

PUBLIC LAW 108-293—AUG. 9, 2004

COAST GUARD AND MARITIME
TRANSPORTATION ACT OF 2004

Public Law 108–293
108th Congress

An Act

Aug. 9, 2004
[H.R. 2443]

An Act to authorize appropriations for the Coast Guard for fiscal year 2005, to amend various laws administered by the Coast Guard, and for other purposes.

Coast Guard and
Maritime
Transportation
Act of 2004.
14 USC 1 note.

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

SECTION 1. SHORT TITLE.

This Act may be referred to as the “Coast Guard and Maritime Transportation Act of 2004”.

SEC. 2. TABLE OF CONTENTS.

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TITLE I—AUTHORIZATION

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for fiscal year 2005 for necessary expenses of the Coast Guard as follows:

(1) For the operation and maintenance of the Coast Guard, \$5,404,300,000, of which \$25,000,000 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.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$1,500,000,000, of which—

(A) \$23,500,000 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, to remain available until expended;

(B) \$1,100,000,000 is authorized for acquisition and construction of shore and offshore facilities, vessels, and aircraft, including equipment related thereto, and other activities that constitute the Integrated Deepwater System; and

(C) \$161,000,000 shall be available for Rescue 21.

(3) 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, \$24,200,000, to remain available until expended, of which \$3,500,000 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, \$1,085,460,000, 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, \$19,650,000, of which—

(A) \$17,150,000, to remain available until expended;

and

(B) \$2,500,000, to remain available until expended, which may be utilized for construction of a new Chelsea

Street Bridge over the Chelsea River in Boston, Massachusetts.

(6) For environmental compliance and restoration at Coast Guard facilities (other than parts and equipment associated with operation and maintenance), \$17,000,000, to remain available until expended.

(7) For maintenance and operation of facilities, supplies, equipments, and services necessary for the Coast Guard Reserve, as authorized by law, \$117,000,000.

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 45,500 for the years ending on September 30, 2004, and September 30, 2005.

(b) **MILITARY TRAINING STUDENT LOADS.**—The Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training for fiscal year 2005, 2,500 student years.

(2) For flight training for fiscal year 2005, 125 student years.

(3) For professional training in military and civilian institutions for fiscal year 2005, 350 student years.

(4) For officer acquisition for fiscal year 2005, 1,200 student years.

TITLE II—COAST GUARD MANAGEMENT

SEC. 201. LONG-TERM LEASES.

Section 93 of title 14, United States Code, is amended—

(1) by redesignating paragraphs (a) through (x) in order as paragraphs (1) through (23);

(2) in paragraph (18) (as so redesignated) by striking the comma at the end and inserting a semicolon;

(3) by inserting “(a)” before “For the purpose”; and

(4) by adding at the end the following:

“(b)(1) Notwithstanding subsection (a)(14), a lease described in paragraph (2) of this subsection may be for a term of up to 20 years.

“(2) A lease referred to in paragraph (1) is a lease—

“(A) to the United States Coast Guard Academy Alumni Association for the construction of an Alumni Center on the grounds of the United States Coast Guard Academy; or

“(B) to an entity with which the Commandant has a cooperative agreement under section 4(e) of the Ports and Waterways Safety Act, and for which a term longer than 5 years is necessary to carry out the agreement.”.

SEC. 202. NONAPPROPRIATED FUND INSTRUMENTALITIES.

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

“§ 152. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services

“The Coast Guard Exchange System, or a morale, welfare, and recreation system of the Coast Guard, may enter into a contract

or other agreement with any element or instrumentality of the Coast Guard or with another Federal department, agency, or instrumentality to provide or obtain goods and services beneficial to the efficient management and operation of the Coast Guard Exchange System or that morale, welfare, and recreation system.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 14, United States Code, is amended by adding at the end the following:

“152. Nonappropriated fund instrumentalities: contracts with other agencies and instrumentalities to provide or obtain goods and services.”.

SEC. 203. TERM OF ENLISTMENTS.

Section 351(a) of title 14, United States Code, is amended by striking “terms of full years not exceeding six years.” and inserting “a period of at least two years but not more than six years.”.

SEC. 204. ENLISTED MEMBER CRITICAL SKILL TRAINING BONUS.

(a) IN GENERAL.—Chapter 11 of title 14, United States Code, is amended by inserting after section 373 the following:

“§ 374. Critical skill training bonus

“(a) The Secretary may provide a bonus, not to exceed \$20,000, to an enlisted member who completes training in a skill designated as critical, if at least four years of obligated active service remain on the member’s enlistment at the time the training is completed. A bonus under this section may be paid in a single lump sum or in periodic installments.

“(b) If an enlisted member voluntarily or because of misconduct does not complete the member’s term of obligated active service, the Secretary may require the member to repay the United States, on a pro rata basis, all sums paid under this section. The Secretary may charge interest on the amount repaid at a rate, to be determined quarterly, equal to 150 percent of the average of the yields on the 91-day Treasury bills auctioned during the calendar quarter preceding the date on which the amount to be repaid is determined.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 11 of title 14, United States Code, is amended by inserting the following after the item relating to section 373: “374. Critical skill training bonus.”.

SEC. 205. INDEMNITY FOR DISABLING VESSELS LIABLE TO SEIZURE OR EXAMINATION.

(a) REPEAL OF REQUIREMENT TO FIRE WARNING SHOT.—Subsection (a) of section 637 of title 14, United States Code, is amended—

(1) by inserting “(1)” after “(a)”;

(2) by striking “after a” and all that follows through “signal,” and inserting “subject to paragraph (2),”;

(3) by adding at the end the following:

“(2) Before firing at or into a vessel as authorized in paragraph (1), the person in command or in charge of the authorized vessel or authorized aircraft shall fire a gun as a warning signal, except that the prior firing of a gun as a warning signal is not required if that person determines that the firing of a warning signal would unreasonably endanger persons or property in the vicinity of the vessel to be stopped.”.

(b) **EXTENSION TO MILITARY AIRCRAFT OF COAST GUARD INTERDICTION AUTHORITY.**—Subsection (c) of such section is amended—

- (1) in paragraph (1) by inserting “or” after the semicolon; and
 (2) in paragraph (2) by—

(A) inserting “or military aircraft” after “surface naval vessel”; and

(B) striking “; or” and all that follows through paragraph (3) and inserting a period.

(c) **REPEAL OF TERMINATION OF APPLICABILITY TO NAVAL AIRCRAFT.**—Subsection (d) of such section is repealed.

(d) **REPORT.**—The Commandant of the Coast Guard shall transmit a report annually to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives describing the location, vessels or aircraft, circumstances, and consequences of each incident in the 12-month period covered by the report in which the person in command or in charge of an authorized vessel or an authorized aircraft (as those terms are used in section 637 of title 14, United States Code) fired at or into a vessel without prior use of the warning signal as authorized by that section.

14 USC 637 note.

(e) **TECHNICAL CORRECTION.**—

(1) **CORRECTION.**—Section 637 of title 14, United States Code, is amended in the section heading by striking “**immunity**” and inserting “**indemnity**”.

(2) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by striking the item relating to section 637 and inserting the following:

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

SEC. 206. ADMINISTRATIVE, COLLECTION, AND ENFORCEMENT COSTS FOR CERTAIN FEES AND CHARGES.

Section 664 of title 14, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (f);

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

“(c) In addition to the collection of fees and charges established under this section, the Secretary may recover from the person liable for the fee or charge the costs of collecting delinquent payments of the fee or charge, and enforcement costs associated with delinquent payments of the fees and charges.

“(d)(1) The Secretary may employ any Federal, State, or local agency or instrumentality, or any private enterprise or business, to collect a fee or charge established under this section.

“(2) A private enterprise or business employed by the Secretary to collect fees or charges—

“(A) shall be subject to reasonable terms and conditions agreed to by the Secretary and the enterprise or business;

“(B) shall provide appropriate accounting to the Secretary; and

“(C) may not institute litigation as part of that collection.

“(e) The Secretary shall account for the agency’s costs of collecting a fee or charge as a reimbursable expense, subject to the availability of appropriations, and the costs shall be credited to the account from which expended.”; and

(3) by adding at the end the following:

“(g) In this section the term ‘costs of collecting a fee or charge’ includes the reasonable administrative, accounting, personnel, contract, equipment, supply, training, and travel expenses of calculating, assessing, collecting, enforcing, reviewing, adjusting, and reporting on a fee or charge.”.

SEC. 207. EXPANSION OF COAST GUARD HOUSING AUTHORITIES.

(a) **ELIGIBLE ENTITY DEFINED.**—Section 680 of title 14, United States Code, is amended—

(1) by redesignating paragraphs (3) and (4) in order as paragraphs (4) and (5); and

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

“(3) The term ‘eligible entity’ means any private person, corporation, firm, partnership, or company and any State or local government or housing authority of a State or local government.”.

(b) **DIRECT LOANS FOR PROVIDING HOUSING.**—Section 682 of title 14, United States Code, is amended—

(1) in the section heading by striking “**Loan guarantees**” and inserting “**Direct loans and loan guarantees**”;

(2) by redesignating subsections (a) and (b) as (b) and (c) respectively;

(3) by inserting before subsection (b) (as so redesignated) the following:

“(a) **DIRECT LOANS.**—(1) Subject to subsection (c), the Secretary may make direct loans to an eligible entity in order to provide funds to the eligible entity for the acquisition or construction of housing units that the Secretary determines are suitable for use as military family housing or as military unaccompanied housing.

“(2) The Secretary shall establish such terms and conditions with respect to loans made under this subsection as the Secretary considers appropriate to protect the interests of the United States, including the period and frequency for repayment of such loans and the obligations of the obligors on such loans upon default.”;

(4) in subsection (b) (as so redesignated) by striking “subsection (b),” and inserting “subsection (c),”; and

(5) in subsection (c) (as so redesignated)—

(A) in the heading by striking “**GUARANTEE**”; and

(B) by striking “**Loan guarantees**” and inserting “**Direct loans and loan guarantees**”.

(c) **LIMITED PARTNERSHIPS WITH ELIGIBLE ENTITIES.**—Section 684 of title 14, United States Code, is amended—

(1) in the section heading by striking “**nongovernmental**” and inserting “**eligible**”;

(2) in subsection (a) by striking “nongovernmental” and inserting “eligible”;

(3) in subsection (b)(1) by striking “a nongovernmental” and inserting “an eligible”;

(4) in subsection (b)(2) by striking “a nongovernmental” and inserting “an eligible”; and

(5) in subsection (c) by striking “nongovernmental” and inserting “eligible”.

(d) **HOUSING DEMONSTRATION PROJECTS IN ALASKA.**—Section 687(g) of title 14, United States Code, is amended—

(1) in the heading by striking “**PROJECT**” and inserting “**PROJECTS**”;

(2) in paragraph (1) by striking “a demonstration project” and inserting “demonstration projects”;

(3) in paragraph (1) by striking “Kodiak, Alaska;” and inserting “Kodiak, Alaska, or any other Coast Guard installation in Alaska;”;

(4) in paragraph (2) by striking “the demonstration project” and inserting “such a demonstration project”; and

(5) in paragraph (4) by striking “the demonstration project” and inserting “such demonstration projects”.

(e) DIFFERENTIAL LEASE PAYMENTS.—Chapter 18 of title 14, United States Code, is amended by inserting after section 687 the following:

“§ 687a. Differential lease payments

“Pursuant to an agreement entered into by the Secretary and a lessor of military family housing or military unaccompanied housing to members of the armed forces, the Secretary may pay the lessor an amount, in addition to the rental payments for the housing made by the members, as the Secretary determines appropriate to encourage the lessor to make the housing available to members of the armed forces as military family housing or as military unaccompanied housing.”.

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 18 of title 14, United States Code, is amended—

(1) by striking the item related to section 682 and inserting the following:

“682. Direct loans and loan guarantees.”;

(2) in the item related to section 684 by striking “non-governmental” and inserting “eligible”; and

(3) by inserting after the item related to section 687 the following:

“687a. Differential lease payments.”.

SEC. 208. REQUIREMENT FOR CONSTRUCTIVE CREDIT.

Section 727 of title 14, United States Code, is amended in the second sentence by striking “three years” and inserting “one year”.

SEC. 209. MAXIMUM AGES FOR RETENTION IN AN ACTIVE STATUS.

Section 742 of title 14, United States Code, is amended to read as follows:

“§ 742. Maximum ages for retention in an active status

“(a) A Reserve officer, if qualified, shall be transferred to the Retired Reserve on the day the officer becomes 60 years of age unless on active duty. If not qualified for retirement, a Reserve officer shall be discharged effective upon the day the officer becomes 60 years of age unless on active duty.

“(b) A Reserve officer on active duty shall, if qualified, be retired effective upon the day the officer become 62 years of age. If not qualified for retirement, a Reserve officer on active duty shall be discharged effective upon the day the officer becomes 62 years of age.

“(c) Notwithstanding subsection (a) and (b), the Secretary may authorize the retention of a Reserve rear admiral or rear admiral (lower half) in an active status not longer than the day on which the officer concerned becomes 64 years of age.

“(d) For purposes of this section, ‘active duty’ does not include active duty for training, duty on a board, or duty of a limited or temporary nature if assigned to active duty from an inactive duty status.”.

SEC. 210. TRAVEL CARD MANAGEMENT.

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

“§ 517. Travel card management

“(a) IN GENERAL.—The Secretary may require that travel or transportation allowances due a civilian employee or military member of the Coast Guard be disbursed directly to the issuer of a Federal contractor-issued travel charge card, but only in an amount not to exceed the authorized travel expenses charged by that Coast Guard member to that travel charge card issued to that employee or member.

“(b) WITHHOLDING OF NONDISPUTED OBLIGATIONS.—The Secretary may also establish requirements similar to those established by the Secretary of Defense pursuant to section 2784a of title 10 for deduction or withholding of pay or retired pay from a Coast Guard employee, member, or retired member who is delinquent in payment under the terms of the contract under which the card was issued and does not dispute the amount of the delinquency.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 13 of title 14, United States Code, is amended by inserting after the item relating to section 516 the following:

“517. Travel card management.”.

SEC. 211. COAST GUARD FELLOWS AND DETAILEES.

Deadline.

The Secretary of the department in which the Coast Guard is operating, in consultation with the Attorney General, shall by not later than 6 months after the date of the enactment of this Act—

(1) review the Coast Guard Commandant Instruction 5730.3, regarding congressional detailees (COMDTINST 5370.3), dated April 18, 2003, and compare the standards set forth in the instruction to the standards applied by other executive agencies to congressional detailees;

(2) determine if any changes to such instruction are necessary to protect against conflicts of interest and preserve the doctrine of separation of powers; and

Reports.

(3) submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives on the findings and conclusions of the review.

SEC. 212. LONG-TERM LEASE OF SPECIAL USE REAL PROPERTY.

(a) IN GENERAL.—Section 672 of title 14, United States Code, is amended by—

(1) striking the heading and inserting the following:

“§ 672. Long-term lease of special purpose facilities”;

(2) in subsection (a), inserting “special purpose facilities, including,” after “automatic renewal clauses, for” ; and

(3) striking “(b) The” and inserting:

“(b) For purposes of this section, the term ‘special purpose facilities’ means any facilities used to carry out Coast Guard aviation, maritime, or navigation missions other than general purpose office and storage space facilities.

“(c) In the case of ATON, VTS, or NDS sites, the”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 17, United States Code, is amended by striking the item relating to section 672 and inserting the following:

“672. Long-term lease of special purpose facilities.”.

SEC. 213. NATIONAL COAST GUARD MUSEUM.

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

“§ 98. National Coast Guard Museum

“(a) ESTABLISHMENT.—The Commandant may establish a National Coast Guard Museum, on lands which will be federally owned and administered by the Coast Guard, and are located in New London, Connecticut, at, or in close proximity to, the Coast Guard Academy.

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

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

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

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

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

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

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

(b) CLERICAL AMENDMENT.—The chapter analysis at the beginning of chapter 5 of title 14, United States Code, is amended by adding at the end the following:

“98. National Coast Guard Museum.”.

SEC. 214. LIMITATION ON NUMBER OF COMMISSIONED OFFICERS.

Section 42 of title 14, United States Code, is amended—

(1) in subsection (a), by striking “6,200” and inserting “6,700 in each fiscal year 2004, 2005, and 2006”; and

Certification.

(2) in subsection (b), by striking “commander 12.0; lieutenant commander 18.0” and inserting “commander 15.0; lieutenant commander 22.0”.

14 USC 93 note.

SEC. 215. REDISTRICTING NOTIFICATION REQUIREMENT.

The Commandant shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate at least 180 days before—

(1) implementing any plan to reduce the number of, change the location of, or change the geographic area covered by any existing Coast Guard Districts; or

(2) permanently transferring more than 10 percent of the personnel or equipment from a district office where such personnel or equipment is based.

SEC. 216. REPORT ON SHOCK MITIGATION STANDARDS.

(a) REPORT REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Commandant of the Coast Guard shall issue a report on the necessity of, and possible standards for, decking materials for Coast Guard vessels to mitigate the adverse effects on crew members from shock and vibration.

(b) RECOMMENDED STANDARDS.—The standards recommended in the report may—

(1) incorporate appropriate industry or manufacturing standards; and

(2) consider the weight and durability of decking material, the effects of repeated use and varying weather conditions, and the capability of decking material to lessen impact.

SEC. 217. RECOMMENDATIONS TO CONGRESS BY COMMANDANT OF THE COAST GUARD.

Section 93 of title 14, United States Code, is amended—

(1) in paragraph (w) by striking “and” after the semicolon at the end;

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

(3) by adding at the end the following:

“(y) after informing the Secretary, make such recommendations to the Congress relating to the Coast Guard as the Commandant considers appropriate.”.

SEC. 218. COAST GUARD EDUCATION LOAN REPAYMENT PROGRAM.

(a) PROGRAM AUTHORIZED.—Chapter 13 of title 14, United States Code, is amended by inserting after section 471 the following:

“§ 472. Education loan repayment program

“(a)(1) Subject to the provisions of this section, the Secretary may repay—

“(A) any loan made, insured, or guaranteed under part B of title IV of the Higher Education Act of 1965 (20 U.S.C. 1071 et seq.);

“(B) any loan made under part D of such title (the William D. Ford Federal Direct Loan Program, 20 U.S.C. 1087a et seq.); or

“(C) any loan made under part E of such title (20 U.S.C. 1087aa et seq.).

Repayment of any such loan shall be made on the basis of each complete year of service performed by the borrower.

“(2) The Secretary may repay loans described in paragraph (1) in the case of any person for service performed on active duty as an enlisted member of the Coast Guard in a specialty specified by the Secretary.

“(b) The portion or amount of a loan that may be repaid under subsection (a) is 33⅓ percent or \$1,500, whichever is greater, for each year of service.

“(c) If a portion of a loan is repaid under this section for any year, interest on the remainder of such loan shall accrue and be paid in the same manner as is otherwise required.

“(d) Nothing in this section shall be construed to authorize refunding any repayment of a loan.

“(e) The Secretary shall, by regulation, prescribe a schedule for the allocation of funds made available to carry out this section during any year for which funds are not sufficient to pay the sum of the amounts eligible for repayment under subsection (a).”.

Regulations.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 13 of title 14, United States Code, is amended by inserting after the item relating to section 471 the following: “472. Education loan repayment program.”.

SEC. 219. CONTINGENT EXPENSES.

Section 476 of title 14, United States Code, is amended—

- (1) by striking “\$7,500” and inserting “\$50,000”; and
- (2) by striking the second sentence.

SEC. 220. RESERVE ADMIRALS.

(a) PRECEDENCE.—Section 725 of title 14, United States Code, is amended by adding at the end the following:

“(d) Notwithstanding any other law, a Reserve officer shall not lose precedence by reason of promotion to the grade of rear admiral or rear admiral (lower half), if the promotion is determined in accordance with a running mate system.

“(e) The Secretary shall adjust the date of rank of a Reserve officer so that no changes of precedence occur.”.

(b) PROMOTION.—Section 736(b) of title 14, United States Code, is amended to read as follows:

“(b) Notwithstanding any other provision of law and subject to subsection (c), if promotion of an inactive duty promotion list officer to the grade of rear admiral or rear admiral (lower half) is determined in accordance with a running mate system, a reserve officer, if acceptable to the President and the Senate, shall be promoted to the next higher grade no later than the date the officer’s running mate is promoted.”.

(c) DATE OF APPOINTMENT.—Section 736(c) of title 14, United States Code, is amended by striking “of subsection (a)”.

(d) MAXIMUM SERVICE.—Section 743 of title 14, United States Code, is amended to read as follows:

“§743. Rear admiral and rear admiral (lower half); maximum service in grade

“(a) Unless retained in or removed from an active status under any other law, a reserve rear admiral or rear admiral (lower half) shall be retired on July 1 of the promotion year immediately following the promotion year in which that officer completes 4 years

of service after the appointment of the officer to rear admiral (lower half).

“(b) Notwithstanding any other provision of law, if promotion of inactive duty promotion list officers to the grade of rear admiral is not determined in accordance with a running mate system, a Reserve officer serving in an active status in the grade of rear admiral (lower half) shall be promoted to the grade of rear admiral, if acceptable to the President and the Senate, on the date the officer has served 2 years in an active status in grade of rear admiral (lower half), or in the case of a vacancy occurring prior to having served 2 years in an active status, on the date the vacancy occurs, if the officer served at least 1 year in an active status in the grade of rear admiral (lower half).”.

SEC. 221. CONFIDENTIAL INVESTIGATIVE EXPENSES.

Section 658 of title 14, United States Code, is amended by striking “\$15,000 per annum” and inserting “\$45,000 each fiscal year”.

14 USC 93 note.

SEC. 222. INNOVATIVE CONSTRUCTION ALTERNATIVES.

The Commandant of the Coast Guard may consult with the Office of Naval Research and other Federal agencies with research and development programs that may provide innovative construction alternatives for the Integrated Deepwater System.

SEC. 223. DELEGATION OF PORT SECURITY AUTHORITY.

The undesignated text following paragraph (b) of the second unnumbered paragraph of section 1 of title II of the Act of June 15, 1917 (chapter 30; 40 Stat. 220; 50 U.S.C. 191) is amended by adding at the beginning the following: “The President may delegate the authority to issue such rules and regulations to the Secretary of the department in which the Coast Guard is operating.”.

16 USC 1861b.

SEC. 224. FISHERIES ENFORCEMENT PLANS AND REPORTING.

(a) **FISHERIES ENFORCEMENT PLANS.**—In preparing the Coast Guard’s annual fisheries enforcement plan, the Commandant of the Coast Guard shall consult with the Under Secretary of Commerce for Oceans and Atmosphere and with State and local enforcement authorities.

Notification.

(b) **FISHERY PATROLS.**—Prior to undertaking fisheries patrols, the Commandant of the Coast Guard shall notify the Under Secretary of Commerce for Oceans and Atmosphere and appropriate State and local enforcement authorities of the projected dates for such patrols.

(c) **ANNUAL SUMMARY.**—The Commandant of the Coast Guard shall prepare and make available to the Under Secretary of Commerce for Oceans and Atmosphere, State and local enforcement entities, and other relevant stakeholders, an annual summary report of fisheries enforcement activities for the preceding year, including a summary of the number of patrols, law enforcement actions taken, and resource hours expended.

14 USC 515 note.

SEC. 225. USE OF COAST GUARD AND MILITARY CHILD DEVELOPMENT CENTERS.

The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating, when operating other than as a service in the Navy, may agree to provide child care services

to members of the armed forces, with reimbursement, in Coast Guard and military child development centers supported in whole or in part with appropriated funds. For purposes of military child development centers operated under the authority of subchapter II of chapter 88 of title 10, United States Code, the child of a member of the Coast Guard shall be considered the same as the child of a member of any of the other armed forces.

SEC. 226. TREATMENT OF PROPERTY OWNED BY AUXILIARY UNITS AND DEDICATED SOLELY FOR AUXILIARY USE.

Section 821 of title 14, United States Code, is amended by adding at the end the following:

“(d)(1) Except as provided in paragraph (2), personal property of the auxiliary shall not be considered property of the United States.

“(2) The Secretary may treat personal property of the auxiliary as property of the United States—

“(A) for the purposes of—

“(i) the statutes and matters referred to in paragraphs (1) through (6) of subsection (b); and

“(ii) section 641 of this title; and

“(B) as otherwise provided in this chapter.

“(3) The Secretary may reimburse the Auxiliary, and each organizational element and unit of the Auxiliary, for necessary expenses of operation, maintenance, and repair or replacement of personal property of the Auxiliary.

“(4) In this subsection, the term ‘personal property of the Auxiliary’ means motor boats, yachts, aircraft, radio stations, motorized vehicles, trailers, or other equipment that is under the administrative jurisdiction of the Coast Guard Auxiliary or an organizational element or unit of the Auxiliary and that is used solely for the purposes described in this subsection.”.

TITLE III—NAVIGATION

SEC. 301. MARKING OF UNDERWATER WRECKS.

Section 15 of the Act of March 3, 1899 (30 Stat. 1152; 33 U.S.C. 409) is amended—

(1) by striking “day and a lighted lantern” in the second sentence inserting “day and, unless otherwise granted a waiver by the Commandant of the Coast Guard, a light”; and

(2) by adding at the end “The Commandant of the Coast Guard may waive the requirement to mark a wrecked vessel, raft, or other craft with a light at night if the Commandant determines that placing a light would be impractical and granting such a waiver would not create an undue hazard to navigation.”.

SEC. 302. USE OF ELECTRONIC DEVICES; COOPERATIVE AGREEMENTS.

Section 4(a) of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1223(a)) is amended by—

(1)(A) striking “and” after the semicolon at the end of paragraph (4);

(B) striking the period at the end of paragraph (5) and inserting “; and”; and

(C) adding at the end the following:

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

(2) adding at the end the following:

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

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

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

SEC. 303. INLAND NAVIGATION RULES PROMULGATION AUTHORITY.

(a) REPEAL OF INLAND RULES.—Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001–38) is repealed.

33 USC 2071.

(b) AUTHORITY TO ISSUE REGULATIONS.—Section 3 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001) is amended to read as follows:

“SEC. 3. INLAND NAVIGATION RULES.

“The Secretary of the Department in which the Coast Guard is operating may issue inland navigation regulations applicable to all vessels upon the inland waters of the United States and technical annexes that are as consistent as possible with the respective annexes to the International Regulations.”.

33 USC 2001
note.

(c) EFFECTIVE DATE.—Subsection (a) is effective on the effective date of final regulations prescribed by the Secretary of the Department in which the Coast Guard is operating under section 3 of the Inland Navigation Rules Act of 1980 (33 U.S.C. 2001), as amended by this Act.

SEC. 304. SAINT LAWRENCE SEAWAY.

Section 3(2) of the Ports and Waterways Safety Act (33 U.S.C. 1222(2)) is amended by inserting “, except that ‘Secretary’ means the Secretary of Transportation with respect to the application of this Act to the Saint Lawrence Seaway” after “in which the Coast Guard is operating”.

TITLE IV—SHIPPING

SEC. 401. REPORTS FROM CHARTERERS.

Section 12120 of title 46, United States Code, is amended by striking “owners and masters” and inserting “owners, masters, and charterers”.

SEC. 402. REMOVAL OF MANDATORY REVOCATION FOR PROVED DRUG CONVICTIONS IN SUSPENSION AND REVOCATION CASES.

Section 7704(b) of title 46, United States Code, is amended by inserting “suspended or” after “shall be”.

SEC. 403. RECORDS OF MERCHANT MARINERS’ DOCUMENTS.

Section 7319 of title 46, United States Code, is amended by striking the second sentence.

SEC. 404. EXEMPTION OF UNMANNED BARGES FROM CERTAIN CITIZENSHIP REQUIREMENTS.

(a) **LIMITATION ON COMMAND.**—Section 12110(d) of title 46, United States Code, is amended by inserting “or an unmanned barge operating outside of the territorial waters of the United States,” after “recreational endorsement,”.

(b) **PENALTY.**—Section 12122(b)(6) of title 46, United States Code, is amended by inserting “or an unmanned barge operating outside of the territorial waters of the United States,” after “recreational endorsement,”.

SEC. 405. COMPLIANCE WITH INTERNATIONAL SAFETY MANAGEMENT CODE.

(a) **APPLICATION OF EXISTING LAW.**—Section 3202(a) of title 46, United States Code, is amended to read as follows:

“(a) **MANDATORY APPLICATION.**—This chapter applies to a vessel that—

“(1)(A) is transporting more than 12 passengers described in section 2101(21)(A) of this title; or

“(B) is of at least 500 gross tons as measured under section 14302 of this title and is a tanker, freight vessel, bulk freight vessel, high speed freight vessel, or self-propelled mobile offshore drilling unit; and

“(2)(A) is engaged on a foreign voyage; or

“(B) is a foreign vessel departing from a place under the jurisdiction of the United States on a voyage, any part of which is on the high seas.”.

(b) **COMPLIANCE OF REGULATIONS WITH INTERNATIONAL SAFETY MANAGEMENT CODE.**—Section 3203(b) of title 46, United States Code, is amended by striking “vessels engaged on a foreign voyage.” and inserting “vessels to which this chapter applies under section 3202(a) of this title.”.

SEC. 406. PENALTIES.

Section 4311(b) of title 46, United States Code, is amended to read as follows:

“(b)(1) A person violating section 4307(a) of this title is liable to the United States Government for a civil penalty of not more than \$5,000, except that the maximum civil penalty may be not more than \$250,000 for a related series of violations.

“(2) If the Secretary decides under section 4310(f) that a recreational vessel or associated equipment contains a defect related to safety or fails to comply with an applicable regulation and directs the manufacturer to provide the notifications specified in this chapter, any person, including a director, officer or executive employee of a corporation, who knowingly and willfully fails to comply with that order, may be fined not more than \$10,000, imprisoned for not more than one year, or both.

“(3) When a corporation violates section 4307(a), or fails to comply with the Secretary’s decision under section 4310(f), any director, officer, or executive employee of the corporation who knowingly and willfully ordered, or knowingly and willfully authorized, a violation is individually liable to the Government for a penalty under paragraphs (1) or (2) in addition to the corporation. However, the director, officer, or executive employee is not liable individually under this subsection if the director, officer, or executive employee can demonstrate by a preponderance of the evidence that—

“(A) the order or authorization was issued on the basis of a decision, in exercising reasonable and prudent judgment, that the defect or the nonconformity with standards and regulations constituting the violation would not cause or constitute a substantial risk of personal injury to the public; and

“(B) at the time of the order or authorization, the director, officer, or executive employee advised the Secretary in writing of acting under this subparagraph and subparagraph (A).”.

SEC. 407. REVISION OF TEMPORARY SUSPENSION CRITERIA IN DOCUMENT SUSPENSION AND REVOCATION CASES.

Section 7702(d) of title 46, United States Code, is amended—

(1) in paragraph (1) by striking “if, when acting under the authority of that license, certificate, or document—” and inserting “if—”;

(2) in paragraph (1)(B)(i), by inserting “, while acting under the authority of that license, certificate, or document,” after “has”;

(3) by striking “or” after the semicolon at the end of paragraph (1)(B)(ii);

(4) by striking the period at the end of paragraph (1)(B)(iii) and inserting “; or”; and

(5) by adding at the end of paragraph (1)(B) the following:
 “(iv) is a security risk that poses a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment.”.

SEC. 408. REVISION OF BASES FOR DOCUMENT SUSPENSION AND REVOCATION CASES.

Section 7703 of title 46, United States Code, is amended—

(1) in paragraph (1)(B)—

(A) by striking “incompetence,”; and

(B) by striking the comma after “misconduct”;

(2) by striking “or” after the semicolon at the end of paragraph (2);

(3) by striking the period at the end of paragraph (3) and inserting a semicolon; and

(4) by adding at the end the following:

“(4) has committed an act of incompetence relating to the operation of a vessel; or

“(5) is a security risk that poses a threat to the safety or security of a vessel or a public or commercial structure located within or adjacent to the marine environment.”.

SEC. 409. HOURS OF SERVICE ON TOWING VESSELS.

(a) REGULATIONS.—Section 8904 of title 46, United States Code, is amended by adding at the end of the following:

“(c) The Secretary may prescribe by regulation requirements for maximum hours of service (including recording and record-keeping of that service) of individuals engaged on a towing vessel that is at least 26 feet in length measured from end to end over the deck (excluding the sheer).”.

(b) DEMONSTRATION PROJECT.—Prior to prescribing regulations under this section the Secretary shall conduct and report to the Congress on the results of a demonstration project involving the implementation of Crew Endurance Management Systems on towing vessels. The report shall include a description of the public and private sector resources needed to enable implementation of Crew Endurance Management Systems on all United States-flag towing vessels.

Reports.
46 USC 8904
note.

SEC. 410. ELECTRONIC CHARTS.

The Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) is amended by inserting after section 4 the following:

33 USC 1223a.

“SEC. 4A. ELECTRONIC CHARTS.

“(a) SYSTEM REQUIREMENTS.—

“(1) REQUIREMENTS.—Subject to paragraph (2), the following vessels, while operating on the navigable waters of the United States, shall be equipped with and operate electronic charts under regulations prescribed by the Secretary of the department in which the Coast Guard is operating:

“(A) A self-propelled commercial vessel of at least 65 feet overall length.

“(B) A vessel carrying more than a number of passengers for hire determined by the Secretary.

“(C) A towing vessel of more than 26 feet in overall length and 600 horsepower.

“(D) Any other vessel for which the Secretary decides that electronic charts are necessary for the safe navigation of the vessel.

“(2) EXEMPTIONS AND WAIVERS.—The Secretary may—

“(A) exempt a vessel from paragraph (1), if the Secretary finds that electronic charts are not necessary for the safe navigation of the vessel on the waters on which the vessel operates; and

“(B) waive the application of paragraph (1) with respect to operation of vessels on navigable waters of the United States specified by the Secretary, if the Secretary finds that electronic charts are not needed for safe navigation on those waters.

“(b) REGULATIONS.—The Secretary of the department in which the Coast Guard is operating shall prescribe regulations implementing subsection (a) before January 1, 2007, including requirements for the operation and maintenance of the electronic charts required under subsection (a).”.

Deadline.

SEC. 411. PREVENTION OF DEPARTURE.

(a) IN GENERAL.—Section 3505 of title 46, United States Code, is amended to read as follows:

“§ 3505. Prevention of departure

“Notwithstanding section 3303 of this title, a foreign vessel carrying a citizen of the United States as a passenger or embarking passengers from a United States port may not depart from a United

States port if the Secretary finds that the vessel does not comply with the standards stated in the International Convention for the Safety of Life at Sea to which the United States Government is currently a party.”.

(b) CONFORMING AMENDMENT.—Section 3303 of title 46, United States Code, is amended by inserting “and section 3505” after “chapter 37”.

SEC. 412. SERVICE OF FOREIGN NATIONALS FOR MARITIME EDUCATIONAL PURPOSES.

Section 8103(b)(1)(A) of title 46, United State Code, is amended to read as follows:

“(A) each unlicensed seaman must be—

“(i) a citizen of the United States;

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

“(iii) a foreign national who is enrolled in the United States Merchant Marine Academy.”.

SEC. 413. CLASSIFICATION SOCIETIES.

(a) IN GENERAL.—Section 3316 of title 46, United States Code, is amended by adding at the end 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—

“(A) 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); or

“(B) the society is a full member of the International Association of Classification Societies.

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

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

“(B) the person has an adequate program to—

“(i) develop and implement safety standards for vessels surveyed by the person;

“(ii) make the safety records of the person available to the Secretary in an electronic format;

“(iii) provide the safety records of a vessel surveyed by the person to any other classification society that requests those records for the purpose of conducting a survey of the vessel; and

“(iv) request the safety records of a vessel the person will survey from any classification society that previously surveyed the vessel.”.

(b) APPLICATION.—Section 3316(c)(1) of title 46, United States Code, shall apply with respect to operation as a classification society on or after January 1, 2005.

SEC. 414. DRUG TESTING REPORTING.

(a) IN GENERAL.—Chapter 77 of title 46, United States Code, is amended by adding at the end:

“§ 7706. Drug testing reporting

“(a) RELEASE OF DRUG TEST RESULTS TO COAST GUARD.—Not later than 2 weeks after receiving from a Medical Review Officer a report of a verified positive drug test or verified test violation by a civilian employee of a Federal agency, an officer in the Public Health Services, or an officer in the National Oceanic and Atmospheric Administration Commissioned Officer Corps, who is employed in any capacity on board a vessel operated by the agency, the head of the agency shall release to the Commandant of the Coast Guard the report.

“(b) STANDARDS, PROCEDURES, AND REGULATIONS.—The head of a Federal agency shall carry out a release under subsection (a) in accordance with the standards, procedures, and regulations applicable to the disclosure and reporting to the Coast Guard of drug tests results and drug test records of individuals employed on vessels documented under the laws of the United States.

“(c) WAIVER.—Notwithstanding section 503(e) of the Supplemental Appropriations Act, 1987 (5 U.S.C. 7301 note), the report of a drug test of an employee may be released under this section without the prior written consent of the employee.”.

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 77 of title 46, United States Code, is amended by adding at the end the following:

“7706. Drug testing reporting.”.

SEC. 415. INSPECTION OF TOWING VESSELS.

(a) VESSELS SUBJECT TO INSPECTION.—Section 3301 of title 46, United States Code, is amended by adding at the end the following:

“(15) towing vessels.”.

(b) SAFETY MANAGEMENT SYSTEM.—Section 3306 of chapter 33 of title 46, United States Code, is amended by adding at the end the following:

“(j) The Secretary may establish by regulation a safety management system appropriate for the characteristics, methods of operation, and nature of service of towing vessels.”.

SEC. 416. POTABLE WATER.

(a) IN GENERAL.—Section 3305(a) of title 46, United States Code, is amended—

(1) by redesignating paragraphs (4) and (5) in order as paragraphs (5) and (6); and

(2) by inserting after paragraph (3) the following:

“(4) has an adequate supply of potable water for drinking and washing by passengers and crew;”.

(b) ADEQUACY DETERMINATION.—Section 3305(a) of title 46, United States Code, as amended by subsection (a), is further amended—

(1) by inserting “(1)” after “(a)”;

(2) by redesignating paragraphs (1) through (6) as subparagraphs (A) through (F), respectively; and

(3) by adding at the end the following:

“(2) In determining the adequacy of the supply of potable water under paragraph (1)(D), the Secretary shall consider—

“(A) the size and type of vessel;

“(B) the number of passengers or crew on board;

“(C) the duration and routing of voyages; and

“(D) guidelines for potable water recommended by the Centers for Disease Control and Prevention and the Public Health Service.”.

SEC. 417. TRANSPORTATION OF PLATFORM JACKETS.

Federal Register,
publication.
Deadlines.

The thirteenth proviso (pertaining to transportation by launch barge) of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) is amended to read as follows: “*Provided further*, That the transportation of any platform jacket in or on a non-coastwise qualified launch barge, that was built before December 31, 2000, and has a launch capacity of 12,000 long tons or more, between two points in the United States, at one of which there is an installation or other device within the meaning of section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)), shall not be deemed transportation subject to this section if the Secretary of Transportation makes a determination, in accordance with procedures established pursuant to this proviso that a suitable coastwise-qualified vessel is not available for use in the transportation and, if needed, launch or installation of a platform jacket and; that the Secretary of Transportation shall adopt procedures implementing this proviso that are reasonably designed to provide timely information so as to maximize the use of coastwise qualified-vessels, which procedures shall, among other things, establish that for purposes of this proviso, a coastwise-qualified vessel shall be deemed to be not available only (1) if upon application by an owner or operator for the use of a non-coastwise qualified launch barge for transportation of a platform jacket under this section, which application shall include all relevant information, including engineering details and timing requirements, the Secretary promptly publishes a notice in the Federal Register describing the project and the platform jacket involved, advising that all relevant information reasonably needed to assess the transportation requirements for the platform jacket will be made available to interested parties upon request, and requesting that information on the availability of coastwise-qualified vessels be submitted within 30 days after publication of that notice; and (2) if either (A) no information is submitted to the Secretary within that 30 day period, or (B) although the owner or operator of a coastwise-qualified vessel submits information to the Secretary asserting that the owner or operator has a suitable coastwise-qualified vessel available for this transportation, the Secretary, within 90 days of the date on which the notice is first published determines that the coastwise-qualified vessel is not suitable or reasonably available for the transportation; and that, for the purposes of this proviso, the term ‘coastwise-qualified vessel’ means a vessel that has been issued a certificate of documentation with a coastwise endorsement under section 12106 of title 46, United States Code, and the term ‘platform jacket’ refers to a single physical component and includes any type of offshore exploration, development, or production structure or component thereof, including platform jackets, tension leg or SPAR platform superstructures (including the deck, drilling rig and support utilities, and supporting structure), hull (including vertical legs and connecting pontoons or vertical cylinder), tower and base sections of a platform jacket, jacket structures, and deck modules (known as ‘topsides’).”.

SEC. 418. RENEWAL OF ADVISORY GROUPS.

(a) **COMMERCIAL FISHING INDUSTRY VESSEL SAFETY ADVISORY COMMITTEE.**—Section 4508(e)(1) of title 46, United States Code, is amended by striking “of September 30, 2005” and inserting “on September 30, 2010”.

(b) **HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.**—Section 18 of the Coast Guard Authorization Act of 1991 (Public Law 102–241; 105 Stat. 2213) is amended—

(1) in subsection (b) by striking “eighteen” and inserting “19”;

(2) by adding at the end of subsection (b) the following: “(12) One member representing recreational boating interests.”; and

(3) in subsection (h) by striking “September 30, 2005” and inserting “September 30, 2010”.

(c) **LOWER MISSISSIPPI RIVER WATERWAY SAFETY ADVISORY COMMITTEE.**—Section 19(g) of the Coast Guard Authorization Act of 1991 (Public Law 102–241) is amended by striking “September 30, 2005” and inserting “September 30, 2010”.

110 Stat. 3918.

(d) **GREAT LAKES PILOTAGE ADVISORY COMMITTEE.**—Section 9307(f)(1) of title 46, United States Code, is amended by striking “September 30, 2005” and inserting “September 30, 2010”.

(e) **NAVIGATION SAFETY ADVISORY COUNCIL.**—Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073(d)) is amended by striking “September 30, 2005” and inserting “September 30, 2010”.

(f) **NATIONAL BOATING SAFETY ADVISORY COUNCIL.**—Section 13110(e) of title 46, United States Code, is amended by striking “September 30, 2005” and inserting “September 30, 2010”.

(g) **TOWING SAFETY ADVISORY COMMITTEE.**—Public Law 96–380 (33 U.S.C. 1231a) is amended in subsection (e) by striking “September 30, 2005” and inserting “September 30, 2010”.

TITLE V—FEDERAL MARITIME COMMISSION

SEC. 501. AUTHORIZATION OF APPROPRIATIONS FOR FEDERAL MARITIME COMMISSION.

There are authorized to be appropriated to the Federal Maritime Commission—

- (1) for fiscal year 2005, \$19,500,000;
- (2) for fiscal year 2006, \$20,750,000;
- (3) for fiscal year 2007, \$21,500,000; and
- (4) for fiscal year 2008, \$22,575,000.

SEC. 502. REPORT ON OCEAN SHIPPING INFORMATION GATHERING EFFORTS.

The Federal Maritime Commission shall transmit to the Senate Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report within 90 days after the date of the enactment of this Act on the status of any agreements, or ongoing discussions with, other Federal, State, or local government agencies concerning the sharing of ocean shipping information for the purpose of assisting law enforcement or anti-terrorism

efforts. The Commission shall include in the report recommendations on how the Commission’s ocean shipping information could be better utilized by it and other Federal agencies to improve port security.

TITLE VI—MISCELLANEOUS

SEC. 601. INCREASE IN CIVIL PENALTIES FOR VIOLATIONS OF CERTAIN BRIDGE STATUTES.

(a) GENERAL BRIDGE ACT OF 1906.—Section 5(b) of Act of March 23, 1906 (chapter 1130; 33 U.S.C. 495), popularly known as the General Bridge Act, is amended by striking “\$1,000” and inserting “\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter”.

(b) DRAWBRIDGES.—Section 5(c) of the Act entitled “An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved August 18, 1894 (33 U.S.C. 499(c)), is amended by striking “\$1,000” and inserting “\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter”.

(c) ALTERATION, REMOVAL, OR REPAIR OF BRIDGES.—Section 18(c) of the Act entitled “An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved March 3, 1899 (33 U.S.C. 502(c)) is amended by striking “\$1,000” and inserting “\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter”.

(d) GENERAL BRIDGE ACT OF 1946.—Section 510(b) of the General Bridge Act of 1946 (33 U.S.C. 533(b)) is amended by striking “\$1,000” and inserting “\$5,000 for a violation occurring in 2004; \$10,000 for a violation occurring in 2005; \$15,000 for a violation occurring in 2006; \$20,000 for a violation occurring in 2007; and \$25,000 for a violation occurring in 2008 and any year thereafter”.

SEC. 602. CONVEYANCE OF DECOMMISSIONED COAST GUARD CUTTERS.

(a) IN GENERAL.—The Commandant of the Coast Guard may convey all right, title, and interest of the United States in and to a vessel described in subsection (b) to the person designated in subsection (b) with respect to the vessel (in this section referred to as the “recipient”), without consideration, if the person complies with the conditions under subsection (c).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) The Coast Guard Cutter BRAMBLE, to be conveyed to the Port Huron Museum of Arts and History (a nonprofit corporation under the laws of the State of Michigan), located in Port Huron, Michigan.

(2) The Coast Guard Cutter PLANETREE, to be conveyed to Jewish Life (a nonprofit corporation under the laws of the State of California), located in Sherman Oaks, California.

(3) The Coast Guard Cutter SUNDEW, to be conveyed to Duluth Entertainment and Convention Center Authority (a nonprofit corporation under the laws of the State of Minnesota), located in Duluth, Minnesota.

(c) CONDITIONS.—As a condition of any conveyance of a vessel under subsection (a), the Commandant shall require the recipient—

(1) to agree—

(A) to use the vessel for purposes of education and historical display;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from use of the vessel by the Government under subparagraph (C);

(2) to have funds available that will be committed to operate and maintain the vessel conveyed in good working condition—

(A) in the form of cash, liquid assets, or a written loan commitment; and

(B) in an amount of at least \$700,000; and

(3) to agree to any other conditions the Commandant considers appropriate.

(d) MAINTENANCE AND DELIVERY OF VESSEL.—Prior to conveyance of a vessel under this section, the Commandant may, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery. The Commandant shall deliver a vessel conveyed under this section at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of a vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of the Toxic Substances Control Act (15 U.S.C. 2605(e)).

(e) OTHER EXCESS EQUIPMENT.—The Commandant may convey to the recipient of a vessel under this section any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function as an historical display.

SEC. 603. TONNAGE MEASUREMENT.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating may apply section 8104(o)(2) of title 46, United States Code, to the vessels described in subsection (b) without regard to the tonnage of those vessels.

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are the following:

(1) The M/V BLUEFIN (United States official number 620431).

(2) The M/V COASTAL MERCHANT (United States official number 1038382).

(c) APPLICATION.—Subsection (a) shall not apply to a vessel described in subsection (b)—

(1) until the Secretary determines that the application of subsection (a) will not compromise safety; and

(2) on or after any date on which the Secretary determines that the vessel has undergone any major modification.

SEC. 604. OPERATION OF VESSEL STAD AMSTERDAM.

(a) IN GENERAL.—Notwithstanding section 8 of the Act of June 19, 1886 (46 App. U.S.C. 289), and the ruling by the Acting Director of the International Trade Compliance Division of the Customs Service on May 17, 2002 (Customs Bulletins and Decisions, Vol. 36, No. 23, June 5, 2002), the vessel STAD AMSTERDAM (International Maritime Organization number 9185554) shall be authorized to carry within United States waters and between ports or places in the United States individuals who are not directly and substantially connected with the operation, navigation, ownership, or business of the vessel, who are friends, guests, or employees of the owner of the vessel, and who are not actual or prospective customers for hire of the vessel.

(b) LIMITATION.—This section does not authorize the vessel STAD AMSTERDAM—

(1) to be used to carry individuals for a fare or to be chartered on a for hire basis in the coastwise trade; or

(2) to carry individuals described in subsection (a) within United States waters and between ports or places in the United States for more than 45 calendar days in any calendar year.

(c) REVOCATION.—The Secretary of the department in which the Coast Guard is operating shall revoke the authorization provided by subsection (a) if the Secretary determines that the STAD AMSTERDAM has been operated in violation of the limitations imposed by subsection (b).

SEC. 605. GREAT LAKES NATIONAL MARITIME ENHANCEMENT INSTITUTE.

(a) AUTHORITY TO DESIGNATE INSTITUTE.—The Secretary of Transportation may designate a National Maritime Enhancement Institute for the Great Lakes region under section 8 of the Act of October 13, 1989 (103 Stat. 694; 46 U.S.C. App. 1121–2). In making any decision on the designation of such an institute, the Secretary shall consider the unique characteristics of Great Lakes maritime industry and trade.

(b) STUDY AND REPORT.—

(1) IN GENERAL.—The Secretary of Transportation shall conduct a study that—

(A) evaluates short sea shipping market opportunities on the Great Lakes, including the expanded use of freight ferries, improved mobility, and regional supply chain efficiency;

(B) evaluates markets for foreign trade between ports on the Great Lakes and draft-limited ports in Europe and Africa;

(C) evaluates the environmental benefits of waterborne transportation in the Great Lakes region;

(D) analyzes the effect on Great Lakes shipping of the tax imposed by section 4461(a) of the Internal Revenue Code of 1986;

(E) evaluates the state of shipbuilding and ship repair bases on the Great Lakes;

(F) evaluates opportunities for passenger vessel services on the Great Lakes;

(G) analyzes the origin-to-destination flow of freight cargo in the Great Lakes region that may be transported on vessels to relieve congestion in other modes of transportation;

(H) evaluates the economic viability of establishing transshipment facilities for oceangoing cargoes on the Great Lakes;

(I) evaluates the adequacy of the infrastructure in Great Lakes ports to meet the needs of marine commerce; and

(J) evaluates new vessel designs for domestic and international shipping on the Great Lakes.

(2) USE OF NATIONAL MARITIME ENHANCEMENT INSTITUTES.—In conducting the study required by paragraph (1), the Secretary may utilize the services of any recognized National Maritime Enhancement Institute.

(3) REPORTS.—The Secretary shall submit an annual report on the findings and conclusions of the study under this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

(A) by not later than 1 year after the date of the enactment of this Act; and

(B) by not later than 1 year after the date of submission of the report under subparagraph (A).

(4) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$1,500,000 for each of fiscal years 2005 and 2006 to carry out paragraph (1).

SEC. 606. KOSS COVE.

Alaska.

(a) IN GENERAL.—Notwithstanding any other provision of law or existing policy, the cove described in subsection (b) shall be known and designated as “Koss Cove”, in honor of the late Able Bodied Seaman Eric Steiner Koss of the National Oceanic and Atmospheric Administration vessel RAINIER who died in the performance of a nautical charting mission off the coast of Alaska.

(b) COVE DESCRIBED.—The cove referred to in subsection (a) is—

(1) adjacent to and southeast of Point Elrington, Alaska, and forms a portion of the southern coast of Elrington Island;

(2) $\frac{3}{4}$ mile across the mouth;

(3) centered at 59 degrees 56.1 minutes North, 148 degrees 14 minutes West; and

(4) 45 miles from Seward, Alaska.

(c) REFERENCES.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the cove described in subsection (b) is deemed to be a reference to Koss Cove.

SEC. 607. MISCELLANEOUS CERTIFICATES OF DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 8 of the Act of June 19, 1886 (24 Stat. 81, chapter 421; 46 App. U.S.C. 289), and section 12106 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 appropriate endorsement for employment in the coastwise trade for the following vessels:

(1) OCEAN LEADER (United States official number 679511).

(2) REVELATION (United States official number 1137565).

(3) W. N. RAGLAND (Washington State registration number WN5506NE).

(4) M/T MISS LINDA (United States official number 1140552).

SEC. 608. REQUIREMENTS FOR COASTWISE ENDORSEMENT.

(a) IN GENERAL.—Section 12106 of title 46, United States Code, is amended—

(1) by striking subsection (e)(1)(B) and inserting the following:

“(B) the person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) meets the requirements of subsection (f);” and

(2) by adding at the end the following:

“(f) OWNERSHIP CERTIFICATION REQUIREMENT.—

“(1) IN GENERAL.—A person meets the requirements of this subsection if that person transmits to the Secretary each year the certification required by paragraph (2) or (3) with respect to a vessel.

“(2) INVESTMENT CERTIFICATION.—To meet the certification requirement of this paragraph, a person shall certify that it—

“(A) is a leasing company, bank, or financial institution;

“(B) owns, or holds the beneficial interest in, the vessel solely as a passive investment;

“(C) does not operate any vessel for hire and is not an affiliate of any person who operates any vessel for hire; and

“(D) is independent from, and not an affiliate of, any charterer of the vessel or any other person who has the right, directly or indirectly, to control or direct the movement or use of the vessel.

“(3) CERTAIN TANK VESSELS.—

“(A) In general.—To meet the certification requirement of this paragraph, a person shall certify that—

“(i) the aggregate book value of the vessels owned by such person and United States affiliates of such person does not exceed 10 percent of the aggregate book value of all assets owned by such person and its United States affiliates;

“(ii) not more than 10 percent of the aggregate revenues of such person and its United States affiliates is derived from the ownership, operation, or management of vessels;

“(iii) at least 70 percent of the aggregate tonnage of all cargo carried by all vessels owned by such person

and its United States affiliates and documented under this section is qualified proprietary cargo;

“(iv) any cargo other than qualified proprietary cargo carried by all vessels owned by such person and its United States affiliates and documented under this section consists of oil, petroleum products, petrochemicals, or liquified natural gas;

“(v) no vessel owned by such person or any of its United States affiliates and documented under this section carries molten sulphur; and

“(vi) such person owned 1 or more vessels documented under subsection (e) of this section as of the date of enactment of the Coast Guard and Maritime Transportation Act of 2004.

“(B) APPLICATION ONLY TO CERTAIN VESSELS.—A person may make a certification under this paragraph only with respect to—

“(i) a tank vessel having a tonnage of not less than 6,000 gross tons, as measured under section 14502 of this title (or an alternative tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title); or

“(ii) a towing vessel associated with a non-self-propelled tank vessel that meets the requirements of clause (i), where the 2 vessels function as a single self-propelled vessel.

“(4) DEFINITIONS.—In this subsection:

“(A) AFFILIATE.—The term ‘affiliate’ means, with respect to any person, any other person that is—

“(i) directly or indirectly controlled by, under common control with, or controlling such person; or

“(ii) named as being part of the same consolidated group in any report or other document submitted to the United States Securities and Exchange Commission or the Internal Revenue Service.

“(B) CARGO.—The term ‘cargo’ does not include cargo to which title is held for non-commercial reasons and primarily for the purpose of evading the requirements of paragraph (3).

“(C) OIL.—The term ‘oil’ has the meaning given that term in section 2101(20) of this title.

“(D) PASSIVE INVESTMENT.—The term ‘passive investment’ means an investment in which neither the investor nor any affiliate of such investor is involved in, or has the power to be involved in, the formulation, determination, or direction of any activity or function concerning the management, use, or operation of the asset that is the subject of the investment.

“(E) QUALIFIED PROPRIETARY CARGO.—The term ‘qualified proprietary cargo’ means—

“(i) oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person who submits to the Secretary an application or annual certification under paragraph (3), or by an affiliate of such person, immediately before, during, or immediately after such cargo is carried in coastwise trade on a vessel owned by such person;

“(ii) oil, petroleum products, petrochemicals, or liquefied natural gas cargo not beneficially owned by the person who submits to the Secretary an application or an annual certification under paragraph (3), or by an affiliate of such person, but that is carried in coastwise trade by a vessel owned by such person and which is part of an arrangement in which vessels owned by such person and at least one other person are operated collectively as one fleet, to the extent that an equal amount of oil, petroleum products, petrochemicals, or liquefied natural gas cargo beneficially owned by such person, or an affiliate of such person, is carried in coastwise trade on 1 or more other vessels, not owned by such person, or an affiliate of such person, if such other vessel or vessels are also part of the same arrangement;

“(iii) in the case of a towing vessel associated with a non-self-propelled tank vessel where the 2 vessels function as a single self-propelled vessel, oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person who owns both such towing vessel and the non-self-propelled tank vessel, or any United States affiliate of such person, immediately before, during, or immediately after such cargo is carried in coastwise trade on either of the 2 vessels; or

“(iv) any oil, petroleum products, petrochemicals, or liquefied natural gas cargo carried on any vessel that is either a self-propelled tank vessel having a length of at least 210 meters or a tank vessel that is a liquefied natural gas carrier that—

“(I) was delivered by the builder of such vessel to the owner of such vessel after December 31, 1999; and

“(II) was purchased by a person for the purpose, and with the reasonable expectation, of transporting on such vessel liquefied natural gas or unrefined petroleum beneficially owned by the owner of such vessel, or an affiliate of such owner, from Alaska to the continental United States.

“(F) UNITED STATES AFFILIATE.—The term ‘United States affiliate’ means, with respect to any person, an affiliate the principal place of business of which is located in the United States.”.

(b) TREATMENT OF OWNER OF CERTAIN VESSELS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, a person shall be treated as a citizen of the United States under section 12102(a) of title 46, United States Code, section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802), and section 27 of the Merchant Marine Act, 1920 (46 U.S.C. App. 883), for purposes of issuance of a coastwise endorsement under section 12106(e) of title 46, United States Code (as that section was in effect on the day before the date of enactment of this Act), for a vessel owned by the person on the date of enactment of this Act, or any replacement vessel of a similar size and function, if the person—

(A) owned a vessel before January 1, 2001, that had a coastwise endorsement under section 12106(e) of title 46, United States Code; and

(B) as of the date of the enactment of this Act, derives substantially all of its revenue from leasing vessels engaged in the transportation or distribution of petroleum products and other cargo in Alaska.

(2) LIMITATION ON COASTWISE TRADE.—A vessel owned by a person described in paragraph (1) for which a coastwise endorsement is issued under section 12106(e) of title 46, United States Code, may be employed in the coastwise trade only within Alaska and in the coastwise trade to and from Alaska.

(3) TERMINATION.—The application of this subsection to a person described in paragraph (1) shall terminate if all of that person's vessels described in paragraph (1) are sold to a person eligible to document vessels under section 12106(a) of title 46, United States Code.

(c) APPLICATION TO CERTAIN CERTIFICATES.—

(1) IN GENERAL.—The amendments made by this section, and any regulations published after February 4, 2004, with respect to coastwise endorsements, shall not apply to a certificate of documentation, or renewal thereof, endorsed with a coastwise endorsement for a vessel under section 12106(e) of title 46, United States Code, or a replacement vessel of a similar size and function, that was issued prior to the date of enactment of this Act as long as the vessel is owned by the person named therein, or by a subsidiary or affiliate of that person, and the controlling interest in such owner has not been transferred to a person that was not an affiliate of such owner as of the date of enactment of this Act. Notwithstanding the preceding sentence, however, the amendments made by this section shall apply, beginning 3 years after the date of enactment of this Act, with respect to offshore supply vessels (as defined in section 2101(19) of title 46, United States Code, as that section was in effect on the date of enactment of this Act) with a certificate of documentation endorsed with a coastwise endorsement as of the date of enactment of this Act, and the Secretary of the Department in which the Coast Guard is operating shall revoke any such certificate if the vessel does not by then meet the requirements of section 12106(e) of title 46, United States Code, as amended by this section.

46 USC 12106
note.

(2) REPLACEMENT VESSEL.—For the purposes of this subsection, “replacement vessel” means—

(A) a temporary replacement vessel for a period of not to exceed 180 days if the vessel described in paragraph (1) is unavailable due to an act of God or a marine casualty; or

(B) a permanent replacement vessel if—

(i) the vessel described in paragraph (1) is unavailable for more than 180 days due to an act of God or a marine casualty; or

(ii) a contract to purchase or construct such replacement vessel is executed not later than December 31, 2004.

(d) WAIVER.—The Secretary of Transportation shall waive or reduce the qualified proprietary cargo requirement of section

46 USC 12106
note.

12106(f)(3)(A)(iii) of title 46, United States Code, for a vessel if the person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) notifies the Secretary that circumstances beyond the direct control of such person or its affiliates prevent, or reasonably threaten to prevent, such person from satisfying such requirement, and the Secretary does not, with good cause, determine otherwise. The waiver or reduction shall apply during the period of time that such circumstances exist.

Applicability.

Deadline.
46 USC 12106
note.

(e) REGULATIONS.—No later than one year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall prescribe final regulations to carry out this section, including amendments made by this section to section 12106 of title 46, United States Code.

SEC. 609. CORRECTION OF REFERENCES TO NATIONAL DRIVER REGISTER.

Title 46, United States Code, is amended—

(1) in section 7302—

(A) by striking “section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401 note)” and inserting “30305(b)(5) of title 49”; and

(B) by striking “section 205(a)(3)(A) or (B) of that Act” and inserting “30304(a)(3)(A) or (B) of title 49”;

(2) in section 7702(d)(1)(B)(iii) by striking “section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982” and inserting “section 30304(a)(3)(A) or (B) of title 49”; and

(3) in section 7703(3) by striking “section 205(a)(3)(A) or (B) of the National Driver Register Act of 1982” and inserting “section 30304(a)(3)(A) or (B) of title 49”.

33 USC 59kk.

SEC. 610. WATEREE RIVER.

For purposes of bridge administration, the portion of the Wateree River in the State of South Carolina, from a point 100 feet upstream of the railroad bridge located at approximately mile marker 10.0 to a point 100 feet downstream of such bridge, is declared to not be navigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

46 USC 7302
note.

SEC. 611. MERCHANT MARINERS' DOCUMENTS PILOT PROGRAM.

The Secretary of the department in which the Coast Guard is operating may conduct a pilot program to demonstrate methods to improve processes and procedures for issuing merchant mariners' documents.

SEC. 612. CONVEYANCE.

Alaska.

(a) AUTHORITY TO CONVEY.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating shall convey, by an appropriate means of conveyance, all right, title, and interest of the United States in and to Sentinel Island, Alaska, to the entity to which the Sentinel Island Light Station is conveyed under section 308(b) of the National Historic Preservation Act (16 U.S.C. 470w-7(b)).

(2) IDENTIFICATION OF PROPERTY.—The Secretary may identify, describe, and determine the property to be conveyed under this subsection.

(3) LIMITATION.—The Secretary may not under this section convey—

(A) any historical artifact, including any lens or lantern, located on property conveyed under this section at or before the time of the conveyance; or

(B) any interest in submerged land.

(b) GENERAL TERMS AND CONDITIONS.—

(1) IN GENERAL.—Any conveyance of property under this section shall be made—

(A) without payment of consideration; and

(B) subject to the terms and conditions required by this section and other terms and conditions the Secretary may consider appropriate, including the reservation of easements and other rights on behalf of the United States.

(2) REVERSIONARY INTEREST.—In addition to any term or condition established under this section, any conveyance of property under this section shall be subject to the condition that all right, title, and interest in the property, at the option of the Secretary shall revert to the United States and be placed under the administrative control of the Secretary, if—

(A) the property, or any part of the property—

(i) ceases to be available and accessible to the public, on a reasonable basis, for educational, park, recreational, cultural, historic preservation, or other similar purposes specified for the property in the terms of conveyance;

(ii) ceases to be maintained in a manner that is consistent with its present or future use as a site for Coast Guard aids to navigation or compliance with this section; or

(iii) ceases to be maintained in a manner consistent with the conditions in paragraph (4) established by the Secretary pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.); or

(B) at least 30 days before that reversion, the Secretary provides written notice to the owner that the property is needed for national security purposes.

Deadline.
Notification.

(3) MAINTENANCE OF NAVIGATION FUNCTIONS.—Any conveyance of property under this section shall be made subject to the conditions that the Secretary considers to be necessary to assure that—

(A) the lights, antennas, and associated equipment located on the property conveyed that are active aids to navigation shall continue to be operated and maintained by the United States for as long as they are needed for this purpose;

(B) the owner of the property may not interfere or allow interference in any manner with aids to navigation without express written permission from the Commandant of the Coast Guard;

(C) there is reserved to the United States the right to relocate, replace, or add any aids to navigation or make any changes to the property conveyed as may be necessary for navigational purposes;

(D) the United States shall have the right, at any time, to enter the property without notice for the purpose of operating, maintaining, and inspecting aids to navigation

and for the purpose of enforcing compliance with this subsection; and

(E) the United States shall have an easement of access to and across the property for the purpose of maintaining the aids to navigation in use on the property.

(4) MAINTENANCE OF PROPERTY.—

(A) IN GENERAL.—Subject to subparagraph (B), the owner of a property conveyed under this section shall maintain the property in a proper, substantial, and workmanlike manner, and in accordance with any conditions established by the Secretary pursuant to the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other applicable laws.

(B) LIMITATION.—The owner of a property conveyed under this section is not required to maintain any active aids to navigation on the property, except private aids to navigation authorized under section 83 of title 14, United States Code.

(c) DEFINITIONS.—In this section, the following definitions apply:

(1) AIDS TO NAVIGATION.—The term “aids to navigation” means equipment used for navigation purposes, including a light, antenna, radio, sound signal, electronic navigation equipment, or other associated equipment that are operated or maintained by the United States.

(2) OWNER.—The term “owner” means, for property conveyed under this section, the person to which property is conveyed under subsection (a)(1), and any successor or assign of that person.

SEC. 613. BRIDGE ADMINISTRATION.

Section 325(b) of the Department of Transportation and Related Agencies Appropriations Act, 1983 (Pub. L. 97-369; 96 Stat. 1765) is amended by striking “provides at least thirty feet of vertical clearance Columbia River datum and at least eighty feet of horizontal clearance, as” and inserting “is so”.

SEC. 614. SENSE OF CONGRESS REGARDING CARBON MONOXIDE AND WATERCRAFT.

It is the sense of the Congress that the Coast Guard should continue—

(1) to place a high priority on addressing the safety risks posed to boaters by elevated levels of carbon monoxide that are unique to watercraft; and

(2) to work with vessel and engine manufacturers, the American Boat & Yacht Council, other Federal agencies, and the entire boating community in order to determine the best ways to adequately address this public safety issue and minimize the number of tragic carbon monoxide-related boating deaths that occur each year.

SEC. 615. MITIGATION OF PENALTY DUE TO AVOIDANCE OF A CERTAIN CONDITION.

(a) TREATMENT OF VIOLATION.—For purposes of any administrative proceeding to consider mitigation of any civil penalty for a violation described in subsection (b), such violation is deemed to have been committed by reason of a safety concern.

(b) VIOLATION DESCRIBED.—A violation referred to in subsection (a) is any violation of the Act of June 19, 1886 (chapter 421; 46 App. U.S.C. 289), occurring before April 1, 2003, and consisting of operation of a passenger vessel in transporting passengers between the Port of New Orleans and another port on the Gulf of Mexico at a time when the master of the vessel determined that the vertical clearance on the Mississippi River at Chalmette, Louisiana, was insufficient to allow the safe return transport of passengers on that vessel to the Port of New Orleans.

(c) RELATED PENALTY AMOUNT.—Any civil penalty assessed for a violation of that Act by a vessel described in subsection (b), that was committed when that vessel was repositioning to the Port of New Orleans in July 2003, shall be mitigated to an amount not to exceed \$100 per passenger.

SEC. 616. CERTAIN VESSELS TO BE TOUR VESSELS.

(a) VESSELS DEEMED TOUR VESSELS.—Notwithstanding any other law, a passenger vessel that is not less than 100 gross tons and not greater than 300 gross tons is deemed to be a tour vessel for the purpose of permit allocation regulations under section 3(h) of Public Law 91–383 (16 U.S.C. 1a–2(h)) and section 3 of the Act of August 25, 1916 (16 U.S.C. 3), with respect to vessel operations in Glacier Bay National Park and Preserve, Alaska (in this section referred to as “Glacier Bay”), if the Secretary of the department in which the Coast Guard is operating determines that the vessel—

- (1) has equipment installed that permits all graywater and blackwater to be stored on board for at least 24 hours;
- (2) has a draft of not greater than 15 feet;
- (3) has propulsion equipment of not greater than 5,000 horsepower; and
- (4) is documented under the laws of the United States.

(b) REALLOCATION OF PERMITS.—

(1) REALLOCATION REQUIRED.—Subject to paragraph (2), the Secretary of the Interior, upon application by the operator of a passenger vessel deemed to be a tour vessel under subsection (a), shall reallocate to that vessel any available tour vessel concession permit not used by another vessel, if at the time of application that permit is not sought by a tour vessel of less than 100 gross tons.

(2) LIMITATIONS.—No more than three passenger vessels that are deemed to be a tour vessel under subsection (a) may hold a tour vessel concession permit at any given time, and no more than one such vessel may enter Glacier Bay on any particular date.

(c) COMPLIANCE WITH VESSEL REQUIREMENTS.—

(1) REQUIREMENT TO COMPLY.—Except as otherwise provided in this section, a vessel reallocated a tour vessel concession permit under this section shall comply with all regulations and requirements for Glacier Bay applicable to vessels of at least 100 gross tons.

(2) REVOCATION OF PERMIT.—The Secretary of the Interior may revoke a tour vessel concession permit reallocated to a vessel under this section if that vessel—

- (A) discharges graywater or blackwater in Glacier Bay;

or

(B) violates a vessel operating requirement for Glacier Bay that applies to vessels that are at least 100 gross tons, including restrictions pertaining to speed, route, and closed waters.

(d) TREATMENT OF ENTRIES INTO GLACIER BAY.—An entry into Glacier Bay by a vessel reallocated a tour vessel concession permit under this section shall count against the daily vessel quota and seasonal-use days applicable to entries by tour vessels and shall not count against the daily vessel quota or seasonal-use days of any other class of vessel.

SEC. 617. SENSE OF CONGRESS REGARDING TIMELY REVIEW AND ADJUSTMENT OF GREAT LAKES PILOTAGE RATES.

It is the sense of the Congress that the Secretary of the department in which the Coast Guard is operating should, on a timely basis, review and adjust the rates payable under part 401 of title 46, Code of Federal Regulations, for services performed by United States registered pilots on the Great Lakes.

SEC. 618. WESTLAKE CHEMICAL BARGE DOCUMENTATION.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) and section 12106 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 appropriate endorsement for employment in the coastwise trade for each of the following vessels:

- (1) Barge WCAO–101 (United States official number 506677).
- (2) Barge WCAO–102 (United States official number 506851).
- (3) Barge WCAO–103 (United States official number 506852).
- (4) Barge WCAO–104 (United States official number 507172).
- (5) Barge WCAO–105 (United States official number 507173).
- (6) Barge WCAO–106 (United States official number 620514).
- (7) Barge WCAO–107 (United States official number 620515).
- (8) Barge WCAO–108 (United States official number 620516).
- (9) Barge WCAO–3002 (United States official number 295147).
- (10) Barge WCAO–3004 (United States official number 517396).

8 USC 1701.

SEC. 619. CORRECTION TO DEFINITION.

Paragraph (4) of section 2 of the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107–173) is amended by striking subparagraph (G) and inserting the following: “(G) The Coast Guard.”

SEC. 620. LORAN-C.

There are authorized to be appropriated to the Department of Transportation, in addition to funds authorized for the Coast Guard for operation of the LORAN-C system, for capital expenses related to LORAN-C navigation infrastructure, \$25,000,000 for

fiscal year 2005. The Secretary of Transportation may transfer from the Federal Aviation Administration and other agencies of the Department funds appropriated as authorized under this section in order to reimburse the Coast Guard for related expenses.

SEC. 621. DEEPWATER REPORT.

(a) **REPORT.**—No later than 180 days after enactment of this Act, the Coast Guard shall provide a written report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives with respect to performance under the first term of the Integrated Deepwater System contract.

(b) **CONTENTS.**—The report shall include the following:

(1) An analysis of how well the prime contractor has met the two key performance goals of operational effectiveness and minimizing total ownership costs.

(2) A description of the measures implemented by the prime contractor to meet these goals and how these measures have been or will be applied for subcontracts awarded during the 5-year term of the contract, as well as criteria used by the Coast Guard to assess the contractor’s performance against these goals.

(3) To the extent available, performance and cost comparisons of alternatives examined in implementing the contract.

(4) A detailed description of the measures that the Coast Guard has taken to implement the recommendations of the General Accounting Office’s March 2004 report on the Deepwater program (including the development of measurable award fee criteria, improvements to integrated product teams, and a plan for ensuring competition of subcontracts).

(5) A description of any anticipated changes to the mix of legacy and replacement assets over the life of the program, including Coast Guard infrastructure and human capital needs for integrating such assets, and a timetable and estimated costs for maintaining each legacy asset and introducing each replacement asset over the life of the contract, including a comparison to any previous estimates of such costs on an asset-specific basis.

SEC. 622. JUDICIAL REVIEW OF NATIONAL TRANSPORTATION SAFETY BOARD FINAL ORDERS.

Section 1153 of title 49, United States Code, is amended by adding at the end the following:

“(d) **COMMANDANT SEEKING JUDICIAL REVIEW OF MARITIME MATTERS.**—If the Commandant of the Coast Guard decides that an order of the Board issued pursuant to a review of a Coast Guard action under section 1133 of this title will have an adverse impact on maritime safety or security, the Commandant may obtain judicial review of the order under subsection (a). The Commandant, in the official capacity of the Commandant, shall be a party to the judicial review proceedings.”.

SEC. 623. INTERIM AUTHORITY FOR DRY BULK CARGO RESIDUE DISPOSAL.

33 USC 1901
note.

(a) **EXTENSION OF INTERIM AUTHORITY.**—The Secretary of the Department in which the Coast Guard is operating shall continue to implement and enforce United States Coast Guard 1997 Enforcement Policy for Cargo Residues on the Great Lakes (hereinafter

in this section referred to as the “Policy”) or revisions thereto, in accordance with that policy, for the purpose of regulating incidental discharges from vessels of residues of dry bulk cargo into the waters of the Great Lakes under the jurisdiction of the United States, until the earlier of—

- (1) the date regulations are promulgated under subsection (b) for the regulation of incidental discharges from vessels of dry bulk cargo residue into the waters of the Great Lakes under the jurisdiction of the United States; or
- (2) September 30, 2008.

(b) **PERMANENT AUTHORITY.**—Notwithstanding any other law, the Commandant of the Coast Guard may promulgate regulations governing the discharge of dry bulk cargo residue on the Great Lakes.

Deadline.

(c) **ENVIRONMENTAL ASSESSMENT.**—No 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 commence the environmental assessment necessary to promulgate the regulations under subsection (b).

SEC. 624. SMALL PASSENGER VESSEL REPORT.

(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 study and report to the Congress regarding measures that should be taken to increase the likelihood of survival of passengers on small passenger vessels who may be in the water resulting from the capsizing of, sinking of, or other marine casualty involving the small passenger vessel. The study shall include a review of the adequacy of existing measures—

(1) to keep the passengers out of the water, including inflatable life rafts and other out-of-the-water survival crafts;

(2) to protect individuals from hypothermia and cold shock in water having a temperature of less than 68 degrees Fahrenheit;

(3) for safe egress of passengers wearing personal flotation devices; and

(4) for the enforcement efforts and degree of compliance regarding the 1996 amendments to the Small Passenger Vessel Regulations (part 185 of title 46, Code of Federal Regulations) requiring the master of a small passenger vessel to require passengers to wear personal flotation devices when possible hazardous conditions exist including—

(A) when transiting hazardous bars or inlets;

(B) during severe weather;

(C) in the event of flooding, fire, or other events that may call for evacuation; and

(D) when the vessel is being towed, except during the towing of a non-self-propelled vessel under normal operating conditions.

(b) **CONTENTS.**—The report under this section shall include—

(1) a section regarding the efforts the Coast Guard has undertaken to enforce the regulations described in subsection (a)(4);

(2) a section detailing compliance with these regulations, to include the number of vessels and masters cited for violations of those regulations for fiscal years 1998 through 2003;

(3) a section detailing the number and types of marine casualties that occurred in fiscal years 1998 through 2003 that included violations of those regulations; and

(4) a section providing recommendation on improving compliance with, and possible modifications to, those regulations.

SEC. 625. CONVEYANCE OF MOTOR LIFEBOAT.

(a) **IN GENERAL.**—The Commandant of the Coast Guard shall convey all right, title, and interest of the United States in and to the Coast Guard 44-foot Motor Lifeboat Vessel #44345 formerly assigned to the Group Grand Haven Command, to the city of Ludington, Michigan, without consideration, if the recipient complies with the conditions under subsection (b).

(b) **CONDITIONS.**—As a condition of any conveyance of a vessel under subsection (a), the Commandant shall require the recipient to—

(1) agree—

(A) to use the vessel for purposes of education and historical display;

(B) not to use the vessel for commercial transportation purposes;

(C) to make the vessel available to the United States Government if needed for use by the Commandant in time of war or a national emergency; and

(D) to hold the Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls (PCBs), after conveyance of the vessel, except for claims arising from use of the vessel by the Government under subparagraph (C);

(2) have funds available that will be committed to operate and maintain the vessel conveyed in good working condition, in the form of cash, liquid assets, or a written loan commitment; and

(3) agree to any other conditions the Commandant considers appropriate.

(c) **MAINTENANCE AND DELIVERY OF VESSEL.**—Before conveying a vessel under this section, the Commandant shall, to the extent practical, and subject to other Coast Guard mission requirements, make every effort to maintain the integrity of the vessel and its equipment until the time of delivery. The Commandant shall deliver a vessel conveyed under this section at the place where the vessel is located, in its present condition, and without cost to the Government. The conveyance of a vessel under this section shall not be considered a distribution in commerce for purposes of section 6(e) of Public Law 94–469 (15 U.S.C. 2605(e)).

(d) **OTHER EXCESS EQUIPMENT.**—The Commandant may convey to the recipient of a vessel under this section any excess equipment or parts from other decommissioned Coast Guard vessels for use to enhance the vessel's operability and function as an historical display.

SEC. 626. STUDY ON ROUTING MEASURES.

The Secretary of the department in which the Coast Guard is operating—

(1) shall cooperate with the Administrator of the National Oceanic and Atmospheric Administration in analyzing potential

Deadline.
Reports.

vessel routing measures for reducing vessel strikes of North Atlantic Right Whales, as described in the notice published at pages 30857 through 30861 of volume 69 of the Federal Register; and

(2) within 18 months after the date of the enactment of this Act, shall provide a final report of its analysis to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 627. CONVEYANCE OF LIGHT STATIONS.

Section 308(c) of the National Historic Preservation Act (16 U.S.C. 470w–7(c)) is amended by adding at the end the following:

“(4) LIGHT STATIONS ORIGINALLY CONVEYED UNDER OTHER AUTHORITY.—Upon receiving notice of an executed or intended conveyance by an owner who—

“(A) received from the Federal Government under authority other than this Act an historic light station in which the United States retains a reversionary or other interest; and

“(B) is conveying it to another person by sale, gift, or any other manner,

the Secretary shall review the terms of the executed or proposed conveyance to ensure that any new owner is capable of or is complying with any and all conditions of the original conveyance. The Secretary may require the parties to the conveyance and relevant Federal agencies to provide such information as is necessary to complete this review. If the Secretary determines that the new owner has not or is unable to comply with those conditions, the Secretary shall immediately advise the Administrator, who shall invoke any reversionary interest or take such other action as may be necessary to protect the interests of the United States.”.

SEC. 628. WAIVER.

The Secretary of the department in which the Coast Guard is operating may waive the application of section 2101(21) of title 46, United States Code, with respect to one of two adult chaperones who do not meet the requirements of subparagraph (A)(i), (ii), or (iii) of such section on board each vessel owned or chartered by the Florida National High Adventure Sea Base program of the Boy Scouts of America, if the Secretary determines that such a waiver will not compromise safety.

SEC. 629. APPROVAL OF MODULAR ACCOMMODATION UNITS FOR LIVING QUARTERS.

(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall approve the use of a modular accommodation unit on a floating offshore facility to provide accommodations for up to 12 individuals, if —

(1) the unit is approximately 12 feet in length and 40 feet in width;

(2) before March 31, 2002—

(A) the Secretary approved use of the unit to provide accommodations on such a facility; and

(B) the unit was used to provide such accommodations; and

(3) the Secretary determines that use of the unit under the approval will not compromise safety.

(b) APPLICATION.—The approval by the Secretary under this section shall apply for the 5-year period beginning on the date of the enactment of this Act.

TITLE VII—AMENDMENTS RELATING TO OIL POLLUTION ACT OF 1990

SEC. 701. VESSEL RESPONSE PLANS FOR NONTANK VESSELS OVER 400 GROSS TONS.

(a) NONTANK VESSEL DEFINED.—Section 311(a) of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended—

(1) by striking “and” after the semicolon in paragraph (24)(B);

(2) by striking “threat.” in paragraph (25) and inserting “threat; and”; and

(3) by adding at the end the following:

“(26) ‘nontank vessel’ means a self-propelled vessel of 400 gross tons as measured under section 14302 of title 46, United States Code, or greater, other than a tank vessel, that carries oil of any kind as fuel for main propulsion and that—

“(A) is a vessel of the United States; or

“(B) operates on the navigable waters of the United States.”.

(b) AMENDMENTS TO REQUIRE RESPONSE PLANS.—Section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended—

(1) in paragraph (5) in the heading by inserting “, NONTANK VESSEL,” after “VESSEL”;

(2) in paragraph (5)(A)—

(A) by inserting: “(i) after “(A)”;

(B) by adding at the end the following:

“(ii) The President shall also issue regulations which require an owner or operator of a non-tank vessel to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil.”;

(3) in paragraph (5)(B), in the matter preceding clause (i), by inserting “, nontank vessels,” after “vessels”;

(4) in paragraph (5)(B), by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following:

“(ii) A nontank vessel.”;

(5) in paragraph (5)(D)—

(A) by inserting “, nontank vessel,” after “vessel”;

(B) by striking “and” after the semicolon at the end of clause (iii);

(C) by striking the period at the end of clause (iv) and inserting “; and”; and

(D) by adding after clause (iv) the following:

“(v) in the case of a plan for a nontank vessel, consider any applicable State-mandated response plan in effect on the date of the enactment of the Coast Guard and Maritime Transportation Act of 2004 and ensure consistency to the extent practicable.”;

President.
Regulations.

(6) by inserting “non-tank vessel,” in paragraph (5)(E) after “vessel,” each place it appears;

(7) in paragraph (5)(F)—

(A) by inserting “non-tank vessel,” after “vessel,”;

(B) by striking “vessel or” and inserting “vessel, non-tank vessel, or”.

(8) in paragraph (5)(G) by inserting “nontank vessel,” after “vessel,”;

(9) in paragraph (5)(H) by inserting “and nontank vessel” after “each tank vessel”;

(10) in paragraph (6) in the matter preceding subparagraph (A) by striking “Not later than 2 years after the date of enactment of this section, the President shall require—” and inserting “The President may require—”;

(11) in paragraph (6)(B) by inserting “, and nontank vessels carrying oil of any kind as fuel for main propulsion,” after “cargo”; and

(12) in paragraph (7) by inserting “, nontank vessel,” after “vessel”.

Deadline.
33 USC 1321
note.

(c) IMPLEMENTATION DATE.—No later than one year after the date of enactment of this Act, the owner or operator of a nontank vessel (as defined section 311(j)(9) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(9), as amended by this section) shall prepare and submit a vessel response plan for such vessel.

(d) ADDITION OF NOXIOUS LIQUID SUBSTANCES TO THE LIST OF HAZARDOUS SUBSTANCES FOR WHICH THE COAST GUARD MAY REQUIRE A RESPONSE PLAN.—Section 311(j)(5) of the Federal Water Pollution Control Act (33 U.S.C.1321(j)(5)) is further amended—

(1) by redesignating subparagraphs (B) through (H) as subparagraphs (C) through (I), respectively;

(2) by inserting after subparagraph (A) the following:

“(B) The Secretary of the Department in which the Coast Guard is operating may issue regulations which require an owner or operator of a tank vessel, a non-tank vessel, or a facility described in subparagraph (C) that transfers noxious liquid substances in bulk to or from a vessel to prepare and submit to the Secretary a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of a noxious liquid substance that is not designated as a hazardous substance or regulated as oil in any other law or regulation. For purposes of this paragraph, the term ‘noxious liquid substance’ has the same meaning when that term is used in the MARPOL Protocol described in section 2(a)(3) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)).”;

(3) by striking “subparagraph (B)” in subparagraph (A) and inserting “subparagraph (C)”;

(4) by striking “subparagraph (A)” in subparagraph (C), as redesignated, and inserting “subparagraphs (A) and (B)”;

and

(5) by striking “subparagraph (D),” in clause (i) of subparagraph (F), as redesignated, and inserting “subparagraph (E),”.

SEC. 702. REQUIREMENTS FOR TANK LEVEL AND PRESSURE MONITORING DEVICES.

(a) REQUIREMENTS.—Section 4110 of the Oil Pollution Act of 1990 (46 U.S.C. 3703 note) is amended—

(1) in subsection (a), by striking “Not later than 1 year after the date of the enactment of this Act, the Secretary shall” and inserting “The Secretary may”; and

(2) in subsection (b)—

(A) by striking “Not later than 1 year after the date of the enactment of this Act, the Secretary shall” and inserting “No sooner than 1 year after the Secretary prescribes regulations under subsection (a), the Secretary may”; and

(B) by striking “the standards” and inserting “any standards”.

(b) STUDY.—

(1) STUDY REQUIREMENT.—The Secretary of the department in which the Coast Guard is operating shall conduct a study analyzing the costs and benefits of methods other than those described in subsections (a) and (b) of section 4110 of the Oil Pollution Act of 1990 for effectively detecting the loss of oil from oil cargo tanks. The study may include technologies, monitoring procedures, and other methods.

(2) INPUT.—In conducting the study, the Secretary may seek input from Federal agencies, industry, and other entities.

(3) REPORT.—The Secretary shall submit a report on the findings and conclusions of the study to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives by not later than 180 days after the date of the enactment of this Act.

SEC. 703. LIABILITY AND COST RECOVERY.

(a) DEFINITION OF OWNER OR OPERATOR.—Section 1001(26) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(26)) is amended to read as follows:

“(26) ‘owner or operator’—

“(A) means—

“(i) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel;

“(ii) in the case of an onshore or offshore facility, any person owning or operating such facility;

“(iii) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

“(iv) in the case of any facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means to a unit of State or local government, any person who owned, operated, or otherwise controlled activities at such facility immediately beforehand;

“(v) notwithstanding subparagraph (B)(i), and in the same manner and to the same extent, both procedurally and substantively, as any nongovernmental entity, including for purposes of liability under section 1002, any State or local government that has caused or contributed to a discharge or substantial threat of a discharge of oil from a vessel or facility ownership or control of which was acquired involuntarily through—

“(I) seizure or otherwise in connection with law enforcement activity;

“(II) bankruptcy;

“(III) tax delinquency;

“(IV) abandonment; or

“(V) other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign;

“(vi) notwithstanding subparagraph (B)(ii), a person that is a lender and that holds indicia of ownership primarily to protect a security interest in a vessel or facility if, while the borrower is still in possession of the vessel or facility encumbered by the security interest, the person—

“(I) exercises decision making control over the environmental compliance related to the vessel or facility, such that the person has undertaken responsibility for oil handling or disposal practices related to the vessel or facility; or

“(II) exercises control at a level comparable to that of a manager of the vessel or facility, such that the person has assumed or manifested responsibility—

“(aa) for the overall management of the vessel or facility encompassing day-to-day decision making with respect to environmental compliance; or

“(bb) over all or substantially all of the operational functions (as distinguished from financial or administrative functions) of the vessel or facility other than the function of environmental compliance; and

“(B) does not include—

“(i) A unit of state or local government that acquired ownership or control of a vessel or facility involuntarily through—

“(I) seizure or otherwise in connection with law enforcement activity;

“(II) bankruptcy;

“(III) tax delinquency;

“(IV) abandonment; or

“(V) other circumstances in which the government involuntarily acquires title by virtue of its function as sovereign;

“(ii) a person that is a lender that does not participate in management of a vessel or facility, but holds indicia of ownership primarily to protect the security interest of the person in the vessel or facility; or

“(iii) a person that is a lender that did not participate in management of a vessel or facility prior to foreclosure, notwithstanding that the person—

“(I) forecloses on the vessel or facility; and

“(II) after foreclosure, sells, re-releases (in the case of a lease finance transaction), or liquidates the vessel or facility, maintains business activities, winds up operations, undertakes a removal action under section 311(c) of the Federal Water Pollution

Control Act (33 U.S.C. 1321(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan, with respect to the vessel or facility, or takes any other measure to preserve, protect, or prepare the vessel or facility prior to sale or disposition,

if the person seeks to sell, re-lease (in the case of a lease finance transaction), or otherwise divest the person of the vessel or facility at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements;”

(b) OTHER DEFINITIONS.—Section 1001 of the Oil Pollution Act of 1990 (33 U.S.C. 2701) is amended by striking “and” after the semicolon at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting a semicolon, and by adding at the end the following:

“(38) ‘participate in management’—

“(A)(i) means actually participating in the management or operational affairs of a vessel or facility; and

“(ii) does not include merely having the capacity to influence, or the unexercised right to control, vessel or facility operations; and

“(B) does not include—

“(i) performing an act or failing to act prior to the time at which a security interest is created in a vessel or facility;

“(ii) holding a security interest or abandoning or releasing a security interest;

“(iii) including in the terms of an extension of credit, or in a contract or security agreement relating to the extension, a covenant, warranty, or other term or condition that relates to environmental compliance;

“(iv) monitoring or enforcing the terms and conditions of the extension of credit or security interest;

“(v) monitoring or undertaking one or more inspections of the vessel or facility;

“(vi) requiring a removal action or other lawful means of addressing a discharge or substantial threat of a discharge of oil in connection with the vessel or facility prior to, during, or on the expiration of the term of the extension of credit;

“(vii) providing financial or other advice or counseling in an effort to mitigate, prevent, or cure default or diminution in the value of the vessel or facility;

“(viii) restructuring, renegotiating, or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest, exercising forbearance;

“(ix) exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement; or

“(x) conducting a removal action under 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) or under the direction of an on-scene coordinator appointed under the National Contingency Plan,

if such actions do not rise to the level of participating in management under subparagraph (A) of this paragraph and paragraph (26)(A)(vi);

“(39) ‘extension of credit’ has the meaning provided in section 101(20)(G)(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(i));

“(40) ‘financial or administrative function’ has the meaning provided in section 101(20)(G)(ii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(ii));

“(41) ‘foreclosure’ and ‘foreclose’ each has the meaning provided in section 101(20)(G)(iii) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iii));

“(42) ‘lender’ has the meaning provided in section 101(20)(G)(iv) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(iv));

“(43) ‘operational function’ has the meaning provided in section 101(20)(G)(v) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(v)); and

“(44) ‘security interest’ has the meaning provided in section 101(20)(G)(vi) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601(20)(G)(vi)).”.

(c) DEFINITION OF CONTRACTUAL RELATIONSHIP.—Section 1003 of the Oil Pollution Act of 1990 (33 U.S.C. 2703) is amended by adding at the end the following:

“(d) DEFINITION OF CONTRACTUAL RELATIONSHIP.—

“(1) IN GENERAL.—For purposes of subsection (a)(3) the term ‘contractual relationship’ includes, but is not limited to, land contracts, deeds, easements, leases, or other instruments transferring title or possession, unless—

“(A) the real property on which the facility concerned is located was acquired by the responsible party after the placement of the oil on, in, or at the real property on which the facility concerned is located;

“(B) one or more of the circumstances described in subparagraph (A), (B), or (C) of paragraph (2) is established by the responsible party by a preponderance of the evidence; and

“(C) the responsible party complies with paragraph (3).

“(2) REQUIRED CIRCUMSTANCE.—The circumstances referred to in paragraph (1)(B) are the following:

“(A) At the time the responsible party acquired the real property on which the facility is located the responsible party did not know and had no reason to know that oil that is the subject of the discharge or substantial threat of discharge was located on, in, or at the facility.

“(B) The responsible party is a government entity that acquired the facility—

“(i) by escheat;

“(ii) through any other involuntary transfer or acquisition; or

“(iii) through the exercise of eminent domain authority by purchase or condemnation.

“(C) The responsible party acquired the facility by inheritance or bequest.

“(3) ADDITIONAL REQUIREMENTS.—For purposes of paragraph (1)(C), the responsible party must establish by a preponderance of the evidence that the responsible party—

“(A) has satisfied the requirements of section 1003(a)(3)(A) and (B);

“(B) has provided full cooperation, assistance, and facility access to the persons that are authorized to conduct removal actions, including the cooperation and access necessary for the installation, integrity, operation, and maintenance of any complete or partial removal action;

“(C) is in compliance with any land use restrictions established or relied on in connection with the removal action; and

“(D) has not impeded the effectiveness or integrity of any institutional control employed in connection with the removal action.

“(4) REASON TO KNOW.—

“(A) APPROPRIATE INQUIRIES.—To establish that the responsible party had no reason to know of the matter described in paragraph (2)(A), the responsible party must demonstrate to a court that—

“(i) on or before the date on which the responsible party acquired the real property on which the facility is located, the responsible party carried out all appropriate inquiries, as provided in subparagraphs (B) and (D), into the previous ownership and uses of the real property on which the facility is located in accordance with generally accepted good commercial and customary standards and practices; and

“(ii) the responsible party took reasonable steps to—

“(I) stop any continuing discharge;

“(II) prevent any substantial threat of discharge; and

“(III) prevent or limit any human, environmental, or natural resource exposure to any previously discharged oil.

“(B) REGULATIONS ESTABLISHING STANDARDS AND PRACTICES.—Not later than 2 years after the date of the enactment of this paragraph, the Secretary, in consultation with the Administrator of the Environmental Protection Agency, shall by regulation establish standards and practices for the purpose of satisfying the requirement to carry out all appropriate inquiries under subparagraph (A).

Deadline.

“(C) CRITERIA.—In promulgating regulations that establish the standards and practices referred to in subparagraph (B), the Secretary shall include in such standards and practices provisions regarding each of the following:

“(i) The results of an inquiry by an environmental professional.

“(ii) Interviews with past and present owners, operators, and occupants of the facility and the real

property on which the facility is located for the purpose of gathering information regarding the potential for oil at the facility and on the real property on which the facility is located.

“(iii) Reviews of historical sources, such as chain of title documents, aerial photographs, building department records, and land use records, to determine previous uses and occupancies of the real property on which the facility is located since the property was first developed.

“(iv) Searches for recorded environmental cleanup liens against the facility and the real property on which the facility is located that are filed under Federal, State, or local law.

“(v) Reviews of Federal, State, and local government records, waste disposal records, underground storage tank records, and waste handling, generation, treatment, disposal, and spill records, concerning oil at or near the facility and on the real property on which the facility is located.

“(vi) Visual inspections of the facility, the real property on which the facility is located, and adjoining properties.

“(vii) Specialized knowledge or experience on the part of the responsible party.

“(viii) The relationship of the purchase price to the value of the facility and the real property on which the facility is located, if oil was not at the facility or on the real property.

“(ix) Commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located.

“(x) The degree of obviousness of the presence or likely presence of oil at the facility and on the real property on which the facility is located, and the ability to detect the oil by appropriate investigation.

“(D) INTERIM STANDARDS AND PRACTICES.—

“(i) REAL PROPERTY PURCHASED BEFORE MAY 31, 1997.—With respect to real property purchased before May 31, 1997, in making a determination with respect to a responsible party described in subparagraph (A), a court shall take into account—

“(I) any specialized knowledge or experience on the part of the responsible party;

“(II) the relationship of the purchase price to the value of the facility and the real property on which the facility is located, if the oil was not at the facility or on the real property;

“(III) commonly known or reasonably ascertainable information about the facility and the real property on which the facility is located;

“(IV) the obviousness of the presence or likely presence of oil at the facility and on the real property on which the facility is located; and

“(V) the ability of the responsible party to detect oil by appropriate inspection.

“(ii) REAL PROPERTY PURCHASED ON OR AFTER MAY 31, 1997.—With respect to real property purchased on or after May 31, 1997, until the Secretary promulgates the regulations described in clause (ii), the procedures of the American Society for Testing and Materials, including the document known as ‘Standard E1527–97’, entitled ‘Standard Practice for Environmental Site Assessment: Phase I Environmental Site Assessment Process’, shall satisfy the requirements in subparagraph (A).

“(E) SITE INSPECTION AND TITLE SEARCH.—In the case of real property for residential use or other similar use purchased by a nongovernmental or noncommercial entity, inspection and title search of the facility and the real property on which the facility is located that reveal no basis for further investigation shall be considered to satisfy the requirements of this paragraph.

“(5) PREVIOUS OWNER OR OPERATOR.—Nothing in this paragraph or in section 1003(a)(3) shall diminish the liability of any previous owner or operator of such facility who would otherwise be liable under this Act. Notwithstanding this paragraph, if a responsible party obtained actual knowledge of the discharge or substantial threat of discharge of oil at such facility when the responsible party owned the facility and then subsequently transferred ownership of the facility or the real property on which the facility is located to another person without disclosing such knowledge, the responsible party shall be treated as liable under 1002(a) and no defense under section 1003(a) shall be available to such responsible party.

“(6) LIMITATION ON DEFENSE.—Nothing in this paragraph shall affect the liability under this Act of a responsible party who, by any act or omission, caused or contributed to the discharge or substantial threat of discharge of oil which is the subject of the action relating to the facility.”.

SEC. 704. OIL SPILL RECOVERY INSTITUTE.

Section 5006 of the Oil Pollution Act of 1990 (33 U.S.C. 2736) is amended—

(1) in the first subsection (c), as added by section 1102(b)(4) of Public Law 104–324 (110 Stat. 3965), by striking “with the eleventh year following the date of enactment of the Coast Guard Authorization Act of 1996,” and inserting “October 1, 2012”; and

(2) by redesignating the second subsection (c) as subsection (d).

SEC. 705. ALTERNATIVES.

Section 4115(e)(3) of the Oil Pollution Act of 1990 (46 U.S.C. 3703a note) is amended to read as follows:

“(3) No later than one year after the date of enactment of the Coast Guard and Maritime Transportation Act of 2004, the Secretary shall, taking into account the recommendations contained in the report by the Marine Board of the National Research Council entitled ‘Environmental Performance of Tanker Design in Collision and Grounding’ and dated 2001, establish and publish an environmental equivalency evaluation index (including the methodology to develop that index) to assess overall outflow performance due to collisions and

Deadline.

groundings for double hull tank vessels and alternative hull designs.”.

SEC. 706. AUTHORITY TO SETTLE.

Section 1015 of the Oil Pollution Act of 1990 (33 U.S.C. 2715) is amended by adding at the end the following:

“(d) **AUTHORITY TO SETTLE.**—The head of any department or agency responsible for recovering amounts for which a person is liable under this title may consider, compromise, and settle a claim for such amounts, including such costs paid from the Fund, if the claim has not been referred to the Attorney General. In any case in which the total amount to be recovered may exceed \$500,000 (excluding interest), a claim may be compromised and settled under the preceding sentence only with the prior written approval of the Attorney General.”.

SEC. 707. REPORT ON IMPLEMENTATION OF THE OIL POLLUTION ACT OF 1990.

No later than 180 days after the date of the enactment of this Act, the Commandant of the Coast Guard shall provide a written report to the Committee on Commerce, Science, and Transportation and the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that shall include the following:

(1) The status of the levels of funds currently in the Oil Spill Liability Trust Fund and projections for levels of funds over the next 5 years, including a detailed accounting of expenditures of funds from the Oil Spill Liability Trust Fund for each of fiscal years 2000 through 2004 by all agencies that receive such funds.

(2) The domestic and international implications of changing the phase-out date for single hull vessels pursuant to section 3703a of title 46, United States Code, from 2015 to 2010.

(3) The costs and benefits of requiring vessel monitoring systems on tank vessels used to transport oil or other hazardous cargo, and of using additional aids to navigation, such as RACONs.

(4) A summary of the extent to which the response costs and damages for oil spill incidents have exceeded the liability limits established in section 1004 of the Oil Pollution Act of 1990 (33 U.S.C. 2704), and a description of the steps that the Coast Guard has taken or plans to take to implement subsection (d)(4) of that section.

(5) A summary of manning, inspection, and other safety issues for tank barges and towing vessels used in connection with them, including—

(A) a description of applicable Federal regulations, guidelines, and other policies;

(B) a record of infractions of applicable requirements described in subparagraph (A) over the past 10 years;

(C) an analysis of oil spill data over the past 10 years, comparing the number and size of oil spills from tank barges with those from tanker vessels of a similar size; and

(D) recommendations on areas of possible improvements to existing regulations, guidelines and policies with respect to tank barges and towing vessels.

SEC. 708. LOANS FOR FISHERMEN AND AQUACULTURE PRODUCERS IMPACTED BY OIL SPILLS.

(a) **INTEREST; PARTIAL PAYMENT OF CLAIMS.**—Section 1013 of the Oil Pollution Act of 1990 (33 U.S.C. 2713) is amended by adding at the end the following:

“(f) **LOAN PROGRAM.**—

“(1) **IN GENERAL.**—The President shall establish a loan program under the Fund to provide interim assistance to fishermen and aquaculture producer claimants during the claims procedure. President.

“(2) **ELIGIBILITY FOR LOAN.**—A loan may be made under paragraph (1) only to a fisherman or aquaculture producer that—

“(A) has incurred damages for which claims are authorized under section 1002;

“(B) has made a claim pursuant to this section that is pending; and

“(C) has not received an interim payment under section 1005(a) for the amount of the claim, or part thereof, that is pending.

“(3) **TERMS AND CONDITIONS OF LOANS.**—A loan awarded under paragraph (1)—

“(A) shall have flexible terms, as determined by the President;

“(B) shall be for a period ending on the later of—

“(i) the date that is 5 years after the date on which the loan is made; or

“(ii) the date on which the fisherman or aquaculture producer receives payment for the claim to which the loan relates under the procedure established by subsections (a) through (e) of this section; and

“(C) shall be at a low interest rate, as determined by the President.”.

(b) **USES OF THE FUND.**—Section 1012(a) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)) is amended—

(1) by striking “Act.” in paragraph (5)(C) and inserting “Act; and”; and

(2) by adding at the end the following:

“(6) the making of loans pursuant to the program established under section 1013(f).”.

(c) **STUDY.**—Not later than 270 days after the date of enactment of this Act, the Secretary of Commerce, in consultation with the Administrator of the Environmental Protection Agency, shall submit to the Congress a study that contains— Deadline.

(1) an assessment of the effectiveness of the claims procedures and emergency response programs under the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) concerning claims filed by, and emergency responses carried out to protect the interests of, fishermen and aquaculture producers; and

(2) any legislative or other recommendations to improve the procedures and programs referred to in paragraph (1).

TITLE VIII—MARITIME TRANSPORTATION SECURITY

SEC. 801. ENFORCEMENT.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended by adding at the end the following:

“§ 70118. Firearms, arrests, and seizure of property

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

“(1) carry a firearm; and

“(2) while at a facility—

“(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.

“§ 70119. Enforcement by State and local officers

“(a) IN GENERAL.—Any State or local government law enforcement officer who has authority to enforce State criminal laws may make an arrest for violation of a security zone regulation prescribed under section 1 of title II of the Act of June 15, 1917 (chapter 30; 50 U.S.C. 191) or security or safety zone regulation under section 7(b) of the Ports and Waterways Safety Act (33 U.S.C. 1226(b)) or a safety zone regulation prescribed under section 10(d) of the Deepwater Port Act of 1974 (33 U.S.C. 1509(d)) by a Coast Guard official authorized by law to prescribe such regulations, if—

“(1) such violation is a felony; and

“(2) the officer has reasonable grounds to believe that the person to be arrested has committed or is committing such violation.

“(b) OTHER POWERS NOT AFFECTED.—The provisions of this section are in addition to any power conferred by law to such officers. This section shall not be construed as a limitation of any power conferred by law to such officers, or any other officer of the United States or any State. This section does not grant to such officers any powers not authorized by the law of the State in which those officers are employed.”

(b) CLERICAL AMENDMENT.—The chapter analysis at the beginning of chapter 701 of title 46, United States Code, is amended by adding at the end the following:

“70118. Enforcement.

“70119. Enforcement by State and local officers.”

SEC. 802. IN REM LIABILITY FOR CIVIL PENALTIES AND COSTS.

(a) AMENDMENTS TO TITLE 46, UNITED STATES CODE.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating section 70117 as 70119; and

(2) by inserting after section 70116 the following:

“§ 70117. In rem liability for civil penalties and certain costs

“(a) CIVIL PENALTIES.—Any vessel operated in violation of this chapter or any regulations prescribed under this chapter shall be liable in rem for any civil penalty assessed pursuant to section 70120 for such violation, and may be proceeded against for such

liability in the United States district court for any district in which the vessel may be found.

“(b) REIMBURSABLE COSTS OF SERVICE PROVIDERS.—A vessel shall be liable in rem for the reimbursable costs incurred by any service provider related to implementation and enforcement of this chapter and arising from a violation by the operator of the vessel of this chapter or any regulations prescribed under this chapter, and may be proceeded against for such liability in the United States district court for any district in which such vessel may be found.

“(c) DEFINITIONS.—In this subsection—

“(1) the term ‘reimbursable costs’ means costs incurred by any service provider acting in conformity with a lawful order of the Federal government or in conformity with the instructions of the vessel operator; and

“(2) the term ‘service provider’ means any port authority, facility or terminal operator, shipping agent, Federal, State, or local government agency, or other person to whom the management of the vessel at the port of supply is entrusted, for—

“(A) services rendered to or in relation to vessel crew on board the vessel, or in transit to or from the vessel, including accommodation, detention, transportation, and medical expenses; and

“(B) required handling of cargo or other items on board the vessel.

“§ 70118. Withholding of clearance

“(a) REFUSAL OR REVOCATION OF CLEARANCE.—If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty under section 70119, or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty under section 70120, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

“(b) CLEARANCE UPON FILING OF BOND OR OTHER SURETY.—The Secretary may require the filing of a bond or other surety as a condition of granting clearance refused or revoked under this subsection.”.

(b) ACT OF JUNE 15, 1917.—Section 2 of title II of the Act of June 15, 1917 (chapter 30; 50 U.S.C. 192), is amended—

(1) in subsection (c) by striking “Act” each place it appears and inserting “title”; and

(2) by adding at the end the following:

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

“(e) WITHHOLDING OF CLEARANCE.—

“(1) IN GENERAL.—If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under subsection (c), or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty or fine under this section, the Secretary may, with respect to such vessel, refuse or revoke

any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

“(2) CLEARANCE UPON FILING OF BOND OR OTHER SURETY.—The Secretary may require the filing of a bond or other surety as a condition of granting clearance refused or revoked under this subsection.”

(c) CLERICAL AMENDMENT.—The chapter analysis at the beginning of chapter 701 of title 46, United States Code, is amended by striking the last item and inserting the following:

“70117. In rem liability for civil penalties and certain costs.

“70118. Enforcement by injunction or withholding of clearance.

“70119. Civil penalty.”

SEC. 803. MARITIME INFORMATION.

(a) MARITIME INTELLIGENCE.—Section 70113(a) of title 46, United States Code, is amended by adding at the end the following: “The system may include a vessel risk profiling component that assigns incoming vessels a terrorism risk rating.”

(b) VESSEL TRACKING SYSTEM.—Section 70115 of title 46, United States Code, is amended in the first sentence by striking “may” and inserting “shall, consistent with international treaties, conventions, and agreements to which the United States is a party,”.

(c) MARITIME INFORMATION.—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 a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives containing a plan for the implementation of section 70113 of title 46, United States Code. The plan shall—

(1) identify Federal agencies with maritime information relating to vessels, crew, passengers, cargo, and cargo shippers, those agencies’ maritime information collection and analysis activities, and the resources devoted to those activities;

(2) establish a lead agency within the Department of Homeland Security to coordinate the efforts of other Department agencies in the collection of maritime information and to identify and avoid unwanted redundancy in those efforts;

(3) identify redundancy in the collection and analysis of maritime information by agencies within the department in which the Coast Guard is operating;

(4) establish a timeline for coordinating the collection of maritime information among agencies within the department in which the Coast Guard is operating;

(5) include recommendations on co-locating agency personnel in order to maximize expertise, minimize costs, and avoid redundancy in both the collection and analysis of maritime information;

(6) establish a timeline for the incorporation of information on vessel movements derived through the implementation of sections 70114 and 70115 of title 46, United States Code, into the system for collecting and analyzing maritime information;

(7) include recommendations on educating Federal officials on the identification of security risks posed through commercial maritime transportation operations;

(8) include an assessment of the availability and expertise of private sector maritime information resources;

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Reports.

Establishment.

(9) include recommendations on how private sector maritime information resources could be utilized to analyze maritime security risks;

(10) include recommendations on how to disseminate information collected and analyzed through Federal maritime security coordinators, including the manner and extent to which State, local, and private security personnel should be utilized, which should be developed after consideration by the Secretary of the need for nondisclosure of sensitive security information; and

(11) include recommendations on the need for and how the department could help support a maritime information sharing and analysis center for the purpose of collecting and disseminating real-time or near real-time information to and from public and private entities, along with recommendations on the appropriate levels of funding to help disseminate maritime security information to the private sector.

(d) **LIMITATION ON ESTABLISHMENT OF LEAD AGENCY.**—The Secretary may not establish a lead agency within the Department of Homeland Security to coordinate the efforts of other Department agencies in the collection of maritime information, until at least 90 days after the plan under subsection (c) is submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

SEC. 804. MARITIME TRANSPORTATION SECURITY GRANTS.

(a) **GRANT PROGRAM.**—Section 70107(a) of title 46, United States Code, is amended to read as follows:

“(a) **IN GENERAL.**—The Secretary shall establish a grant program for making a fair and equitable allocation of funds to implement Area Maritime Transportation Security Plans and facility security plans among port authorities, facility operators, and State and local government agencies required to provide port security services. Before awarding a grant under the program, the Secretary shall provide for review and comment by the appropriate Federal Maritime Security Coordinators and the Maritime Administrator. In administering the grant program, the Secretary shall take into account national economic and strategic defense concerns.”

(b) **SECRETARY ADMINISTERING.**—Section 70107 of title 46, United States Code, is amended—

(1) by striking “Secretary of Transportation” each place it appears and inserting “Secretary”;

(2) by striking “Department of Transportation” each place it appears and inserting “department in which the Coast Guard is operating”.

(c) **EFFECTIVE DATE.**—Subsections (a) and (b)—

(1) shall take effect October 1, 2004; and

(2) shall not affect any grant made before that date.

(d) **REPORT ON DESIGN OF MARITIME TRANSPORTATION SECURITY GRANT PROGRAM.**—Within 90 days after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall transmit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of House of Representatives on the design of the maritime transportation security grant program established under section 70107(a) of title 46, United

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note.

States Code. In the report, the Secretary shall include recommendations on—

- (1) whether the grant program should be discretionary or formula-based and the reasons for the recommendation;
- (2) requirements for ensuring that Federal funds will not be substituted for grantee funds;
- (3) targeting requirements to ensure that funding is directed in a manner that considers—
 - (A) national economic and strategic defense concerns;
 and
 - (B) the fiscal capacity of the recipients to fund facility security plan requirements without grant funds; and
- (4) matching requirements to ensure that Federal funds provide an incentive to grantees for the investment of their own funds in the improvements financed in part by Federal funds provided under the program.

Deadline.

SEC. 805. SECURITY ASSESSMENT OF WATERS UNDER THE JURISDICTION OF THE UNITED STATES.

Not later than one year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall—

- (1) conduct a vulnerability assessment under section 70102(b) of title 46, United States Code, of the waters under the jurisdiction of the United States that are adjacent to nuclear facilities that may be damaged by a transportation security incident as defined in section 70101 (6) of title 46, United States Code;
- (2) coordinate with the appropriate Federal agencies in preparing the vulnerability assessment required under paragraph (1); and
- (3) submit the vulnerability assessments required under paragraph (1) to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

SEC. 806. MEMBERSHIP OF AREA MARITIME SECURITY ADVISORY COMMITTEES.

Section 70112(b) of title 46, United States Code, is amended by adding at the end to following:

- “(5) The membership of an Area Maritime Security Advisory Committee shall include representatives of the port industry, terminal operators, port labor organizations, and other users of the port areas.”.

Reports.
Deadline.

SEC. 807. JOINT OPERATIONAL CENTERS FOR PORT SECURITY.

The Commandant of the Coast Guard shall report to the Congress, within 180 days after the date of the enactment of this Act, on the implementation and use of joint operational centers for port security at certain United States seaports. The report shall—

- (1) compare and contrast the composition and operational characteristics of existing joint operational centers for port security, including those in Norfolk, Virginia, Charleston, South Carolina, and San Diego, California;
- (2) examine the use of such centers to implement—
 - (A) the plans developed under section 70103 of title 46, United States Code;

Virginia.
South Carolina.
California.

(B) maritime intelligence activities under section 70113 of title 46, United States Code;

(C) short and long range vessel tracking under sections 70114 and 70115 of title 46, United States Code; and

(D) secure transportation systems under section 70116 of title 46, United States Code; and

(3) estimate the number, location and costs of such centers necessary to implement the activities authorized under sections 70103, 70113, 70114, 70115, and 70116 of title 46, United States Code.

SEC. 808. INVESTIGATIONS.

(a) IN GENERAL.—Section 70107 of title 46, United States Code, is amended by striking subsection (i) and inserting the following:

“(i) INVESTIGATIONS.—

“(1) IN GENERAL.—The Secretary shall conduct investigations, fund pilot programs, and award grants, to examine or develop—

“(A) methods or programs to increase the ability to target for inspection vessels, cargo, crewmembers, or passengers that will arrive or have arrived at any port or place in the United States;

“(B) equipment to detect accurately explosives, chemical, or biological agents that could be used in a transportation security incident against the United States;

“(C) equipment to detect accurately nuclear or radiological materials, including scintillation-based detection equipment capable of signalling the presence of nuclear or radiological materials;

“(D) improved tags and seals designed for use on shipping containers to track the transportation of the merchandise in such containers, including sensors that are able to track a container throughout its entire supply chain, detect hazardous and radioactive materials within that container, and transmit that information to the appropriate law enforcement authorities;

“(E) tools, including the use of satellite tracking systems, to increase the awareness of maritime areas and to identify potential transportation security incidents that could have an impact on facilities, vessels, and infrastructure on or adjacent to navigable waterways, including underwater access;

“(F) tools to mitigate the consequences of a transportation security incident on, adjacent to, or under navigable waters of the United States, including sensor equipment, and other tools to help coordinate effective response to a transportation security incident;

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

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

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

“(2) IMPLEMENTATION OF TECHNOLOGY.—

“(A) IN GENERAL.—In conjunction with ongoing efforts to improve security at United States ports, the Secretary

may conduct pilot projects at United States ports to test the effectiveness and applicability of new port security projects, including—

“(i) testing of new detection and screening technologies;

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

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

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

“(3) NATIONAL PORT SECURITY CENTERS.—

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

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

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

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

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

“(iii) Whether the applicant can demonstrate that is has an established, nationally recognized program in disciplines that contribute directly to maritime transportation safety and education.

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

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

“(4) ADMINISTRATIVE PROVISIONS.—

“(A) NO DUPLICATION OF EFFORT.—Before making any grant, the Secretary shall coordinate with other Federal

agencies to ensure the grant will not duplicate work already being conducted with Federal funding.

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

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

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

SEC. 809. VESSEL AND INTERMODAL SECURITY REPORTS.

(a) IN GENERAL.—Within 180 days after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit the reports and plan required under subsections (b), (c), (e), (f), and (j) to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(b) REPORT REGARDING SECURITY INSPECTION OF VESSELS AND VESSEL-BORNE CARGO CONTAINERS ENTERING THE UNITED STATES.—

(1) REQUIREMENT.—The Secretary shall prepare a report regarding the numbers and types of vessels and vessel-borne cargo containers that enter the United States in a year.

(2) CONTENTS.—The report shall include the following:

(A) A section regarding security inspection of vessels that includes the following:

(i) A complete breakdown of the numbers and types of vessels that entered the United States in the most recent 1-year period for which information is available.

(ii) The cost incurred by the Federal Government in inspecting such vessels in such 1-year period, including specification and comparison of such cost for each type of vessel.

(iii) An estimate of the per-vessel cost that would be incurred by the Federal Government in inspecting each type of vessel that enters the United States each year, including costs for personnel, vessels, equipment, and funds.

(iv) An estimate of the annual total cost that would be incurred by the Federal Government in inspecting all vessels that enter the United States each year,

including costs for personnel, vessels, equipment, and funds.

(B) A section regarding security inspection of containers that includes the following:

(i) A complete breakdown of the numbers and types of vessel-borne cargo containers that entered the United States in the most recent 1-year period for which information is available, including specification of the number of 1 TEU containers and the number of 2 TEU containers.

(ii) The cost incurred by the Federal Government in inspecting such containers in such 1-year period, including specification and comparison of such cost for a 1 TEU container and for a 2 TEU container, and the number of each inspected.

(iii) An estimate of the per-container cost that would be incurred by the Federal Government in inspecting each type of vessel-borne container that enters the United States each year, including costs for personnel, vessels, and equipment.

(iv) An estimate of the annual total cost that would be incurred by the Federal Government in inspecting, and where allowed by international agreement, inspecting in a foreign port, all vessel-borne containers that enter the United States each year, including costs for personnel, vessels, and equipment.

(c) **PLAN FOR IMPLEMENTING SECURE SYSTEMS OF TRANSPORTATION.**—The Secretary shall prepare a plan for the implementation of section 70116 of title 46, United States Code. The plan shall—

(1) include a timeline for establishing standards and procedures pursuant to section 70116(b) of title 46, United States Code;

(2) provide a preliminary assessment of resources necessary to evaluate and certify secure systems of transportation, and the resources necessary to validate that the secure systems of transportation are operating in compliance with the certification requirements;

(3) contain an analysis of whether establishing a voluntary user fee to fund the certification of private secure systems of transportation, paid for by the person applying for certification, would enhance cargo security;

(4) contain an analysis of the need for and feasibility of establishing a system to inspect, monitor, and track intermodal shipping containers within the United States; and

(5) contain an analysis of the need for and feasibility of developing international standards for secure systems of transportation, including recommendations, that includes an examination of working with appropriate international organizations to develop standards to enhance the physical security of shipping containers consistent with section 70116 of title 46, United States Code.

(d) **INSPECTOR GENERAL IMPLEMENTATION REPORT.**—One year after the date on which the plan under subsection (c) is submitted to the Congress, the Inspector General of the department in which the Coast Guard is operating shall transmit a report evaluating the progress made by the department in implementing the plan to the Committee on Commerce, Science, and Transportation of

the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(e) REPORT ON RADIATION DETECTORS.—The Secretary shall prepare a report on progress in the installation of a system of radiation detection at all major United States seaports, and a timeline and expected completion date for the system. In the report, the Secretary shall include a preliminary analysis of any issues related to the installation or efficacy of the radiation detection equipment, as well as a cost estimate for completing installation of the system.

(f) REPORT ON NONINTRUSIVE INSPECTION AT FOREIGN PORTS.—The Secretary shall prepare a report—

(1) on whether and to what extent foreign seaports have been willing to utilize nonintrusive screening equipment at their ports to screen cargo, including the number of cargo containers that have been screened at foreign seaports, and the ports where they were screened;

(2) indicating which foreign ports may be willing to utilize nonintrusive screening equipment for cargo exported for import into the United States; and

(3) indicating ways to increase the effectiveness of the United States Government’s targeting and screening activities outside the United States and to what extent additional resources and program changes will be necessary to maximize scrutiny of cargo in foreign seaports that is destined for the United States.

(g) EVALUATION OF CARGO INSPECTION TARGETING SYSTEM FOR INTERNATIONAL INTERMODAL CARGO CONTAINERS.—Within 180 days after the date of the enactment of this Act and annually thereafter, the Inspector General of the department in which the Coast Guard is operating shall prepare a report that includes an assessment of—

(1) the effectiveness of the current tracking system to determine whether it is adequate to prevent international intermodal containers from being used for purposes of terrorism;

(2) the sources of information, and the quality of the information at the time of reporting, used by the system to determine whether targeting information is collected from the best and most credible sources and evaluate data sources to determine information gaps and weaknesses;

(3) the targeting system for reporting and analyzing inspection statistics, as well as testing effectiveness;

(4) the competence and training of employees operating the system to determine whether they are sufficiently capable to detect potential terrorist threats; and

(5) whether the system is an effective system to detect potential acts of terrorism and whether additional steps need to be taken in order to remedy deficiencies in targeting international intermodal containers for inspection.

(h) ACTION REPORT.—If the Inspector General of the department in which the Coast Guard is operating determines in any of the reports prepared under subsection (g) that the targeting system is insufficiently effective as a means of detecting potential acts of terrorism utilizing international intermodal containers, then the Secretary of the department in which the Coast Guard is operating

Deadlines.
46 USC 70101
note.

shall, within 90 days, submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure House of Representatives on what actions will be taken to correct deficiencies identified in the Inspector General Report.

Deadlines.

(i) **COMPLIANCE WITH SECURITY STANDARDS ESTABLISHED PURSUANT TO MARITIME TRANSPORTATION SECURITY PLANS.**—Within 180 days after the date of the enactment of this Act and annually thereafter, the Secretary of the department in which the Coast Guard is operating shall prepare a report on compliance and steps taken to ensure compliance by ports, terminals, vessel operators, and shippers with security standards established pursuant to section 70103 of title 46, United States Code. The reports shall also include a summary of security standards established pursuant to such section during the previous year. The Secretary shall submit the reports to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

Reports.

(j) **EMPTY CONTAINERS.**—The Secretary of the department in which the Coast Guard is operating shall prepare a report on the practice and policies in place at United States ports to secure shipment of empty containers and trailers. The Secretary shall include in the report recommendations with respect to whether additional Federal actions are necessary to ensure the safe and secure delivery of cargo and to prevent potential acts of terrorism involving such containers and trailers.

46 USC 70101
note.

(k) **REPORT AND PLAN FORMATS.**—The Secretary and the Inspector General of the department in which the Coast Guard is operating may submit any plan or report required by this section in both classified and redacted formats, if the Secretary determines that it is appropriate or necessary.

Approved August 9, 2004.

LEGISLATIVE HISTORY—H.R. 2443 (S. 733):

HOUSE REPORTS: Nos. 108–233 (Comm. on Transportation and Infrastructure) and 108–617 (Comm. of Conference).

SENATE REPORTS: No. 108–202 accompanying S. 733 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 149 (2003): Nov. 5, considered and passed House.

Vol. 150 (2004): Mar. 30, considered and passed Senate, amended.

July 21, House agreed to conference report.

July 22, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 40 (2004):

Aug. 9, Presidential statement.

