause exists to believe that the vessel, its owner, operator, or person in charge may be subject to a fine or civil penalty under section 1042 or 1043, the Secretary may refuse or revoke the clearance required by section 60105 of title 46, United States Code. Clearance may be granted upon the filing of a bond or other surety satisfaction to the Secretary.

SEC. 1045. WARNINGS, DETENTIONS, DISMISSALS, EXCLUSION.

33 USC 3855.

(a) **IN GENERAL.**—If a vessel is detected to be in violation of the Convention, this title, or any regulation prescribed under this title, the Secretary may warn, detain, dismiss, or exclude the vessel from any port or offshore terminal under the jurisdiction of the United States.

(b) **NOTIFICATIONS.**—If action is taken under subsection (a), the Secretary, in consultation with the Secretary of State, shall make the notifications required by the Convention.

SEC. 1046. REFERRALS FOR APPROPRIATE ACTION BY FOREIGN COUNTRY.

33 USC 3856.

Notwithstanding sections 1041, 1042, 1043, and 1045, if a violation of the Convention is committed by a vessel registered in or of the nationality of a country that is a party to the Convention, or by a vessel operated under the authority of a country that is a party to the Convention, the Secretary, acting in coordination with the Secretary of State, may refer the matter to the government of the country of the vessel’s registry or nationality, or under whose authority the vessel is operating, for appropriate action, rather than taking the actions otherwise required or authorized by this subtitle.

SEC. 1047. REMEDIES NOT AFFECTED.

33 USC 3857.

(a) **IN GENERAL.**—Nothing in this title limits, denies, amends, modifies, or repeals any other remedy available to the United States.

(b) RELATIONSHIP TO STATE AND LOCAL LAW.—Nothing in this title limits, denies, amends, modifies, or repeals any rights under existing law, of any State, territory, or possession of the United States, or any political subdivision thereof, to regulate any antifouling system. Compliance with the requirements of a State, territory, or possession of the United States, or political subdivision thereof related to antifouling paint or any other antifouling system does not relieve any person of the obligation to comply with this title.

SEC. 1048. REPEAL.

The Organotin Antifouling Paint Control Act of 1988 (33 U.S.C. 2401 et seq.) is repealed.

Approved October 15, 2010.

33 USC
2401–2410,
2401 note.

LEGISLATIVE HISTORY—H.R. 3619 (S. 1194):

HOUSE REPORTS: No. 111–303, Pt. 1 (Comm. on Transportation and Infrastructure).

SENATE REPORTS: No. 111–95 (Comm. on Commerce, Science, and Transportation) accompanying S. 1194.

CONGRESSIONAL RECORD:

Vol. 155 (2009): Oct. 22, 23, considered and passed House.

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Sept. 28, House concurred in Senate amendment with amendments.

Sept. 29, Senate concurred in House amendments with amendments. House concurred in Senate amendments.

DAILY COMPILATION OF PRESIDENTIAL DOCUMENTS (2010):

Oct. 15, Presidential statement.

