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SENATE

{ REPORT
104-160 }

COAST GUARD AUTHORIZATION ACT OF 1995

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 1004



OCTOBER 19 (legislative day, OCTOBER 18), 1995.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

ONE HUNDRED FOURTH CONGRESS

FIRST SESSION

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COAST GUARD AUTHORIZATION ACT OF 1995

OCTOBER 19 (legislative day, OCTOBER 18), 1995.—Ordered to be printed

Mr. PRESSLER, from the Committee on Commerce, Science, and
Transportation, submitted the following

REPORT

[To accompany S. 1004]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1004) “A Bill to authorize appropriations for the United States Coast Guard, and for other purposes”, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

PURPOSE OF THE BILL

S. 1004, the Coast Guard Authorization Act of 1995, would authorize appropriations for the U.S. Coast Guard for fiscal years (FY) 1995 and 1996, covering six appropriations accounts: (1) operating expenses; (2) acquisition, construction, and improvement of equipment and facilities (AC&I); (3) research and development (R&D); (4) retired pay; (5) alteration and removal of bridges; and (6) environmental compliance and restoration. The bill also authorizes end-of-year military strength and training loads, strengthens safety requirements for recreational boating, and makes other changes to existing law.

BACKGROUND AND NEEDS

The Coast Guard is the principal Federal maritime safety and law enforcement agency. Typical Coast Guard activities include vessel safety inspection, the rescue of life and property at sea, fishery law enforcement, marine environmental protection, and the interdiction of drug traffickers and alien migrants. In addition, the agency carries out port security functions, cooperates closely with

the other armed forces in military readiness activities, and has the lead responsibility for the coastal defense of the United States. In time of war and national emergency, the Coast Guard becomes an arm of the U.S. Navy.

FY 1995 BUDGET AND FY 1996 ADMINISTRATION BUDGET REQUEST

The Coast Guard budget for FY 1995 is \$3.7 billion, an increase of \$47 million or 1.3 percent over FY 1994 funding levels. The Administration budget proposal for FY 1996 calls for Coast Guard funding of \$3.8 billion, about a 3.2 percent overall increase from the level appropriated in FY 1995. Authorized staffing levels for FY 1995 are 38,376 military and 6,084 civilian positions. Staffing would be reduced slightly in FY 1996 to 37,452 military and 6,084 civilian positions. Coast Guard budget accounts are summarized below.

Operating Expenses.—More than two-thirds of the total Coast Guard budget supports the operating expenses account, which funds activities to protect public safety and the marine environment, enforce laws and treaties, maintain aids to navigation, and preserve defense readiness. In FY 1995, \$2,630.5 million was appropriated for this account, a net increase of \$37 million over the FY 1994 appropriated level. The Administration has requested \$2,618.3 million for this account in FY 1996, a net decrease of \$12 million from the FY 1995 appropriated level. The change reflects the supplemental appropriations for Haitian and Cuban migrant operations in FY 1995; Administration-proposed decreases in FY 1996 totalling about \$82 million for mandated reductions in operations and administrative costs, streamlined regulatory functions, and other savings; and increases for cost-of-living allowances and other built-in changes in FY 1996. The requested decreases call for the closure and consolidation of small boat stations reducing their total number from 185 to 162, a 3-ship reduction in the cutter fleet, and the laying up of 3 HU-25 (Falcon jet) aircraft. Of the total operating expenses, \$25 million would be transferred from the Oil Spill Liability Trust Fund in each of FY 1995 and FY 1996.

Acquisition, Construction, and Improvements.—AC&I funds are used to pay for major capital improvements, including vessel and aircraft acquisition and rehabilitation, information management, and construction programs at selected facilities. The Coast Guard received \$327 million for the AC&I account in FY 1995, an increase of \$15.5 million over the FY 1994 level. The Administration's AC&I request for FY 1996 is \$428 million, an increase of \$101 million over the appropriated level for the current fiscal year. The total includes \$32.5 million to be transferred in each of FY 1995 and FY 1996 from the Oil Spill Liability Trust Fund. Major AC&I projects include: seagoing and coastal buoy tenders; vessel traffic services; motor lifeboats; coastal patrol boats; the icebreaker program; medium endurance cutter renovations; aircraft collision avoidance upgrades; and communications and computer software systems.

Environmental Compliance and Restoration.—For environmental compliance and restoration, \$21 million was appropriated for FY 1995 and \$25 million is requested for FY 1996. This account provides resources to bring current and former Coast Guard facilities into conformance with national environmental standards.

Research, Development, Test, and Evaluation.—The Coast Guard budget includes \$20.2 million in FY 1995 and requests \$22.5 million in FY 1996 for R&D. The R&D funds will be used to develop hardware, procedures, and systems that directly contribute to increasing the productivity of Coast Guard operating and regulatory programs.

Retired Pay.—The Coast Guard received \$563 million in FY 1995 and requests \$582 million in FY 1996 for retired pay, annuities and medical care for military retired personnel and former Lighthouse Service members, their dependents, and their survivors.

Alteration of Bridges.—Under the Truman-Hobbs Act, the Federal government shares, with the states, the cost of altering railroad and publicly-owned highway bridges that obstruct the free movement of marine traffic. In FY 1994, \$13 million was appropriated directly to the Coast Guard for this purpose. However, the Administration has requested no funding for this account in FY 1995, initiating a new policy under which the Coast Guard no longer will seek direct funding for alteration of highway bridges. Instead, the Administration proposed that the \$13 million Federal share of such projects in FY 1995 be financed from the discretionary bridge program funds of the Federal Highway Administration, under the continuing program direction of the Coast Guard. While the Coast Guard will continue to request direct funding for the alteration of railroad bridges, all the projects to be funded in FY 1995 are highway bridges. The Administration has requested \$2 million for this account in FY 1996 for railroad bridge projects only. Other Issues

Coast Guard Auxiliary.—The Coast Guard Auxiliary is a 36,000 member volunteer organization that provides the Coast Guard with low-cost assistance in its boating safety mission. Authorizing language for the Auxiliary dates back to World War II, when the Auxiliary conducted anti-submarine patrols and served as a predecessor to the current Coast Guard Reserve. Auxiliary members place themselves and their privately owned vessels and aircraft at risk while conducting Coast Guard missions. The Coast Guard has requested changes in the Auxiliary's authorizing language to improve the management of the Auxiliary and provide protection for its members and their property.

Recreational Boating Safety.—On April 13, 1993, the National Transportation Safety Board (NTSB) issued a study on recreational boating safety stating that "recreational boating accidents currently result in the greatest number of transportation fatalities annually after highway accidents." In addition, an estimated 4,000 people are injured in boating accidents each year. Among the NTSB study recommendations was a requirement for life jackets for children.

State Boating Safety Grant Program.—The FY 1995 Coast Guard budget request proposed to change the funding mechanism for state recreational boating safety grants, eliminating the discretionary appropriation of up to \$35 million. The grants are not funded from general revenues, but rather from motorboat fuel tax revenues that are deposited in the Boat Safety Account of the Aquatic Resources Trust Fund (Wallop-Breaux Fund). The Wallop-Breaux Fund also supports state grant programs administered by the Department of the Interior (DOI). Unlike the DOI programs, however,

the Coast Guard grant program is scored against agency operating expenses and competes directly with other Coast Guard missions for funding priority. The Coast Guard has indicated support for legislation to continue state boating safety grants if the budget scoring is patterned after DOI programs under the Wallop-Breaux Fund.

Act to Prevent Pollution from Ships [APPS].—APPS is the domestic implementing legislation for the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973 [MARPOL], an international treaty to reduce pollution of the marine environment from ships. Annex V of MARPOL restricts the discharge of garbage from ships and bans at-sea disposal of plastic wastes. Environmental organizations and the Administration have supported changes to APPS and other marine pollution laws to strengthen requirements for dealing with the continuing problem of marine debris.

Coast Guard Regulatory Reform.—U.S.-flag commercial vessel operators have expressed concern that the Coast Guard's construction and inspection standards for U.S.-flag vessels are more stringent than International Maritime Organization [IMO] standards, yet the Coast Guard considers foreign-flag vessels meeting IMO standards to be safe for entry into U.S. ports. The added cost of the higher U.S. standards places U.S.-flag vessel operators at a competitive disadvantage relative to their foreign-flag counterparts. The Coast Guard and the U.S.-flag commercial vessel industry have proposed several legislative changes to address this inequity.

Law Enforcement Enhancements.—The Coast Guard is authorized to enforce or assist in the enforcement of all applicable Federal laws on, under, and over the high seas and waters subject to the jurisdiction of the United States. The Coast Guard has identified weaknesses in its authority to disrupt drug smuggling operations and sanction participants in those operations and has requested several legislative changes to address these issues.

LEGISLATIVE HISTORY

The Committee held a hearing on draft legislation to authorize Coast Guard programs and activities on March 15, 1995. In addition to reviewing the Administration's budget priorities for the Coast Guard in the upcoming year, the hearing focused on specific concerns, including recreational boating safety, Coast Guard personnel issues, funding mechanisms for bridge alterations and state boating safety grants, alien migration, drug interdiction, and marine pollution prevention.

S. 1004 was introduced on June 29, 1995, by Senator Stevens, with Senators Pressler, Hollings, and Kerry as cosponsors. On July 20, 1995, in an open executive session, the Committee, without objection, ordered S. 1004 reported with an amendment in the nature of a substitute.

The bill, as reported, modifies and incorporates provisions from several legislative proposals, including: H.R. 1151, the Coast Guard Authorization Act for Fiscal Years 1996 and 1997, a bill transmitted by the Administration; H.R. 1361, the Coast Guard Authorization Act for Fiscal Year 1996, passed by the House of Representatives; S. 685, providing for the conveyance of certain Maine lighthouses; S. 1007, addressing the closure of Coast Guard small boat

stations; and H.R. 1860, conveying the S/S *Red Oak Victory*. In addition, S. 1004 includes sections dealing with specific regional issues.

SUMMARY OF MAJOR PROVISIONS

Authorization Levels.—S. 1004, as reported, would authorize Coast Guard appropriations of \$3.7 billion annually in FY 1995 and FY 1996 for the budget accounts covered by the bill. The authorization levels in the bill are consistent with the Administration budget request and would allow funding of highway bridges under the Coast Guard bridge program from the Federal Highway Administration discretionary bridge program.

Personnel Management.—Other provisions of S. 1004, as reported, would: authorize FY 1995 and FY 1996 end-of-year personnel strengths and annual training levels; revise and update current laws to improve management of the Coast Guard Auxiliary; establish a program to provide child development services for Coast Guard personnel; address health care responsibilities; and enhance Coast Guard recruiting authority.

Inspection and Enforcement.—S. 1004, as reported, would: amend the Coast Guard's current authority to assess and collect user fees for examining foreign passenger vessels; limit the level of fees the Coast Guard could collect from small passenger vessel inspections; increase penalties for violation of U.S. documentation laws, failure to report a marine casualty, and violating towing vessel manning requirements; require commercial fishing vessels on the Great Lakes to carry emergency positioning beacons; establish as a felony the knowing alteration of marine safety equipment that renders the equipment unserviceable; authorize sanctions for vessel operators ignoring Coast Guard orders to stop their vessels outside U.S. customs waters; establish penalties for non-forcible acts of obstruction and providing false information during Coast Guard boardings; and authorize sanctions for failure to comply with a Federal law enforcement officer's order to land an aircraft suspected of smuggling.

State Boating Safety Grants.—S. 1004, as reported, would amend the existing funding mechanism for the Boat Safety Account of the Wallop-Breaux Fund to ensure funding for state grants to promote recreational boating safety. The bill expands the existing boating safety grant program established by the Clean Vessel Act of 1992 and would make the budget scoring comparable to other state grant programs supported by the Wallop-Breaux Fund. The bill also would authorize state grants for constructing or renovating public facilities for transient nontrailerable vessels.

Marine Safety.—The reported bill contains several provisions to address marine safety issues. Among such provisions, S. 1004, as reported, would: require children age 6 and younger to wear personal flotation devices while on the deck of a small recreational vessel; call for plans to be developed to improve reporting of recreational boating accidents; provide for transition from the current LORAN-C electronic navigation system to the global positioning system; and require certification that closure or consolidation of Coast Guard small boat stations will not increase threats to public safety, environment or national security.

Regulatory Reform.—S. 1004, as reported, would reduce the regulatory burden on U.S. commercial vessel operators by: shifting from U.S. specific standards to the International Safety Management Code; accepting third party inspections and model company inspections of U.S. vessels in lieu of Coast Guard inspections; allowing the use of foreign manufactured safety equipment that meets international standards if the source country reciprocates for U.S. equipment; easing inspection interval requirements; allowing the use of foreign classification societies to inspect U.S. vessels if the source country reciprocates for U.S. classification societies; and authorizing the use of alternate International Tonnage Convention (ITC) requirements for U.S. vessels to produce safer and more efficient vessels, stimulate U.S. shipbuilding, and improve U.S. vessel competitiveness in the world market.

Pollution from Ships.—The reported bill would amend APPS to strengthen requirements that ports maintain reception facilities to offload plastic wastes generated by vessels at sea. The bill also would amend the Marine Plastic Pollution Research and Control Act to improve Congressional and public awareness of APPS compliance and violations; establish a Marine Debris Coordinating Committee; and expand the existing federal public outreach program. Finally, the bill would amend the coastal monitoring provisions of the Marine Protection, Research, and Sanctuaries Act to improve the availability and use of information collected under that Act for the purpose of dealing with plastic pollution prevention problems.

Conveyances and Miscellaneous Provisions.—S. 1004, as reported, includes several provisions conveying certain Coast Guard properties and addressing specific regional issues.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and Section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 6, 1995.

Hon. LARRY PRESSLER,
*Chairman, Committee on Commerce, Science, and Transportation,
U.S. Senate, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1004, the Coast Guard Authorization Act of 1995. Because the bill could affect receipts and direct spending by the Coast Guard, pay-as-you-go procedures would apply.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

JUNE E. O'NEILL, *Director.*

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: S. 1004
2. Bill title: The Coast Guard Authorization Act of 1995.
3. Bill status: As ordered reported by the Senate Committee on Commerce, Science, and Transportation on July 20, 1995.
4. Bill purpose: Title I of S. 1004 would authorize fiscal year 1996 appropriations of about \$3.1 billion to the U.S. Coast Guard [USCG] for discretionary programs, including about \$2.6 billion for operating expenses, \$428 million for acquisition and other capital projects, \$22.5 million for research activities, \$16 million for bridge alterations, and \$25 million for environmental compliance. Of the amounts authorized, about \$61 million would be derived from the Oil Spill Liability Trust Fund [OSLTF]. Title I also would authorize the appropriation of \$582 million in 1996 for Coast Guard retirement benefits. Finally, this title would authorize 1995 appropriations totaling about \$3.1 billion for discretionary USCG activities and \$563 million for retirement costs.

Other provisions of S. 1004 would:

Enable the Coast Guard to reduce fees it charges to employees for child care services by authorizing the use of appropriated funds for that purpose;

Allow USCG officers who are not promoted to remain on active duty until they retire;

Increase civil and criminal penalties for violations of various laws enforced by the USCG and other federal agencies;

Prohibit, delay, or impose restrictions on certain planned cost-saving measures such as closures or consolidations of USCG facilities;

Increase the amounts transferred annually from the sport fish restoration account of the Aquatic Resources Trust Fund (ARTF) to the Coast Guard for state boat safety programs;

Create a new grant program within the sport fish restoration account to provide public facilities for large recreational boats;

Expand the Coast Guard's authority to delegate to non-federal entities certain agency functions such as inspecting and certifying vessels;

Implement the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973 [MARPOL];

Enhance the authorities of the USCG and other agencies that enforce certain federal statutes;

Authorize conveyances and donations of various federal properties administered by the Department of Transportation, including a number of USCG lighthouses and associated lands as well as a vessel and other equipment from the National Defense Reserve Fleet [NDRF];

Make the removal of a drainage siphon adjacent to a bridge in Louisiana eligible for federal funding under the Truman-Hobbs Act;

Amend the Oil Pollution Act of 1990 to provide new mandatory spending authority for the Prince William Sound Oil Spill Recovery Institute in Alaska;

Authorize the USCG to charge fees for inspecting foreign passenger vessels;

Establish limits on inspection fees that may be imposed on small passenger vessels and prohibit the USCG from charging such fees on publicly owned ferries; and

Require various studies and make technical amendments to statutes governing USCG regulatory programs, administrative procedures, and other activities.

5. Estimated cost to the Federal Government: The fiscal year 1996 authorizations specified in Title I for discretionary USCG programs represent an increase of about \$149 million over the amount appropriated for fiscal year 1995. Also, beginning in 1996, other federal agencies would require new discretionary funds totaling between \$1 million and \$2 million annually to carry out titles V, VII, and VIII of the bill. Finally, several provisions of the bill would result in small changes to mandatory spending and federal revenues. The budgetary effects of the legislation are summarized in the following table.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
SPENDING SUBJECT TO APPROPRIATIONS ACTION						
Spending under current law:						
Budget authority ¹	2,961	28				
Estimated outlays	2,946	799	412	95	27	16
Proposed changes:						
Estimated authorization level		3,084	2	2	1	1
Estimated outlays		2,158	441	350	91	27
Spending under S. 1004:						
Authorization level ¹	2,961	3,112	2	2	1	1
Estimated outlays	2,946	2,957	853	445	118	43
MANDATORY SPENDING AND RECEIPTS						
Direct spending:						
Estimated budget authority		3	3	3	3	3
Estimated outlays		3	3	3	3	3
Estimated revenues		(?)	(?)	(?)	(?)	(?)

¹The 1995 spending level is the amount actually appropriated for programs authorized by this bill, after adjusting for enacted supplemental appropriations and rescissions. For comparison purposes, total 1995 funding has been reduced by \$25 million appropriated for USCG operating expenses from the Aquatic Resources Trust Fund (ARTF). The annual ARTF contribution to USCG operations is authorized under existing law through fiscal year 1997 and is not affected by S. 1004. The \$28 million in 1996 is the amount already authorized for appropriations from the OSLIF for USCG operating expenses and research.

²Less than \$500,000.

The costs of this bill fall within budget functions 300 and 400.

Amounts provided in the bill for Coast Guard retirement are not included in the above table because such pay is an entitlement under current law, requiring no annual authorization of appropriations. In addition, no amounts are included in the table for the 1995 authorizations contained in Title I because CBO assumes that S. 1004 will not be enacted until after September 30, 1995, at which time such authorizations would expire.

6. Basis of estimate: For purposes of this estimate, CBO assumes that S. 1004 will be enacted early in fiscal year 1996, and that the full amounts authorized for USCG programs or estimated to be necessary for other federal activities mandated by the bill will be appropriated for fiscal years 1996 through 2000. Estimated outlays are based on historical spending patterns and on information provided by federal agencies.

Authorizations of Appropriations. The estimated authorization for fiscal year 1996 consists of: (1) \$3.082 billion specified by Title I for discretionary USCG accounts (excluding the \$28 million already authorized to be appropriated from the OSLTF for Coast Guard operations and research), and (2) about \$2 million estimated to be necessary for other activities required by the bill.

Several provisions of S. 1004 would increase the cost of carrying out ongoing programs funded under Title I. For example, sections 309 and 1109 of the bill could prevent or delay planned consolidations and closures of various Coast Guard offices, which the agency estimates would save about \$6 million annually.

Also, assuming appropriation of the necessary sums, we estimate that section 1101 of the bill could increase the agency's cost of carrying out its bridge alteration program. Section 1101 would deem a drainage siphon on the Mississippi River in Louisiana to be a part of the Florida Avenue Bridge, adding about \$8 million to the projected cost of removing the bridge under the Truman-Hobbs Act. Most of the additional expense would be borne by the federal government, when the bridge alteration projected is funded.

Finally, implementing several titles of the bill would affect the budgets of other federal agencies, assuming appropriation of the necessary sums. These provisions include:

Title V, which would create a new program within the U.S. Fish and Wildlife Service [USFWS] to assist states in providing public facilities for large recreational vessels. Over the next two years, states could submit to the USFWS surveys of public facilities available for large vessels, along with a plan for constructing and/or removing such facilities. CBO estimates that the costs for the USFWS to implement the new grant program, including promulgation of guidelines for state surveys and review of state plans, would be about \$0.5 million annually over the 1996-1998 period.

Title VIII, which would implement MARPOL and extend certain programs carried out by the Environmental Protection Agency and the Department of Commerce to provide information to the public on plastic pollution. This title would authorize these agencies and the USCG to provide financial assistance to eligible participants in such programs. Based on information provided by the affected agencies, CBO estimates that the total cost of public outreach efforts, including grants, would be about \$1 million annually. Most of this amount would fund activities of the National Oceanic and Atmospheric Administration [NOAA].

Title IX, which would require the Federal Aviation Administration [FAA] to promulgate regulations to govern how federal agencies would communicate with private aircraft in the course of certain law enforcement actions. Based on information obtained from the FAA, we estimate that the cost of developing the necessary regulations would be about \$0.1 million annually for 1996 and 1997.

Direct Spending. Several provisions of S. 1004 would result in small changes in direct spending:

Section 201 would allow the USCG to use appropriated funds to provide child care to its employees. This provision would re-

duce offsetting collections to the agency's operating account, along with spending of those offsetting collections, by \$0.6 million to \$1 million annually beginning in fiscal year 1996. The resulting impact on direct spending would be negligible.

Section 205 would permit officers with at least 18 years of service to remain on active duty until retirement. Under current law, officers who fail to be promoted to the rank of lieutenant commander after the second try must leave active duty. Retention of such officers on active duty for a longer period would increase their annual retirement benefits by about \$20,000 each. Increased direct spending would be about \$40,000 in 1996 and about \$120,000 annually beginning in 1997.

Section 607 would permit the Coast Guard to delegate to foreign classification societies certain agency functions that currently may be delegated only to U.S. groups such as the American Bureau of Shipping. The expanded authority would probably result in a small increase in the Coast Guard's use of delegation (because requests from foreign groups are expected to be few), with minimal impact on the agency's workload and operating budget. A small loss of offsetting receipts also would occur because the agency would be inspecting and certifying fewer vessels, services for which it currently charges user fees. CBO expects that such losses would be between \$100,000 and \$200,000 a year, probably beginning in 1997.

Section 1010 would authorize the Maritime Administration [MARAD] to convey the S/S RED OAK Victory, a vessel in the NDRF, to a museum association in California, subject to certain conditions. Pending the transfer, MARAD would be required to retain the vessel within the NDRF for two years. Under current law, the RED OAK is slated to be sold for scrap within the next few years. Proceeds from the sale—an estimated \$800,000—would be deposited as offsetting collections in the vessel operations revolving fund and used by MARAD without further appropriation to acquire other ships needed by the U.S. Navy. Donation of the vessel would reduce offsetting collections by about \$800,000. Because outlays (for new vessels) would fall by a similar amount, the net effect on direct spending would be negligible. However, the donation would reduce the assets available to achieve the Navy's fleet capacity goals. (If additional funds are appropriated to compensate for the loss, discretionary outlays would increase.)

Section 1102 would result in new mandatory spending of about \$1 million annually from the OSLTF. This section would make available without appropriation any amounts earned on the investment of OSLTF balances that were earmarked (but never appropriated) for the Prince William Sound Oil Spill Recovery Institute. In each of the next 10 fiscal years, interest earned on the \$22.5 million originally authorized for the institute would be provided to it for conducting research and other activities.

Section 1111 would repeal a statutory requirement that USCG fees for inspecting foreign passenger vessels be equal to the amount imposed on U.S.-flag ships at foreign ports. This

would enable the agency to recover the full cost of providing this service to foreign vessels, resulting in an increase in offsetting receipts of about \$400,000 annually.

Section 1112 would limit the amount of fees that the USCG may charge for inspecting small passenger vessels. This section also would prohibit the agency from applying any inspection fees to public ferries. The resulting loss of federal offsetting receipts would be about \$2.3 million a year.

In addition, Title V would expand the allocation of funds from the sport fish restoration account for state boating programs. Specifically, section 501 would increase the amounts transferred to the USCG from this account each year and extend the authority for such transfers through 1999. For the purposes of funding the new boating access grants authorized by section 502 of the bill, the current \$10 million allocation for USFWS state boating grants also would be extended. The provisions of this title would have no impact on direct spending because amounts spent for these purposes would be offset by reductions in other spending from the sport fish restoration account.

Revenues. Several provisions in the bill could affect governmental receipts by increasing civil penalties under various laws enforced by the USCG. CBO estimates that these changes would increase government receipts by less than \$500,000 annually.

The expansion of criminal penalties in section 310 also could cause receipts to increase, probably by less than \$500,000 annually. Criminal fines would be deposited in the Crime Victims Fund and would be spent without further appropriation in the following year. Thus, over time any increase in federal revenues from criminal penalties would be offset by new direct spending.

We estimate that other provisions of S. 1004 would not have any significant impact on the federal budget.

7. Pay-as-you-go considerations: Section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 sets up pay-as-you-go procedures for legislation affecting direct spending or receipts through 1998. Because several sections of this bill would affect receipts and direct spending, pay-as-you-go procedures would apply. These effects are summarized in the following table.

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998
Change in outlays	0	3	3	3
Change in receipts	0	0	0	0

8. Estimated cost to State and local governments: Enactment of this legislation would have no impact on the budgets of state and local governments other than to change the allocation of boat safety grants among states.

9. Estimate comparison: None.

10. Previous CBO estimate: On May 1, 1995, CBO prepared a cost estimate for H.R. 1361, the Coast Guard Authorization Act of 1995, as ordered reported by the House Committee on Transportation and Infrastructure on April 5, 1995. The two bills contain identical 1996 authorization levels for USCG activities, but the House bill did not include any authorization for 1995. Differences

in our estimates of authorizations and outlays for 1996 through 2000 for the two bills reflect the costs of additional activities required of other agencies under Titles V, VIII and IX of S. 1004.

11. Estimate prepared by: Deborah Reis and Melissa Sampson and Stephanie Weiner.

12. Estimate approved by: Robert A. Sunshine (for Paul N. Van de Water, Assistant Director for Budget Analysis).

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported.

S. 1004, as reported, authorizes appropriations to continue existing Coast Guard programs and would make several changes to current law. While most sections of the reported bill would have minimal regulatory impact, the provisions of titles V, VI, VII, and IX will affect certain Coast Guard regulatory programs, as noted below.

Title V of the legislation deals with recreational boating safety, mandating that children age six and under wear personal flotation devices while on the open deck of a recreational vessel less than 26 feet in length. Recreational boaters affected by these provisions may incur a modest cost if they are required to purchase life jackets for any young passengers or to take a boating safety course. This title would not affect paperwork requirements, nor personal privacy.

Title VI would harmonize existing Coast Guard regulations with international standards, affecting commercial vessels, shipyards, vessel designers, shipboard equipment manufacturers and vendors, and waterfront facilities. This measure will help revitalize the U.S. merchant marine and allow the Coast Guard to target its limited marine safety resources on less safe foreign vessels. Regulations will describe procedures to establish safety management plans and delegate inspection responsibilities to recognized classification societies.

The full economic impact of Title VI is unknown, but is likely to be small because businesses are expected to increase the scope and detail of their recordkeeping procedures voluntarily as part of a worldwide trend toward corporate quality-management systems and international certification.

Title VII of the reported bill would make several changes to the Inland Navigation Rules to clarify ambiguities in the practical application of the rules. Title VII would also amend existing statutes that contain vessel tonnage thresholds to authorize the Secretary to establish alternate ITC tonnage thresholds. Some additional paperwork will be associated with implementing title VII. However, the Committee anticipates that such implementation will build on the existing regulatory framework, thereby minimizing paperwork increases. This title is not expected to have an impact on personal privacy.

Finally, title IX of the reported bill would amend certain provisions of APPS implementing Annex V of MARPOL. The title would require operators of each port or terminal subject to MARPOL reception facility requirements to post placards identifying proce-

dures for reporting Annex V-related problems. This requirement is expected to require a small, but significant investment by such operators.

SECTION-BY-SECTION ANALYSIS

Section 1.—Short title

This section cites the short title of the bill as the “Coast Guard Authorization Act of 1995”.

Section 2.—Table of contents

This section provides a table of contents of the provisions in the legislation.

TITLE I—AUTHORIZATIONS

Section 101.—Authorization of appropriations

This section would authorize Coast Guard appropriations for FY 1995 and FY 1996. The following chart summarizes the FY 1995 and the FY 1996 authorization levels proposed in subsections (a) and (b):

PROPOSED LEVELS FOR PROGRAMS AUTHORIZED IN S. 1004 AS REPORTED
[By fiscal year, in millions of dollars]

	1995	1996
Operating expenses	2,630.5	2,618.3
AC&I	439.2	428.2
R&D	20.3	22.5
Retired pay	562.6	582.0
Alteration of bridges	¹ 12.9	¹ 16.2
Environmental compliance	25.0	25.0
Total	3,690.5	3,692.2

¹ All of which in FY 1995 and \$14.2 million of which in FY 1996 is to be derived from the discretionary bridge program of the Federal Highway Administration.

Subsection (c) of this section would amend section 104 of title 49, U.S. Code, by adding a new subsection. The provision would authorize transfer of funds in FY 1995 and FY 1996 from the discretionary bridge program of the Federal Highway Administration to the Coast Guard for alteration of highway bridges that are determined to be obstructions to navigation.

Section 102.—Authorized levels of military strength and training

This section provides authorization for levels of military personnel strength and training for FY 1995 and FY 1996. Subsection (a) would authorize a Coast Guard end-of-fiscal-year strength for active duty military personnel of 39,000 as of September 30, 1995 and 38,400 as of September 30, 1996. These authorized strength levels would not include members of the Coast Guard Ready Reserve called to active duty for special or emergency augmentation of regular Coast Guard forces for periods of 180 days or less.

Subsection (b) would authorize average military training student loads for FY 1995 and FY 1996 as follows:

[By fiscal year]

Type of Training	Student years	
	1995	1996
Recruit and special	2,000	1,604
Flight	133	85
Professional	344	330
Officer acquisition	955	874

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

Section 201.—Provision of child development services

Section 201 of the reported bill would add a new section 515 to title 14 of the U.S. Code, authorizing the Coast Guard to establish a program to provide child development services for members of the armed forces and Federal civilian employees. Studies show that employer-provided or assisted child care directly increases worker morale, productivity, recruitment, and retention. The most current data available from the Coast Guard indicates that, as of September 30, 1990, dependents of active duty personnel included 32,522 children. By contrast, only 652 children of active duty military personnel and civilian employees currently use Coast Guard day-care centers. An additional 450 children of active duty members use Coast Guard-provided in-home family child care services. New section 515 would supplement current efforts by the Coast Guard to address the problem of obtaining quality child care services for personnel.

Subsection (a) of new section 515 would provide authority for the Commandant to expend appropriated funds to make child development services available for members of the armed forces and Federal civilian employees. Subsection (b) of the new section would establish the following priorities for the use of parents' fees: (1) child care center employee compensation; (2) purchase of supplies for child care centers; and (3) other center expenses. Subsection (c) would require regular inspections of Coast Guard child care centers and establish minimum requirements for training child care center employees. Subsection (d) would authorize the use of Coast Guard operating expenses in an amount not to exceed annual child care receipts to support child care center operations. Subsection (e) would authorize the use of appropriated funds to provide assistance to home day-care providers so that home services can be provided to Coast Guard families at a cost comparable to the cost of services provided by Coast Guard child care centers. Subsection (f) would authorize the Secretary to promulgate regulations implementing new section 515. Finally, subsection (g) of new section 515 clarifies the term "child development center" used in this section.

Section 202.—Hurricane Andrew relief

Section 202 of the reported bill provides for application of section 2856 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484), to Coast Guard military personnel working at or in the vicinity of Homestead Air Force Base, Florida, whose home has become unsalable as a result of Hurricane Andrew. Coast Guard personnel currently are not covered by this law establishing eligibility of uniformed services personnel for com-

pensation of losses due to Hurricane Andrew. Yet, the Coast Guard represented the second largest military contingent in south Florida before Hurricane Andrew, with 1,300 uniformed service members and civilian employees in the disaster area.

With the passage of time, most members of the Coast Guard have found other means of relief. Consequently, section 202 of the reported bill would place a \$25,000 limit on the total reimbursement costs authorized to the Coast Guard.

Section 203.—Dissemination of results of 0-6 continuation boards

Section 203 of the reported bill amends section 289 of title 14 of the U.S. Code, eliminating the requirement for dissemination to the service at large of the results of boards convened to recommend captains for continuation on active duty. Under current law, the Secretary is authorized, when necessary, to convene a board to recommend for continuation on active duty officers on the active duty promotion list serving in the grade of captain, who during the promotion year in which the board meets will complete at least three years service in that grade and who have not been selected for promotion to the grade of rear admiral (lower half). The Coast Guard has used this authority to keep the number of senior captains in line with billet requirements and maintain promotion flow. Unless retired under some other provision of law, each officer who is considered, but not recommended, for continuation is retired on June 30 of the promotion year in which the board results are approved, or the last day of the month in which the officer completes twenty years of active service, whichever is later.

Given the small number of captains considered for continuation in any year, widespread dissemination of the names of those selected for continuation allows easy identification, by process of elimination, of those officers not selected. The Committee believes that no useful purpose is being served by this "de facto" dissemination of the names of officers not selected. The initiation of retirement orders and advertisement of impending billet vacancies are both accomplished through other means. In addition, the relatively small number of officers considered by captain continuation boards allows prompt, personal notification of all officers under consideration. Finally, the change proposed in this section is consistent with the personnel administration practices of the other armed services.

Section 204.—Exclude certain reserves from end-of-year strength

Section 204 of the reported bill would add a new subsection (d) to section 712 of title 14, U.S. Code, excluding reservists called to active duty under section 712 from the calculation of authorized end-of-year military strength. Section 712 currently authorizes the Secretary to order to active duty (for not more than 30 days in any four-month period and for not more than 60 days in any two-year period) a member of an organized training unit of the Coast Guard Ready Reserve for the emergency augmentation of regular Coast Guard forces during a time of serious natural or man-made disaster, accident, or catastrophe.

In past years, Coast Guard authorization legislation provided authority on an annual basis, for excluding reservists called to active

duty under section 712 from inclusion as part of the authorized end-of-year strength for active duty personnel. However, using the authorization bill as the vehicle for accomplishing the exclusion requires annual recertification.

The general authority for calling armed service reservists to active duty for up to 180 days pursuant to a Presidential determination is contained in section 673b of title 10, U.S. Code. By contrast, that section contains a provision excluding reservists called to active duty under that authority from the computation of authorized strength of members on active duty. Section 712 of title 14, U.S. Code, is a permanent codification of a separate and distinct call-up authority for the Coast Guard. Thus, a parallel exclusion provision is necessary in that section.

Section 205.—Officer retention until retirement eligible

Section 205 of the reported bill would add a new provision to section 283 of title 14, U.S. Code, addressing the retention in service of lieutenants that are not selected for promotion. Under current law, section 283 enables the Secretary to convene boards to consider for continuation on active duty of lieutenants who have twice failed selection for promotion and who would otherwise be separated from active duty. Selections for continuation are made on a competitive basis for a term of two to four years. Upon completion of the designated term, unless selected for promotion to lieutenant commander or further continuation, these officers are discharged with severance pay or retired if they have completed 20 years of service.

There are currently 31 Coast Guard lieutenants on active duty under this section. Some of these officers will have served between 18 and 20 years of service by the end of their current continuation agreements. At present, the law requires discharge upon expiration of an agreement, unless an officer is retirement eligible or again continued by board action. Under similar circumstances, officers in other armed services and Coast Guard Reserve officers are retained by operation of law. This section of the reported bill would amend section 283(b), conforming it to similar statutory provisions for other military personnel and allowing retention of lieutenants who have attained 18 or more years of service until they are eligible for retirement.

Section 206.—Contracts for health care services

This section amends title 14, U.S. Code, to add a new section 644a authorizing the Commandant to enter into contracts for health care services. The new section would parallel the authority currently given to the Secretary of Defense under section 1091 of title 10, U.S. Code. As enacted in 1983, section 1091 extended to all military services the authority to contract (including personal services contracts) for health care providers, in order to address the problem of shortages of military medical personnel, especially in certain critical specialties. The provision was intended to provide contracting flexibility for obtaining health care services of individual civilian direct health care providers. Prior to 1983, there was no specific authorization for personal services contracts for such services.

In 1993, section 1091 was amended to simplify contracting procedures and make military procurement of such medical services more competitive with the private sector. However, the amendment also restricted contracting authority to the Secretary of Defense, eliminating the specific statutory authorization of the Secretary of Transportation (Secretary) for health care contracts needed to provide nursing, dental hygiene, and other professional health care services to Coast Guard members and eligible beneficiaries.

Section 206 of the reported bill would restore the Coast Guard's health care-related contracting authority in a new section of title 14, U.S. Code. Section 644a(a) would authorize the Commandant to enter into contracts for implementing existing statutory requirements to provide personnel with medical and dental care. Subsection (b) would limit individual compensation for such contracts to the levels allowable under the Department of Defense system. Administrative oversight is provided for in new subsections (c) and (d), under which the Secretary would establish procedures for personal services contracts and for determining whether such contracts may be exempted from competitive contracting requirements. The changes made by this section of the reported bill would take effect upon enactment of the bill, but contracts entered into prior to that date are validated.

Section 207.—Recruiting

This section enhances the Coast Guard's ability to compete with Department of Defense armed forces in attracting adequate numbers of high quality young men and women to sustain its military workforce.

Subsection (a) would amend the National Defense Authorization Act for Fiscal Year 1995 to extend to the Department of Transportation [DOT] a provision that currently denies funds to institutions of higher education that have a policy of denying recruiters from Department of Defense [DOD] armed forces access to their campuses or students, or denying access to directory information pertaining to students. As one of the five armed forces, the Coast Guard should be included in this provision. The Coast Guard conducts military recruiting activities for Officer Candidate and Direct Commission programs at various colleges and universities throughout the country. In addition, a number of Coast Guard personnel are enrolled in degree and postgraduate degree programs that are funded by the Coast Guard in various institutions.

Subsection (b) would provide specific authority for the Coast Guard to use operating funds for entertainment expenses arising from recruiting activities in the Coast Guard's "centers of influence" [COI] program, modeled after the programs of the Navy, Marine Corps, and Air Force. COI refers to individuals within the civilian community who are in a position to influence the attitude of prospective recruits toward service. The COI program is designed to present positive information about the Coast Guard to advocacy organizations that influence career decisions of high school and college students.

Under current appropriations law, the Coast Guard's spending on recruiting entertainment is limited to its share of reception and representational funds specifically appropriated for DOT. The

Coast Guard cannot supplement these funds with other operating expense monies without specific authorization to do so, and DOT allocations of such funds are insufficient to address Coast Guard recruiting needs. The DOD armed forces are authorized under section 127 of title 10, U.S. Code, to use their appropriated funds for payment of “extraordinary expenses”, including recruiting reception and representational activities.

Subsection (c) would expand the Coast Guard’s authority to enter into contracts with and make grants to public and private organizations and individuals for the purpose of meeting identified personnel resource requirements. The Coast Guard has requested this authority to establish a new type of recruiting program for college and university students, the purpose of which is to prepare them for acceptance into the Coast Guard Academy. Students who successfully qualify for the program would be offered a one-year or two-year scholarship that would pay for all or part of the tuition and related living expenses while at college or university. During this time, the students would be required to successfully complete coursework, and receive mentoring and other non-financial support, to prepare them for meeting Academy admission standards. Students failing to make adequate progress toward this goal would be discontinued from the program.

Funding for programs authorized under subsections (b) and (c) are expected to come from current appropriations.

TITLE III—MARINE SAFETY AND WATERWAY SERVICES MANAGEMENT

Section 301.—Increased penalties for documentation violations

This section would amend section 12122(a) of title 46, U.S. Code, increasing the maximum civil penalty for violation of documentation laws from \$500 to \$10,000. While the maximum penalty would be increased, procedures for assessing penalties would remain unchanged. Under those procedures, the Secretary would be required to consider the nature, circumstances, extent, and gravity of the acts committed, as well as the violator’s degree of culpability, history of prior offenses, and ability to pay.

Subsection (b) of this section amends section 12122(b) of title 46, U.S. Code, broadening the seizure and forfeiture authority within the penalty section. This subsection moves three existing authorities currently in section 12110(c) of title 46, U.S. Code, to section 12122(b). Consolidating these authorities in this section should clarify those violations of U.S. documentation laws for which seizure and forfeiture authority would be exercised.

In addition, this subsection adds a new substantive basis for seizure and forfeiture when a vessel is placed under the command of a person not a citizen of the United States. The term “under the command of” is intended to have the same meaning as in section 12110(d) of title 46, U.S. Code. Command of a vessel would include, but not be limited to, complete authority and control over and responsibility for: all aspects of vessel navigation, stability, cargo loading, and communications; material condition of the vessel; health, welfare, safety, and training of the crew; fishing and fish processing activities; crew hiring, firing, discipline, and pay; maintenance, provisioning, and supplies; and compliance with all appli-

cable U.S. laws and regulations. The changes are necessary to deal with a recurring problem with some large fishing vessels in the Pacific Northwest. Such vessels carry a noncitizen “fish” captain who in fact commands the vessel. A citizen “paper” captain is on board. However, the citizen captain is in a subordinate position to the noncitizen captain. The law presently provides only a \$500 per day penalty and has no specific provision for seizure and forfeiture. Experience has shown that with high profits to be made, certain vessel operators have considered the penalty as merely a cost of doing business. The requirement for a U.S. citizen in command serves important safety interests. Having a noncitizen in charge could result in language difficulties, creating confusion for the crew which could jeopardize the vessel, other vessels, and the environment.

Seizure and forfeiture authority often is essential to prevent the continuation of unlawful operations and is in addition to the civil penalty provisions. For this reason, procedures for the assessment of civil penalties, including hearings, would not be requisites for federal seizure and forfeiture action. Nor would these provisions affect the current law of seizure and forfeiture with regard to creditor rights.

Section 301(c) and (d) would make technical and conforming changes to sections 12122(c) and 12110(d) of title 46, U.S. Code.

Section 302.—Clerical amendment

This section is a technical amendment to chapter 121 of title 46, U.S. Code, eliminating one of the two versions of section 12123 currently in law.

Section 303.—Maritime drug and alcohol testing program civil penalty

As part of the DOT’s overall drug and alcohol testing program, the Coast Guard has implemented regulations to govern drug testing of marine personnel. Presently, the only penalties available to the Coast Guard to enforce these regulations are against the master of a vessel or the vessel itself. Section 303 of this bill amends chapter 21 of title 46, U.S. Code, to provide for a civil penalty of not more than \$1,000 per day for marine employers who violate the Coast Guard’s chemical testing regulations. The intent of this provision is to give the Coast Guard the flexibility to impose a penalty, when appropriate, for failing to implement a drug testing program or for another violation of the Coast Guard drug testing regulations.

Section 304.—Renewal of advisory groups

This section extends and coordinates the termination dates for five advisory groups that provide the Coast Guard expert advice and other valuable assistance concerning matters related to their specific function.

Subsection (a) amends section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) to extend the termination date for the Navigation Safety Advisory Council (NAVSAC) to September 30, 2000. Formerly named the Rules of the Road Advisory Council, NAVSAC is a 21-member board whose members include representatives of owners and operators of vessels, professional

mariners, recreational boaters, and the recreational boating industry. The Council provides the Coast Guard with access to advice from the most respected maritime experts in the Nation. The Committee encourages the Secretary to consider appointing a representative of U.S. passenger vessel owners to NAVSAC. The U.S. small passenger vessel industry is growing in importance, and a representative from this group would be in an excellent position to contribute to the public discussion on navigation safety.

Subsection (b) amends subsection (e)(1) of section 4508 of title 46, U.S. Code, to extend the termination date of the Commercial Fishing Industry Vessel Advisory Committee to September 30, 2000. This 17-member organization was created in 1988 to advise the Coast Guard on a wide range of matters relating to fishing vessel safety.

Subsection (c) amends subsection (e) of the Act to Establish A Towing Vessel Safety Advisory Committee in the Department of Transportation (33 U.S.C. 1231a(e)) to extend the termination date of the Towing Safety Advisory Committee to September 30, 2000.

Subsection (d) amends The Coast Guard Authorization Act of 1991 (Public Law 102-241, 105 Stat. 2208-2235) to extend the termination date for the Houston-Galveston Navigation Safety Advisory Committee to September 30, 2000.

Subsection (e) amends The Coast Guard Authorization Act of 1991 (Public Law 102-241, 105 Stat. 2208-2235) to extend the termination date for the Lower Mississippi River Waterway Advisory Committee to September 30, 2000.

Section 305.—Electronic filing of commercial instruments

The Coast Guard has recently centralized its vessel documentation function in Martinsburg, West Virginia. As a convenience to the public, this section amends section 31321(a) of title 46, U.S. Code, to allow the public to file electronically a bill of sale, conveyance, mortgage, assignment, or related instrument with the Coast Guard. Under the amendments made by this section, the original instrument must be provided to the Secretary within 10 days after the electronic transfer.

Section 306.—Civil penalties

On September 22, 1993, the Amtrak Sunset Limited was derailed in Mobile, Alabama, killing 47 people after a towing vessel struck a railroad bridge. Following an investigation of this tragedy, the Secretary directed the Coast Guard to implement several changes to Coast Guard regulations to prevent an accident of this type from occurring again. The administrative changes implemented by the Coast Guard included additional vessel navigation equipment requirements and increased proficiency requirements for licensed personnel.

To complement the Coast Guard's regulatory changes in this area, subsection (a) of this section amends section 6103(a) of title 46, U.S. Code, to increase the civil penalty against an owner, charterer, managing operator, agent, master, or individual in charge of a vessel for failure to report a vessel casualty from \$1,000 to not more than \$25,000. Subsection (b) of this section amends section 8906 of title 46, U.S. Code, to increase the civil penalty

against an owner, charterer, managing operator, agent, master, or individual in charge of a vessel operated in violation of chapter 89 of title 46, U.S. Code, regarding small vessel operator licensing requirements, from \$1,000 to not more than \$25,000. The Committee believes that these increased penalties will encourage compliance with Coast Guard casualty reporting requirements and licensing requirements for towing vessels and other vessels.

Section 307.—Amendment to require EPIRBS on the Great Lakes

Section 307 amends section 4502(a)(7) of title 46, U.S. Code, broadening the requirement that uninspected commercial fishing vessels carry emergency position-indicating radio beacons to include those vessels operating more than three miles from the coastline of the Great Lakes.

Section 308.—Report on LORAN-C requirements

The United States has always operated radionavigation systems, which includes the LORAN-C system, as a necessary element to enable safe transportation and encourage commerce. Importantly, the need to provide cost-effective services to meet civil requirements is an important goal outlined in policies covered in the Federal Radionavigation Plan. In recent years there has been heightened interest in satellite technology and consideration is being given to the phase out of various existing radionavigation systems.

The Committee has heard from every segment of the LORAN-C user community, including marine, aviation, surface transportation, and telecommunications users, in conjunction with consideration of the Coast Guard authorization legislation. There is a strong consensus, even among users that are proponents of satellite technology, that it makes sense to continue support and funding for LORAN-C well into the next century consistent with long-standing objectives for system safety and efficiency. The LORAN-C system, which is very compatible with satellite technology, is established, operationally proven, reliable, and cost-effective. Moreover, there are currently more than 1.3 million users of the technology, and system infrastructure operations and maintenance costs total about \$17 million annually.

In view of the positive benefits versus costs associated with LORAN-C and the substantial enhancement it provides to user safety, the federal government and radionavigation systems users are well-served by taking full advantage of the compatibility of LORAN-C and satellite technology. As a result, section 308 would require DOT, in consultation with users, to provide a plan defining the future use of and funding for operations, maintenance, and upgrades for the LORAN-C system. The reported bill requires DOT to provide its plan within six months of enactment and it should include recommendations and suggested actions to assure that the federal government and users can continue to get the maximum benefit from investment in LORAN-C and its infrastructure well into the next century.

Section 309.—Restrictions on closure of small boat stations

In its FY 1996 budget request, the Coast Guard included a proposal to close 23 small boat units and realign numerous others in

order to level the workload among small boat units and save \$6 million in annual operating expenses. This proposal has raised safety concerns from boaters and commercial fishermen in several locations affected by this proposal. This section would require the Secretary to certify that such action will not result in degradation of services that would cause significant increased threat to life, property, environment, public safety, or national security, and provide for a period of public review of this certification.

Section 310.—Penalties for alteration of marine safety equipment

Section 310 would broaden section 3318 of title 46 of the U.S. Code to classify as a felony the knowing alteration of lifesaving, fire fighting, and other marine safety equipment, if the alteration results in equipment that is insufficient to accomplish the purpose for which it is intended. Under existing law, the manufacture and sale of known defective marine safety equipment is a class D felony. After manufacture and sale, certain types of safety equipment such as inflatable liferafts and fire extinguishing equipment must be routinely inspected and serviced ashore. Such servicing may be as critical to safety as the manufacture and sale of the original equipment. However, since servicing is neither manufacturing nor sale, the persons responsible for defective alteration of marine safety equipment cannot be prosecuted. This section would close that loophole.

Section 311.—Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards

The sections amends chapter 5 of title 14, U.S. Code, to require that all non-emergency repairs of Coast Guard vessels be conducted in shipyards located in the United States. This provision is similar to current restrictions on the repair of U.S. Navy vessels.

TITLE IV—COAST GUARD AUXILIARY

Section 401.—Administration of the Coast Guard Auxiliary

Section 401 of this bill amends section 821 of title 14, U.S. Code, to: establish an organizational structure for the Coast Guard Auxiliary; designate the Auxiliary as an “instrumentality of the United States” for the purposes of applying certain federal laws; and authorize the Auxiliary to incorporate. The sole function of the Auxiliary is to support the operations and activities of the Coast Guard. Members of the Coast Guard Auxiliary volunteer their time and property, including vessels and aircraft, for use in performing Coast Guard missions. As the Coast Guard streamlines its operations and develops more efficient ways to perform its missions, the Coast Guard Auxiliary will become an even more valuable resource to the Coast Guard. The Committee is optimistic that the additional protection provided to Auxiliary members by this section will attract more individuals to join this vital organization.

As amended by this bill, section 821(b) would confer instrumentality status on the Coast Guard Auxiliary with respect to the acts or omissions of Auxiliary members performing a Coast Guard function or operation authorized by the Commandant of the Coast Guard, under section 822 of title 14, U.S. Code. Instrumentality

status will allow the U.S. government to provide legal representation and indemnification for the Auxiliary in litigation in which the Auxiliary is a defendant. Instrumentality status will also protect Auxiliary assets and members from liability in the event of alleged tortious conduct committed by members while acting within the scope of their official duties. The liability protection provided to the Auxiliary under this section is for noncontractual civil tort liability.

As amended by the reported bill, section 821(c) would authorize the national board of the Auxiliary, Auxiliary districts, and regions of the Auxiliary, to incorporate under state law in accordance with policies established by the Commandant. The ability to incorporate will allow the Auxiliary's national board to manage its finances more effectively and to hold Auxiliary copyrights, trademarks, and title to property used by the Auxiliary in performing its missions. Regional or district corporations would be formed under this section only for the purpose of holding property for Auxiliary use. Corporations formed under this authority would not be considered instrumentalities of the United States.

Section 402.—Purpose of the Coast Guard Auxiliary

Section 402 amends section 822 of title 14, U.S. Code, providing that the purpose of the Coast Guard Auxiliary is to assist the Coast Guard as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law. As the functions and operations of the Coast Guard expand in future years, the Auxiliary will have the flexibility to act in support of Coast Guard operations, under the direction of the Commandant. Future uses of the Coast Guard Auxiliary may include the establishment and support of marine safety and security zones; port and harbor patrols; parade and regatta patrols; pollution patrols; transportation of Coast Guard personnel for mission support; training support; and other support missions authorized by the Commandant. The Committee does not intend that the Coast Guard Auxiliary become involved in law enforcement missions, or in any other mission that is appropriately restricted to Coast Guard personnel.

Section 403.—Members of the Auxiliary; status

Section 403 of the reported bill adds a new section 823a to title 14, U.S. Code, clarifying the status of individual members of the Coast Guard Auxiliary and affording an Auxiliarist, while acting within the scope of official duties, the same degree of protection from legal liability as is provided to Coast Guard personnel. Under new section 823a, Auxiliary members would be considered Federal employees for limited purposes, and protected under the Federal Tort Claims Act (28 U.S.C. 2671 et seq.) from the claims of a third party who is allegedly harmed by the Auxiliary member while the member is acting within the scope of official duties.

Section 404.—Assignment and performance of duties

In the past, a distinction was made between “specific duties” and “non-specific duties”. This distinction is no longer made. This section of the reported bill would delete the antiquated term “specific duties”, which has resulted in considerable legal and policy inter-

pretation that no longer applies, from sections 830, 831, and 832 of title 14, U.S. Code. This change would also provide for consistency of the term “authorized duty” throughout chapter 23 of title 14, U.S. Code, and would be in keeping with the multi-mission concept for the Coast Guard Auxiliary: the Auxiliary is authorized to perform any duty assigned by competent Coast Guard authority.

Section 405.—Cooperation with other agencies, states, territories, and political subdivisions

This section amends section 141 of title 14, U.S. Code, to allow the Commandant to prescribe conditions under which the Coast Guard Auxiliary may assist the states, when requested by proper state authorities. Assistance provided under this section may include supporting and augmenting state safety and security patrols for boat parades, regattas, and other special waterborne events.

Section 406.—Vessel deemed public vessel

Section 406 of this bill amends section 827 of title 14, U.S. Code, clarifying that an Auxiliary vessel, while assigned to authorized Coast Guard duty, is deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of sections 646 and 647 of title 14, U.S. Code, and other applicable provisions of law, for purposes of resolving third-party claims for damage.

Section 407.—Aircraft deemed public aircraft

This section amends section 828 of title 14, U.S. Code, to clarify that an Auxiliary aircraft, while assigned to do authorized Coast Guard duty, is deemed to be a Coast Guard aircraft, a public vessel of the United States, and a vessel of the Coast Guard for purposes of resolving third-party claims for damage. This section also deems Auxiliary pilots to be Coast Guard pilots while assigned to Coast Guard duty.

Section 408.—Disposal of certain material

Section 408 amends section 641(a) of title 14, U.S. Code, to allow the Auxiliary to acquire directly obsolete or other material that is not needed by the Coast Guard, directly in those states where unincorporated associations may do so, or indirectly through a corporation formed for purposes of acquiring, owning, and disposing of property.

TITLE V—RECREATIONAL BOATING SAFETY IMPROVEMENT

Section 501.—State recreational boating safety grants

This section amends the current law to ensure funding for state recreational boating safety programs from the Wallop-Breaux Fund. At present, there are two statutory mechanisms for funding these state programs: (1) section 13106 of title 46, U.S. Code, authorizes up to \$35 million annually to be appropriated from the Boat Safety Account (one-half the total transferred to the account); and (2) the Clean Vessel Act of 1992 amends section 777c of title 16, U.S. Code, to provide \$7.5 million in FY 1995, \$10 million in

FY 1996 and FY 1997, and \$20 million in FY 1998 as part of the Wallop-Breaux Fund permanent appropriation.

The two funding mechanisms have very different budgetary scoring implications. Funds appropriated from the Boat Safety Account are scored as Coast Guard operating expenses and thus compete directly with other Coast Guard activities for funding priority. By contrast, funds provided under the Clean Vessel Act are not counted as part of the Coast Guard budget. Despite the difference in scoring, however, the two funding mechanisms are linked within the Wallop-Breaux Fund. If funds are not appropriated from the Boat Safety Account in a given year, an amount equivalent to the unappropriated balance "rolls over" within the Wallop-Breaux Fund and is appropriated the following year under the permanent appropriation.

Section 501 of the reported bill would maintain the authorization of appropriations from the Boat Safety Account for state recreational boating safety programs. If no funds are appropriated, however, this section would ensure that a portion of the motorboat fuel taxes that have been paid by boaters will still be made available to the states to pay for boating safety programs. This is in keeping with the trust fund concept of "user pays-user benefits." In addition, section 501 would provide the continuity in funding that is necessary for states to develop long-range plans to address many issues of concern to the boating community.

Section 501(a) would expand the mechanism established in the Clean Vessel Act, amending section 777c(b) of title 16, U.S. Code, and increasing the Wallop-Breaux Fund transfer for state boating programs to \$15 million for FY 1995, \$40 million for FY 1996, \$55 million for FY 1997, and \$69 million in FY 1998 and FY 1999. This subsection of the reported bill also provides that the monies so transferred would be reduced by an amount equal to any annual appropriation from the Boat Safety Account for state programs, and makes conforming amendments to the Clean Vessel Act of 1992.

Section 501(b) amends section 13106(a) of title 46, U.S. Code, to ensure that allocation of funds to the states reflects both amounts appropriated from the Boat Safety Account and funds transferred from the Wallop-Breaux Fund. This subsection of the reported bill also amends subsection 13106(c) of title 46, U.S. Code, to eliminate the authorized use of funds transferred from the Boat Safety Account to reimburse the Coast Guard for operating expenses related to boating safety.

Section 501(c) provides that, for FY 1996 only, \$20 million of the amount transferred directly from the Wallop-Breaux Fund is excluded from deductions to fund coastal wetlands restoration projects. The Committee anticipates that \$20 million of motorboat fuel tax receipts will not be appropriated from the Boat Safety Account for FY 1995 and will roll over from the Boat Safety Account within the Wallop-Breaux Fund. This subsection of the reported bill will ensure that the full \$20 million is available for state recreational boating safety programs in FY 1996, rather than having a portion redistributed to grant programs funded by other accounts of the Wallop-Breaux Fund.

Section 502.—Boating access

Section 502 would establish a new state grant program in FY 1998 and FY 1999 for constructing or renovating public boating facilities for transient recreational vessels longer than 26 feet. Subsection (a) states the findings of Congress that: (1) while such nontrailerable vessels are few in number, they contribute substantially to the gasoline taxes deposited in the Wallop-Breaux Fund; (2) most boating access facilities constructed with Wallop-Breaux Fund monies benefit smaller vessels; and (3) more funding should be spent on access facilities for nontrailerable vessels.

Subsection (b) provides that the purpose of the section is to provide funds for states for the development of public facilities for transient nontrailerable vessels.

Subsection (c) authorizes states to complete and submit to the Secretary of the Interior within 18 months, a survey which identifies: (1) existing public facilities for transient nontrailerable vessels; and (2) locations where nontrailerable vessels operate in state waters. Such a survey is essential for assessing the availability of public facilities within a state to nontrailerable vessels which operate in the waters of that state.

Subsection (d) provides that within six months of submitting a survey under subsection (c), a state may develop and submit to the Secretary of the Interior a plan for the construction and renovation of adequate public facilities to meet the needs of nontrailerable vessels operating in state waters. Such plans would be based on the survey completed under subsection (c).

Subsection (e) authorizes the Secretary of the Interior to obligate at least \$5 million of the funds available for this purpose from the Wallop-Breaux Fund (16 U.S.C. 777c(b)(1)(C)) for making grants to any states to pay up to 75 percent of the cost of constructing or renovating public facilities for transient nontrailerable vessels. In awarding grants, the Secretary of the Interior may make a grant to any state. However, priority would be given to projects that: (1) are likely to serve the largest number of nontrailerable vessels; and (2) are identified in a state plan submitted under subsection (d).

Subsection (f) would define several terms used in section 302 of the reported bill. The term "nontrailerable vessel" means a recreational vessel greater than 26 feet in length. The term "public facilities for nontrailerable vessels" means mooring buoys, public docks available for use on a daily basis, seasonal slips or similar structures that are available to the general public on a temporary basis. Other defined terms include "Act of August 9, 1950", "recreational vessel", and "state".

Section 503.—Personal flotation devices required for children

Section 503(a) of the reported bill adds a new paragraph to section 4307(a) of title 46, U.S. Code, which makes it illegal to operate a recreational vessel under 26 feet in length unless each child six years of age or younger wears a Coast Guard-approved personal flotation device when the child is on an open deck. The Committee is very aware that many states currently have their own laws concerning this issue with varying age requirements. Subsection (b) of this section adds a new subsection to section 4307 to clarify that the Federal requirement for young children to wear life jackets is

not intended to limit state authority to establish more stringent safety requirements for the wearing of personal floatation devices on recreational vessels. Section 503(c) amends section 4311 of title 46, U.S. Code, to establish a maximum penalty of \$100 for violation of the children's life jacket requirement.

Section 504.—Marine casualty reporting

Section 504(a) requires the Coast Guard to submit a plan to Congress to increase reporting of vessel accidents to appropriate state law enforcement officials. The lack of reliable information on boating accidents is a problem in evaluating the effectiveness of existing boating safety laws and regulations and in assessing proposals for changes to improve effectiveness. In developing a plan under this subsection, the Secretary should consider and evaluate existing systems that collect recreational boating safety accident information. The Committee also anticipates that the plan will identify actions which should be taken to use and maintain accident data collection systems that would assist in improving boating safety.

Subsection (b) amends section 6103(a) of title 46, U.S. Code, to establish a \$1,000 civil penalty for an owner, charterer, operator, agent, master, or individual in charge of a vessel who has failed to submit a marine casualty report to state authorities as required under existing federal law.

TITLE VI—COAST GUARD REGULATORY REFORM

Section 601.—Short title

This section states that this title may be cited as the "Coast Guard Regulatory Reform Act of 1995".

Section 602.—Safety management

Section 602 adds a new chapter 32 to title 46, U.S. Code, to authorize the Secretary to prescribe regulations regarding shipboard and shore-based management of vessels and personnel. This authority would include conducting examinations and requiring the maintenance of records. The purpose of this section is to implement the International Safety Management [ISM] Code. This agreement, which the U.S. government has signed, requires owners of vessels engaged in foreign commerce to manage their vessels in a safe manner. This initiative recognizes that many of the decisions directly affecting the safety and environmental conditions on vessels are made on shore. The Secretary currently lacks legal authority to require adoption and use of the ISM Code by the owners and operators of U.S.-flag vessels. Neither the International Convention for the Safety of Life at Sea [SOLAS] in general, nor the ISM in particular, derogate any of the pollution prevention measures contained in current U.S. law. SOLAS, including the ISM Code, augments safety and pollution prevention measures already enacted in the United States.

New section 3201 provides definitions for the chapter. New section 3202(a) provides for the mandatory application of the chapter to the vessels covered by the ISM Code. Mandatory application of the chapter will begin on July 1, 1998, to vessels transporting more than 12 passengers (as the term "passenger" is defined in section

2101(21)(A) of title 46, U.S. Code), and to a tanker, bulk freight vessel, or high speed freight vessel, of at least 500 gross tons, as measured under chapter 143 of title 46, U.S. Code. The term "freight vessel" is already defined in section 2101 of title 46, U.S. Code. A "bulk freight vessel" is a freight vessel transporting bulk cargo and a "high speed freight vessel" is a freight vessel that operates at a high speed, as defined under the SOLAS.

New section 3202(b) provides that the chapter may be applied to vessels not covered by the ISM Code upon request to the Secretary by the owner, charterer, or managing operator of the vessel. A vessel may not be covered by the ISM Code in two ways: (1) the effective dates in the ISM Code for a particular type of vessel may not have been reached; or (2) it may be a vessel, such as a vessel in domestic trade, to which the ISM Code does not apply.

New section 3202(c) provides that the chapter does not apply to a barge, a recreational vessel not engaged in commercial service, a fishing vessel, a vessel operating only on the Great Lakes or its tributaries and connecting waters, or a public vessel. Most of these vessel types are defined in section 2101 of title 46, U.S. Code. Each of these exceptions is contained in the ISM Code. This chapter does not apply to recreational vessels carrying more than 12 passengers on foreign voyages so long as the vessel is not engaged in commercial service and is not otherwise required to have a SOLAS Certificate.

New section 3203(a) requires the Secretary to prescribe regulations for a safety management system for vessels to which the chapter applies. The system must include, at a minimum, the six functional areas covered by the ISM Code. The safety management system must include: (1) a safety and environmental protection policy; (2) instructions and procedures to ensure the safe operation of the vessel and protection of the environment in compliance with international and United States law; (3) defined levels of authority and lines of communications between, and among, personnel on shore and personnel on the vessel; (4) procedures for reporting accidents and nonconformities with the safety management system; (5) procedures for preparing for and responding to emergency situations; and (6) procedures for internal audits and management reviews of the system.

New section 3203(b) requires that all regulations prescribed by the Secretary for vessels to which SOLAS applies must be consistent with the ISM Code. However, the Secretary may prescribe different regulations for those vessels and owners that apply for application of the chapter on a voluntary basis. The Secretary may decide that it is appropriate to prescribe different regulations for vessels engaged in domestic trade due to the difference in vessel operating environments, management structures, span of control, and the number of parties involved in the operation of the vessel.

New section 3204 requires each vessel owner, charterer, or managing operator to establish and submit to the Secretary, for approval, a plan describing how they will implement and comply with the safety management system. A vessel that is subject to the mandatory coverage of the chapter may not be operated without having on board a Safety Management Certificate and a copy of the Document of Compliance issued to the responsible person.

New section 3205 requires the Secretary to issue a Safety Management Certificate and a Document of Compliance if the owner, charterer, or managing operator of a vessel complies with the requirements of the chapter and the regulations prescribed under the chapter. This section also requires the Secretary to periodically verify that the safety management system, as approved, is being followed by the vessel owner, charterer, or managing operator. If a vessel required to have a Safety Management Certificate on board, either by application of the chapter or the ISM Code, does not have one on the vessel, the Secretary shall withhold the clearance of the vessel to leave the United States until the certificate is issued, unless the owner files a bond or other surety satisfactory to the Secretary. Additional penalties for violations of this chapter are provided in section 3318 of title 46, United States Code, and include a civil penalty of not more than \$5,000.

Section 602(c) requires the Secretary to submit to Congress a study on the implementation of the ISM Code not later than the earlier of one year after the date of enactment of this Act or before the Secretary has prescribed final regulations implementing new chapter 32 of title 46, U.S. Code.

Section 603.—Use of reports, documents, records, and examinations of other persons

Section 603 adds a new section 3103 to title 46, U.S. Code. This new section will allow the Secretary to use reports, documents, and certificates issued by persons that the Secretary decides may be relied on to inspect, examine, or survey vessels.

Under this section, the Secretary may use and rely on reports, documents, and certificates issued by international classification societies, surveyors, professional engineering societies, shipyards, marine chemists, testing laboratories, the National Cargo Bureau, the International Cargo Gear Bureau, foreign governments, or other persons that the Secretary believes may be relied on to professionally inspect or review a vessel to ensure compliance with subtitle II of title 46, U.S. Code, which includes vessel inspection and load line laws. This authority gives the Secretary the flexibility to use alternative means of complying with regulatory requirements, including determinations that requirements or materials meet Coast Guard approved requirements, without reducing marine safety or pollution prevention. The intent of this section is to offer the possibility of greater efficiency for shipyards and vessel owners making it possible for the Secretary to target the government's limited resources in areas in which greater oversight and enforcement are needed. Reliance by the Secretary on the work of these various qualified persons reduces the need for the Coast Guard to do this work directly and reduces the number of duplicate examinations imposed on the marine industry.

While this provision does not authorize the Secretary to delegate any authority to these qualified persons, it does allow the Secretary to continue to rely on their work to carry out various marine safety, security, and environmental protection functions, including approval of equipment and material. The Committee expects the Secretary to implement and maintain an active oversight program to ensure the continued integrity of the Federal government's various

mandates in the maritime sector, while decreasing the burden on industry.

Under section 3103, as added, the Secretary can establish a “model company” program in which maritime companies that meet the approval of the Secretary may conduct full self-inspection programs by a vessel owner that demonstrates, to the satisfaction of the Secretary, that the owner’s safety management system can be relied on to maintain their vessel in a safe manner. Self-inspections will be subject to Coast Guard audit and oversight. The Secretary also may establish partial self-inspection programs for small companies and small vessels that may not have the ability to conduct full self-inspections as an alternative means of demonstrating compliance with regulatory requirements. The section allows the Secretary to provide increased oversight of the shore-based management system of the vessel owner in return for which certain current enforcement practices could be reduced, so long as the overall level of safety is maintained. The Secretary may use as the basis for this program the ISM Code System established in new chapter 32 of title 46, U.S. Code, a consensus standard, a documented record of compliance with existing regulations, or another standard that is approved by the Secretary. The degree to which a domestic company’s safety management plan and performance assures the Coast Guard of its diligence and dedication to safety will ultimately determine the degree to which the Secretary will rely on their records or certify them for self-inspection.

The Committee notes that nothing in this section lessens the need for the Secretary to continue efforts to eliminate unneeded regulatory requirements and to harmonize, to the maximum extent feasible, U.S. requirements with those applying to foreign-flag vessels operating in our waters.

Section 603(c) amends section 3308 of title 46, U.S. Code, to clarify that the Secretary, or a person delegated by the Secretary, does not have to personally examine the vessel. This will allow for the use of reports, other records, and for self-inspections by model companies.

The Committee is encouraged by the Coast Guard’s efforts to establish alternatives to Coast Guard inspections of U.S. documented vessels. The Committee expects the Coast Guard to restructure its vessel inspection user fees for participants in these alternative inspection programs to account for the lower Coast Guard cost of these programs as compared to Coast Guard inspection. This user fee adjustment is authorized by section 46(a)(3) of title 46, U.S. Code.

Section 604.—Equipment approval

Section 604 amends section 3306 of title 46, U.S. Code, concerning vessel inspection regulations and equipment and material approvals. Subsection (a) amends section 3306(b) of Title 46, U.S. Code. As amended, section 3306(b) contains the same language as the current section 3306(b), except that the language has been broadened to specifically include material subject to regulation. This term is added for clarification only.

This section also amends section 3306(b) of title 46, U.S. Code, by adding a new paragraph (2) that allows the Secretary to accept,

for use on vessels inspected by the Coast Guard, equipment and materials approved by foreign governments that use standards and testing procedures that the Secretary determines to be consistent with the requirements of the SOLAS. Currently foreign manufactured equipment and material may be used on U.S.-flag vessels but must first be tested and approved by the Coast Guard.

The Committee directs the Secretary, when deciding whether to accept these approvals, to determine that the approval of the equipment or material by the foreign government will “secure the safety of individuals and property on board vessels subject to inspection.” This is the same legal standard that the Secretary must follow under section 3306(a) when approving equipment and materials for these vessels. For lifesaving equipment, such as lifeboats and life rafts, the Secretary must also determine that the foreign government allows U.S. Coast Guard-approved lifesaving equipment to be used on vessels documented in that country without having to get separate approval of that equipment by the foreign government. If the foreign government, either through the approval process or other governmental barriers, restricts the use of a piece of Coast Guard-approved lifesaving equipment on their commercial vessels, then the Secretary may not recognize that foreign approval for that piece of equipment in lieu of the Coast Guard approval. The Committee encourages the Secretary to publish in the Federal Register the standards that will be used to determine whether a foreign country has an acceptable approval process.

When the Secretary accepts equipment and material under this authority, the equivalent standards should be acceptable for all such equipment and materials manufacturers holding Coast Guard approvals. Equipment and material accepted under this subsection may not be used on public vessels.

Section 604(b) requires the Secretary, in consultation with other Federal agencies, to work to eliminate barriers to U.S. manufacturers of fire and safety equipment and materials imposed by foreign governments, such as failing to certify their products, which the Secretary has found safe, for use in vessels documented in that country. Additionally, the Secretary shall continue to work through the IMO to develop standards that result in mutual acceptance of maritime equipment and material.

Section 605.—Frequency of inspection

Section 605 amends section 3307(1) of title 46, U.S. Code, to clarify its purpose and to change the period of validity for certificates of inspection for U.S. documented vessels from two to five years. No practical changes will result with respect to inspections and examinations that are the basis for issuing the certificates of inspection.

This section would require small passenger vessels carrying more than 12 passengers and engaged on foreign voyages to be inspected annually (along with passenger vessels and nautical schools vessels that must be inspected annually under existing law). This section also amends section 3307(2) of title 46, U.S. Code, to require all other vessels to be inspected at least once every five years instead of either every two or three years as is currently the case. The change to section 3307 will, for the most part, align the U.S. inspection interval requirements with those found in the SOLAS, and

the practice of the American Bureau of Shipping for their special periodic surveys. As a technical conforming amendment, this section also amends section 3710(b) of title 46, U.S. Code, to change the duration of a valid certificate of inspection for tank vessels from 24 months to five years.

The Committee does not anticipate any decrease in the level of safety due to these changes. Vessels on five-year cycles will continue to receive annual examinations to ensure they are in compliance with their Certificates of Inspection. These annual examinations may be scheduled within two months of the Certificate of Inspection anniversary date. Nothing in this provision affects the requirements applicable to hull, boiler, or other interval examinations as these are functions of separate regulatory requirements established under other provisions of law.

Section 606.—Certificate of inspection

Section 606 eliminates the restriction in section 3309(c) of title 46, U.S. Code, prohibiting a vessel owner from scheduling a vessel inspection more than 60 days in advance of the inspection. This change will allow shipowners to request inspections more than 60 days prior to the expiration of the current certificate of inspection. Modern commercial practice requires that ship schedules generally be developed six months or more in advance. The owners and operators of U.S.-flag vessels, in order to adequately compete with their foreign counterparts, need to be able to make long-range commitments. The current statute restricts their ability to request scheduling of required vessel inspections and examinations. Further, it restricts the ability of the Secretary to make long-range plans for the use of government personnel.

Section 607.—Delegation of authority of secretary to classification societies

Section 607 amends section 3316 of title 46, U.S. Code, concerning the use of classification societies to inspect vessels. Currently, section 3316 limits delegations to the American Bureau of Shipping (ABS) “or a similar United States classification society.” Since there is no similar U.S. classification society, there is, in effect, no delegation under this section other than to ABS.

Classification societies review vessel plans and conduct vessel examinations, primarily for insurance purposes. The Coast Guard frequently conducts plan reviews and vessel inspections that, in many respects, duplicate the work of the classification societies. There are over 40 classification societies worldwide, each association is affiliated with a particular foreign country. The degree of professionalism varies among these classification societies. Eleven classification societies (including ABS) have joined together to form the International Association of Classification Societies [IACS]. IACS has been granted observer status by the IMO.

As amended, section 3316(b) would allow the Secretary to delegate vessel inspection and examination and plan review and approval authority to classification societies in addition to the ABS that meet safety and quality standards acceptable to the Secretary. This subsection also would restrict the Secretary’s authority to make this delegation to foreign classification societies in cor-

responsiveness with the extent that the government of the foreign country in which the society is headquartered delegates to the ABS authority to provide those same services for vessels documented in that country and provides access to ABS to provide these services. For example, if a foreign government delegates, beginning in 1999, the authority to inspect vessels registered in that country that are only engaged in their foreign commerce (but not their coastwise trade), then the Secretary could only delegate to a classification society headquartered in that country the authority, beginning in 1999, the authority to inspect U.S.-flag vessels that are engaged in foreign commerce, but not the coastwise trade. The term "foreign government" includes any government entity that documents vessels under its flag, which, in the future, may include the European Union.

As amended, section 3316 would allow the Secretary to delegate the authority to inspect and provide related services on a reciprocal basis to foreign classification societies. However, the Committee encourages the Secretary to exercise discretion in determining who should be delegated authority and the extent of that delegation. While membership in IACS should be a minimum standard, it should not be the only standard.

TITLE VII. TECHNICAL AND CONFORMING AMENDMENTS

Section 701. Amendment of inland navigation rules

One of the responsibilities of NAVSAC is to review the Inland Navigational Rules [Inland Rules] for clarity and for conformity with the International Regulations for Preventing Collisions at Sea [COLREGS]. In recent months, NAVSAC has recommended several changes to the Inland Rules to clarify ambiguities in the practical application of the Inland Rules, as well as to bring them into closer conformity with the COLREGS. The Coast Guard has concurred with the NAVSAC recommendations. Section 701 of the reported bill would amend section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2001 et seq.) to implement these NAVSAC-recommended changes to six of the Inland Rules.

First, this section would amend Inland Rule 9(e)(i) which prescribes procedures for vessels overtaking one another in narrow channels. The amendment clarifies the meaning of Rule 9(e)(i) regarding the duties of the overtaking and overtaken vessel and brings the language in closer conformity with the COLREGS. Under the current Inland Rule 9(e)(i), a vessel intending to overtake another vessel sounds the appropriate sound signal, and the overtaken vessel, if in agreement, sounds the same signal. The overtaking vessel must take steps to permit safe passing and keep clear of the overtaken vessel until finally passed and clear. The overtaken vessel must maintain course and speed consistent with the channel. The current rule does not, on its face, permit the vessel being overtaken to assist in the passing by taking action such as slackening speed or moving to the edge of the channel. However, as a practical safety matter, overtaken vessels often maneuver or slacken speed to assist in a safe passage. For example, a smaller vessel being overtaken may slow to reduce the amount of time the overtaking vessel will take to pass, to allow the overtaking vessel

to pass at a slower speed, or to allow the passage to take place at a wider portion of a narrow channel. In addition, vessels often reduce speed when overtaken, to increase revolutions and maintain steerage way as a larger vessel passes.

The change to Inland Rule 9(e)(i) proposed by this section would provide that, if a vessel agrees to be overtaken by sound signals alone, the vessel must maintain course and speed and may assist in the overtaking only if the specific maneuver is agreed to by radio or other communication. By only allowing maneuvers to which there is specific agreement, this change should help prevent unexpected maneuvers by the overtaken vessel which could cause an accident.

In addition, the change to Inland Rule 9(e)(i) would resolve an ambiguity with Inland Rule 34(c). Specifically, by adding the term "power-driven" to describe vessels under Inland Rule 9(e)(i), this amendment clarifies that the maneuvering sound signals provided in Inland Rule 34 are for use between power-driven vessels only, except that any vessel may use the danger signal prescribed in Inland Rule 34(d). The current Inland Rule 9(e)(i) refers to any "vessel", implying that all vessels, including sailboats and rowboats, must sound maneuvering signals. However, because there are no provisions for sailboats, rowboats and other non-power driven vessels to sound maneuvering signals, except for the danger signal, the operator of a power-driven vessel cannot reach an agreement with the operator of such a vessel. While the requirement for power-driven vessels only to sound maneuvering signals may be based on historical use of steam-powered whistles, most sailing vessels are small recreational craft and do not generally use or understand whistle signals and would not benefit from application of this provision.

Second, this section would amend Inland Rule 15(b) which provides that on the Great Lakes, western rivers, and waters specified by the Secretary, vessels crossing a river must give way to power-driven vessels ascending or descending a river. The amendment clarifies that this provision applies only to situations where a power-driven vessel is crossing and another power-driven vessel is ascending or descending a river. Also, the amendment would resolve a direct conflict between this rule and Inland Rule 18(a) which lists general responsibilities between types of vessels and provides that, subject to exceptions, a power-driven vessel shall give way to vessels not under command, vessels restricted in ability to maneuver, fishing vessels, and sailing vessels. Without this amendment, a sailing vessel crossing may expect a power-driven vessel descending a river to give way based on Rule 18(a), while the power-driven vessel would expect the sailing vessel to give way under Rule 15(b).

Third, this section would amend Inland Rule 23(a) which prescribes the lights that must be exhibited by a power-driven vessel underway by removing a technical specification for masthead light placement. The amendment would conform the language of Inland Rule 23(a) with a change in the COLREGS which becomes effective on November 5, 1995. The change reflects the practical difficulty on smaller vessel designs of meeting the current requirement to mount the masthead light forward of amidships, and recognizes

problems with light backscatter interfering with an operator's night vision on smaller vessels.

Fourth, section 701 of the reported bill would amend Inland Rule 24(f) governing lighting of one or more vessels being towed alongside or being pushed in a group. The proposed amendment would require a special flashing light to be carried on vessels being towed alongside to alert recreational boaters and commercial operators in the same manner as Inland Rule 24(f)(i) has always required for vessels being pushed ahead. The flashing light has proven invaluable, especially on the Western rivers, where towing vessels often push large groups of barges ahead, and the lead barge may be hundreds of feet ahead of the towing vessel itself.

The Committee understands that NAVSAC considered several factors in deciding that extending the use of a flashing light to vessels being towed alongside would increase navigation safety: (1) the increase in recreational boating and the problems recreational boaters often have in identifying tows at night; (2) the use of unconventional towing arrangements, such as making up tow barges in a "V" with the towing vessel in the middle or by towing vessels moving large barges; and (3) the need to mark the forward-most outboard extremities of the tow with sidelights when multiple vessels are being towed alongside.

Fifth, this section would amend Inland Rule 26 which provides lighting and dayshape requirements for fishing vessels by removing the reference to a basket as an authorized dayshape for vessels less than 20 meters in length engaged in fishing, as well as vessels engaged in trawling. Baskets are no longer a common piece of equipment aboard fishing vessels, and where carried, often have a different shape from the earlier wickerwork baskets. This section would also amend Inland Rule 26 to make mandatory special visual signals described in Annex II of the Inland Rules for vessels engaged in fishing in close proximity. The proposed amendments to Inland Rules 26 mirror amendments to the COLREGS that will become effective November 5, 1995. The COLREGS amendments were based on Food and Agriculture Organization recommendations to improve fishing vessel safety and standardize marking and lighting of the world's fishing fleets.

Finally, section 701 would amend Inland Rule 34(h) which currently provides that vessels may make passing arrangements using bridge-to-bridge radiotelephone, in lieu of the sound signals prescribed in Inland Rule 34. As amended, the rule refers to the use of bridge-to-bridge radiotelephone as an example, to allow for use of communications means other than the radio channels prescribed by the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201) and implementing regulations. The amended rule would also allow mariners to take into account the development of new technology, such as satellite communications or cellular phone systems, which may be useful for vessel communication. For example, on the Great Lakes, where a discrete number of ships regularly operate, carriers often communicate by cellular phone, this amendment would allow vessels to make valid passing agreements with these systems. This amendment also clarifies the rule by replacing the word "meeting" with the word "head-on", to more correctly describe a passing situation in accordance with Inland Rule 14.

Sections 702–744.—Establishment of alternate convention tonnage

Sections 702–744 of this bill authorize the Secretary to prescribe ITC tonnages as an alternative to existing regulatory tonnages for statutes that contain vessel tonnage thresholds. Tonnage thresholds in existing statutes are based on the regulatory measurement system under chapter 145 of title 46, U.S. Code, which allows vessel designers to use tonnage reduction techniques to artificially lower the official tonnage of a vessel. Since the ITC measurement system, implemented under chapter 143 of title 46, U.S. Code, became mandatory for new U.S.-flag vessels on July 18, 1984, statutory tonnage limits have not been revised to accommodate the higher tonnages that often result when a vessel is measured under the ITC system. The availability of alternate ITC tonnages prescribed by the Secretary will encourage vessel designers and operators to use the ITC measurement system in meeting statutory and regulatory requirements, and will provide the maritime industry the flexibility to build and operate vessels that do not employ tonnage reduction techniques, resulting in safer, more efficient, and more competitive vessels. Alternate tonnages should also enable U.S. vessel designers and operators to be competitive in the international market by permitting the design of U.S. vessels using international standards, i.e., in accordance with IMO Guidelines for the Design and Construction of Vessels [OSV's].

Sections 702 through 744 authorize the Secretary to establish alternate ITC tonnage thresholds for the purposes of each of the statutes amended. Under the amendments made by these sections, vessel owners retain their option to choose either the ITC system or the regulatory system for the purposes of domestic requirements established prior to July 18, 1994. The Committee expects that in the future many owners will elect to use the ITC measurement option, leading ultimately to the demise of the antiquated regulatory measurement system. Nevertheless, the amendments made by sections 702–744 do not affect the option of an “existing vessel”, as defined in section 14101(2) of title 46, U.S. Code, to retain its regulatory tonnage measurement as provided in section 14301(d) of that title.

Until the Secretary prescribes an alternate tonnage by regulation, the current statutory tonnage would apply to vessels measured under either the regulatory or the ITC tonnage measurement systems. However, the Committee recognizes that the time normally required to develop and prescribe alternate tonnages by regulation may result in delays that would force U.S. vessel operators, in the interim, to use the antiquated regulatory tonnage measurement system. The Committee therefore encourages the Coast Guard to prescribe alternate tonnages expeditiously. Therefore, the Committee intends that the Coast Guard explore alternatives to the public notice and comment requirements of the Administrative Procedures Act (5 U.S. Code 533 et seq.) for the purpose of prescribing interim alternate tonnages.

Finally, sections 702–744 authorize the Secretary to prescribe an alternate regulatory tonnage based on the ITC measurement system, for the purposes of statutes which became effective after July 18, 1994, that mandatorily apply the ITC tonnage measurement system. Alternate regulatory tonnages must be prescribed to allow

vessels, including those existing vessels entitled to use the regulatory tonnage measurement system, to comply with laws containing tonnage thresholds, based upon the ITC tonnage measurement system, which became effective after July 18, 1994, as provided in sections 14302(c) of title 46, U.S. Code.

Section 745.—Convention tonnage for licenses, certificates, and documents

This section amends chapter 75 of title 46, U.S. Code, by adding a new section 7506 to authorize the Secretary to evaluate the service of an individual applying for a license, certificate of registry, or merchant mariners document based on the size of the vessel on which the individual served as measured under the ITC. Eligibility of individuals for licenses, certificates of registry, and merchant mariners' documents issued by the Secretary is based, in part, on the size of the vessel on which the individual has experience. Authorizing the Secretary to use ITC tonnages to determine eligibility for licenses, certificates, and documents will not affect the ability of vessel owners or operators to use regulatory tonnage for applying manning, inspection, and other marine safety laws and regulations.

Section 746.—Technical corrections

This section includes a technical amendment to chapter 121 and corrects two misspelled words in chapter 131 of title 46, U.S. Code.

TITLE VIII—POLLUTION FROM SHIPS

Section 801.—Prevention of pollution from ships

Section 801 would amend section 6 of APPS to require that the Secretary inspect waste reception facilities prior to issuing a certificate of adequacy, and would provide for automatic expiration of certificates after five years, or sooner if there is a change in operator or if the certificate is suspended or revoked. In addition, this section would encourage public participation by making available a current list of certificates of status at ports and by requiring that ports post placards containing telephone numbers where citizens can call to report inadequate reception facilities.

Section 802.—Marine plastic pollution research and control

Section 802(a) would amend section 2201(a) of the Marine Plastic Pollution Research and Control Act of 1987 [MPPRCA] (33 U.S.C. 1902 note) to extend indefinitely the requirement that the Secretary report to Congress biennially on compliance with MARPOL Annex V. This subsection would also require that a list of enforcement actions taken against any domestic or foreign ship pursuant to APPS be published in the Federal Register on an annual basis.

Section 802(b) would amend section 2203 of the Marine Protection, Research, and Sanctuaries Act of 1972 [MPRSA] (33 U.S.C. 2803) to: (1) establish a Marine Debris Coordinating Committee; and (2) direct the Environmental Protection Agency and the National Oceanic and Atmospheric Administration to use the marine debris data collected under title V of MPRSA to assist that Committee in ensuring coordination of research, monitoring, education,

and regulatory actions and assist the Coast Guard in assessing the effectiveness of MPRSA and APPS.

Section 802(c) would amend section 2204(a) of MPPRCA, extending indefinitely the authorization for cooperative public outreach and educational programs. This subsection also specifies activities that could be included in outreach programs and would require that such programs provide the public with information on how to report violations of the MPPRCA and APPS. In developing these programs, the Committee directs Federal agencies to consult with state or local agencies that have direct contact with recreational and commercial boaters. Finally, this subsection would authorize the Coast Guard, the National Oceanic and Atmospheric Administration, and the Environmental Protection Agency to award grants and enter into cooperative agreements for implementing public outreach programs.

TITLE IX—LAW ENFORCEMENT ENHANCEMENT

Section 901.—Sanctions for failure to land or to bring to; sanctions for obstruction of boarding and providing false information

In general, this section amends chapter 109 of title 18, U.S. Code, by adding a new section 2237 that makes it unlawful for the pilot, operator, or person in charge of an aircraft to fail to obey the order of an authorized Federal officer to land when such an order is issued while the Federal law enforcement officer is enforcing federal law relating to controlled substances or money laundering. This section also makes several other changes to enhance enforcement of Federal law involving aircraft and vessels.

Specifically, subsection (a)(1) provides that it shall be unlawful for an aircraft which has crossed the border of United States or is subject to U.S. jurisdiction but is operating outside the United States to fail to obey an order to land by an authorized Federal officer. Subsection (a)(2) requires the Administrator (the Administrator) of the Federal Aviation Administration [FAA], in consultation with the Commissioner of Customs and the Attorney General, to prescribe regulations governing the means by which a Federal law enforcement officer may communicate an order to land to a pilot or pilot, operator, or person in charge of an aircraft.

Subsection (b)(1) provides that it shall be unlawful for the master, operator, or person in charge of a vessel subject to the jurisdiction of the United States to fail to obey an order to bring to that vessel on being ordered to do so by an authorized Federal law enforcement officer. Paragraph (2) provides that it shall be unlawful for any person on board a vessel subject to the jurisdiction of the United States to: (1) fail to comply with an order of an authorized Federal law enforcement officer in connection with the boarding of the vessel; (2) impede or obstruct a boarding, arrest, or other authorized law enforcement action; or (3) provide false information to a Federal officer during a boarding regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew. Nothing in this section limits application of section 1001 of title 18, U.S. Code, which makes it a crime to give a false statement to a government agent.

Subsection (c) provides that this section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any U.S. law to order an aircraft to land or a vessel to bring to.

Subsection (d) specifies that a foreign nation may consent or waive objection to the enforcement of U.S. law under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the Secretary's designee.

Subsection (e) defines the terms used in this section. The following terms are defined: "vessel of the United States" or a "vessel subject to the jurisdiction of the United States"; an aircraft "without nationality"; an aircraft "subject to the jurisdiction of the United States"; to "bring to"; and "Federal law enforcement officer".

Subsection (f) establishes penalties for violation of this section. Any person who intentionally violates the provisions of this section would be subject to imprisonment for not more than five years and a fine as provided in this title.

Subsection (g) authorizes the seizure and forfeiture of any aircraft or vessel that is used in violation of this section. Existing customs laws and duties would apply to such seizures and forfeitures. This subsection further provides that any vessel or aircraft that is used in violation of this section is also liable in rem for any fine or civil penalty imposed under this section.

Section 902.—FAA summary revocation authority

This section adds two new sections to title 49, U.S. Code. Subsection (a) adds a new section 44106a. This section provides for the immediate revocation of the registration of an aircraft upon the failure of the operator of the aircraft to follow the order of a Federal law enforcement officer to land an aircraft under new section 2237 of title 18, U.S. Code (section 901 of the reported bill). The Administrator would be required to notify, as soon as possible, the owner of the aircraft that the owner no longer holds U.S. registration for that aircraft. In addition, the Administrator would be required to establish procedures for the owner of the aircraft to show cause why either: (1) the registration was not revoked, as a matter of law; or (2) circumstances existed pursuant to which the Administrator determined that it would be in the public interest to issue a new certificate of registration to the owner, effective concurrent with the revocation.

Subsection (b) adds a new section 44710a. The new section would require the Administrator to issue an order revoking the airman certificate of any person if the Administrator finds that: (1) such person, while acting as the pilot, operator, or person in charge of an aircraft, failed to follow the order of a Federal law enforcement officer to land the aircraft as provided in new section 2237 of title 18, U.S. Code; and (2) such person knew or had reason to know that he had been ordered to land the aircraft. The amendment provides the flexibility to the Administrator so that an airman certificate would not be revoked if extenuating circumstances existed,

such as safety of flight, which justified a deviation by the airman from the order to land.

Section 903.—Coast Guard air interdiction authority

This section amends chapter 5 of title 14, U.S. Code, by adding a new section 97. This section authorizes the Coast Guard to issue orders and make inquiries, searches, seizures, and arrests with respect to violations of U.S. laws occurring aboard any aircraft subject to the jurisdiction of the United States as defined in new section 2237 of title 18, U.S. Code (section 901 of the reported bill). Any order issued under this section to land an aircraft would be communicated pursuant to regulations promulgated pursuant to that section. The Committee encourages the Coast Guard, the FAA, and the Customs Service to enter into an agreement for the purpose of establishing clear policies and procedures for using the additional authority provided by this title of the reported bill and to maximize the effective use of scarce resources.

Section 904.—Coast Guard civil penalty provisions

This section amends chapter 17 of title 14, U.S. Code, by adding a new section 673. Subsection (a) authorizes the Secretary to impose a civil penalty of not more than \$15,000 for failure to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft issued under the authority of new section 2237 of title 18, U.S. Code, or section 97 of title 14, U.S. Code (as established by sections 901 and 903 of the reported bill). The Secretary is authorized to impose a civil penalty of not more than \$25,000 for intentional violations. Subsection (b) provides that any vessel or aircraft used in such violation is liable in rem and may be seized, forfeited, and sold under Customs law.

Section 905.—Customs orders

Section 905 would add a new subsection (i) to section 581 of the Tariff Act of 1930 (19 U.S.C. 1581) that defines “authorized place” as that term is used in that section. Authorized place is defined with respect to a vehicle as a location in a foreign country at which U.S. customs officers are permitted to conduct inspections, examinations, or searches. The term is defined with respect to aircraft to which this section applies under section 644 of the Tariff Act or section 2237 of title 18, U.S. Code, as any location outside of the United States, including a foreign country at which U.S. customs officers are permitted to conduct inspections, examinations, or searches. The intent of this amendment is to clarify law enforcement authority of customs officers in foreign countries and to specify that in regard to aircraft, the provisions of title 18, U.S. Code, section 2237, apply in such authorized places.

Section 906.—Customs civil penalty provisions

Section 906 adds a new section 591 to the Tariff Act of 1930 that authorizes the Customs Service to impose civil penalties for failure to comply with the order of an authorized Federal law enforcement officer relating to the landing of an aircraft under the new author-

ity established by the changes made in this title of the reported bill.

TITLE X—CONVEYANCES

Section 1001.—Conveyance of certain property in Massachusetts

This section would authorize transfer of the lighthouse and surrounding Coast Guard property located on Thacher Island, Massachusetts to the Town of Rockport, Massachusetts, and transfer of the Coast Guard Cuttyhunk Boathouse and Wharf property located in Gosnold, Massachusetts to the Town of Gosnold, Massachusetts. In making these transfers, the United States would convey all right, title and interest, except that the Coast Guard would retain ownership of any historic artifact. The conveyance of these properties would be subject to the condition that the properties are maintained in a manner that ensures their present and future use for Coast Guard aids to navigation and is consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.). In addition, the Coast Guard would continue to have access to the properties for the operation and maintenance of aids to navigation.

Section 1002.—Conveyance of certain lighthouses located in Maine

This section would authorize transfer of 29 lighthouse properties located in Maine to the Island Institute in Rockland, Maine and four lighthouse properties located in Maine to the United States Fish and Wildlife Service. In making the transfer of the 29 lighthouse properties to the Island Institute, the United States would convey all right, title and interest, except that the Coast Guard would retain ownership of any historic artifact from any of the 33 lighthouses transferred under this section. The Island Institute is directed to further transfer 27 of the 29 lighthouse properties it receives from the Coast Guard to eligible Federal agencies, Maine state or local government entities, nonprofit corporations, educational agencies, or community development organizations. The further conveyances by the Island Institute would be subject to approval by the Maine Lighthouse Selection Committee, the members of which are to be appointed by the Secretary. The conveyance of the 33 lighthouse properties would be subject to the condition that the properties: (1) be used for educational, historic, recreational, cultural, and wildlife conservation programs for the general public and for other uses that the Secretary determines are not inconsistent; and (2) are maintained in a manner that ensures their present and future use for Coast Guard aids to navigation and is consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.). In addition, the Coast Guard would continue to have access to the properties for the operation and maintenance of aids to navigation.

Section 1003.—Conveyance of Squirrel Point light

This section would authorize transfer of the property comprising Squirrel Point Light located in Arrowsic, Maine to Squirrel Point Associates, Incorporated. In making this transfer, the United States would convey all right, title and interest, except that the

Coast Guard would retain ownership of any historic artifact. The conveyance of this property would be subject to the condition that the property be used as a nonprofit center for the interpretation and preservation of maritime history, is maintained in a manner that ensures its present and future use for Coast Guard aids to navigation, and is consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.). In addition, the Coast Guard would continue to have access to the property for the operation and maintenance of aids to navigation.

Section 1004.—Conveyance of Montauk light station

This section would authorize transfer of the property comprising Montauk Light Station located in Montauk, New York to the Montauk Historical Association. In making this transfer, the United States would convey all right, title and interest, except that the Coast Guard would retain ownership of any historic artifact. The conveyance of this property would be subject to the conditions that the property: be used as a nonprofit center for public benefit for the interpretation and preservation of the material culture of the Coast Guard, the maritime history of Montauk, New York, and Native American and colonial history; is maintained in a manner that ensures its present and future use for Coast Guard aids to navigation; and is consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.). In addition, the Coast Guard would continue to have access to the property for the operation and maintenance of aids to navigation.

Section 1005.—Conveyance of Point Arena light station

This section would authorize transfer of the property comprising Point Arena Light Station located in Mendocino County, California to the Point Arena Lighthouse Keepers, Incorporated. In making this transfer, the United States would convey all right, title and interest, except that the Coast Guard would retain ownership of any historic artifact. The conveyance of this property would be subject to the condition that the property be used as a nonprofit center for public benefit for the interpretation and preservation of the maritime history of Point Arena, California, is maintained in a manner that ensures its present and future use for Coast Guard aids to navigation, and is consistent with the provisions of the National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.). In addition, the Coast Guard would continue to have access to the property for the operation and maintenance of aids to navigation.

Section 1006.—Conveyance of property in Ketchikan, Alaska

Section 1006 would require the conveyance of the former Coast Guard marine safety detachment in Ketchikan, Alaska to the Ketchikan Indian Corporation for use as a health or social services facility. The property would revert to the General Services Administration if it is not used for that purpose.

Section 1007.—Conveyance of property in Traverse City, Michigan

This section directs the Secretary to transfer approximately 27 acres of excess property located in Traverse City, Michigan, from the Coast Guard to the Traverse City Area Public School District.

It is the Committee's understanding that this property would be used by the School District for athletic fields. Under section 1007 of this bill, the ownership of this property reverts to the United States if the Traverse City Area School District ceases to use the property. In addition, the Coast Guard would continue to have access to the property for the operation and maintenance of the pump room located on the property.

Section 1008.—Conveyance of Coast Guard property in New Shoreham, Rhode Island

This section directs the Secretary or other appropriate official to transfer approximately 10 acres of property known as Coast Guard Station Block Island located on Block Island, Rhode Island, to the Town of New Shoreham, Rhode Island. The ownership of this property reverts to the United States if the property, or any part of the property, ceases to be used by the Town of New Shoreham, Rhode Island.

Section 1009.—Conveyance of property in Santa Cruz, California

This section directs the Secretary to transfer the Coast Guard property located in Santa Cruz, California to the Santa Cruz Port District. In making this transfer, the United States would convey all right, title and interest. The conveyance of this property would be subject to the conditions that: the property be available for joint use by the Coast Guard and the Port District; the Port District would be responsible for the cost of maintaining, operating, and replacing the utility systems, buildings, and facilities; the site be maintained as a nonprofit center for education, training, administration, and other public service to include use by the Coast Guard; and the site be returned to the Secretary after 30 days notice that it is needed for national security purposes.

Section 1010.—Conveyance of vessel S/S Red Oak Victory

This section authorizes the Secretary to transfer the National Defense Reserve Fleet [NDRF] vessel S/S *Red Oak Victory* (Victory Ship VCS-AP2; U.S. Navy Hull No. AK235) to the City of Richmond Museum Association, Incorporated, located in Richmond, California. In making this transfer, the United States would convey all right, title and interest. The conveyance of this property would be subject to the condition that: (1) the vessel be used for the purposes of a monument to the wartime accomplishments of the City of Richmond; (2) the vessel not be used for commercial transportation purposes; (3) the recipient agrees to make the vessel available to the government if the Secretary requires the vessel for war or national emergency; (4) the recipient agrees to hold the Federal government harmless for any claims arising from exposure to asbestos after transfer of the vessel, except for claims arising from use by the government for war or national emergency; (5) and the recipient has available, for use to restore the vessel, in the form of cash, liquid assets, or written loan commitment, financial resources of at least \$100,000.

The conveyance, if made, would transfer the vessel in its present condition, without any cost to the Federal government, to the recipient. The Secretary also would be authorized to transfer unneeded

equipment from other NDRF vessels to restore the vessel to museum quality. Finally, the Secretary would be required to retain the vessel in the NDRF for the earlier of two years from the date of enactment of the reported bill or until the vessel is conveyed, whichever date is earlier.

TITLE XI—MISCELLANEOUS

Section 1101.—Florida Avenue bridge

Section 1101 would clarify that the drainage siphon adjacent to the Florida Avenue Bridge in Orleans Parish, Louisiana, is a part of the bridge structure for the purposes of making alterations to the bridge under the Truman-Hobbs Act.

Section 1102.—Oil Spill Recovery Institute

This section would authorize the Prince William Sound Oil Spill Recovery Institute [OSRI], which is authorized under section 5001 of the Oil Pollution Act of 1990, to fund research using the interest earned on the \$22.5 million it is authorized to spend from the Oil Spill Liability Trust Fund, which was transferred from the Trans-Alaska Pipeline Fund in December of 1994. This change would eliminate the need for an annual appropriation of between \$2 million and \$5 million for OSRI.

This section also scales back the size of the OSRI Advisory Board from 18 members to 14 members.

Section 1103.—Limited double hull exemptions

Section 4115(a) of the Oil Pollution Act of 1990 [OPA 90] (46 U.S.C. 3703a(a)) requires that all tank vessels constructed after the date of enactment of OPA 90 have double-hulls or equivalents. The Coast Guard published an Interim Final Rule on August 12, 1992, containing construction standards for double-hulled vessels. These regulations treat double-hulled vessels in service on the date of enactment of OPA 90 as single-hulled vessels. This would require the owners of these double-hulled vessels to retrofit or replace their vessels under the schedule contained in section 4115 of OPA 90 that was designed to phase out single-hulled vessels.

Section 1103 of this bill amends section 3703a(b) of title 46, U.S. Code, to exempt those double-hulled vessels delivered before August 12, 1992, from the OPA 90 double hull requirements. This approach avoids penalizing vessel owners who built double-hulled vessels before they were forced to do so by the phase-out requirements under OPA 90.

Section 1003 also amends section 3703a(b) to exempt barges of less than 1,200 gross tons that are primarily used to carry deck cargo and bulk fuel to Alaska Native villages from the OPA 90 double-hull requirements. These vessels, which travel on protected waterways, are the only links to remote Alaskan villages. Due to the deeper draft of double-hulled vessels and the shallow waters in these areas, without the exemption these Alaskan barges could not reach the shore to offload at many villages nor operate economically.

Section 1104.—Oil spill response vessels

Section 1104(a) of this bill amends section 2101 of title 46, U.S. Code, to define an “oil spill response vessel” [OSRV] as a vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material. OSRVs are a unique type of vessel that often are specially built or adapted to engage in spill response operations. Under the amendments made by this section, the Coast Guard is required to establish a new regulatory system for OSRVs. These vessels are not subject to existing requirements applicable to tank vessels under any law, including construction, operating, manning, pollution prevention, or financial responsibility requirements.

Section 1104(b) adds a new subsection (f) to section 3702 of title 46, U.S. Code, to exempt OSRVs from the tank vessel requirements of chapter 37 of title 46, U.S. Code. The Committee notes that OSRVs operate in an environment where oil is already all around the vessels, and the challenge is to recover it from the environment into the vessel. Because OSRV operations are entirely different from tank vessel operations, the applicable regulatory requirements should also be different. Consequently, this section exempts OSRVs from the chapter 37 regulatory requirements applicable to tank vessels, including tank vessel construction and operating restrictions.

Section 1104(b) divides OSRVs into two distinct categories. The first category addresses dedicated response vessels which are used only in spill response-related activities. These vessels are not certified for any other type of service other than response. This category includes barges which are not used for carriage of oil in bulk as cargo and in some cases will never contain oil. There is no tonnage limit in this category. The second category recognizes that some vessels are dual-certified. This category exempts vessels from tank vessel requirements only when designated in the certificate for inspection as a response vessel and only when actually engaged in spill response-related activities. This category is limited to 500 gross tons.

Sections 1104(c) and 1104(d) amend sections 8104 and 8301 of title 46, U.S. Code, to authorize the Secretary to prescribe watchstanding and licensing requirements for OSRVs. A dedicated response vessel is currently authorized to divide licensed individuals and crew-members into at least two watches when the vessel is engaged in an operation less than 12 hours in duration or into three watch sections for operations more than 12 hours in duration. In addition, a dedicated response vessel is required to have two licensed mates when engaged in an operation over 12 hours in duration and one mate for operations less than 12 hours in duration. These requirements do not provide acceptable operating flexibility to respond to, and to train for, responses to discharges. In addition, the requirements should not be limited to dedicated response vessels but should also include other vessels while engaged in response-related operations. This 12 hour benchmark for watchstanding and mate requirements unnecessarily and adversely impact vessel operations.

OSRVs are normally on standby either at dockside or at mooring buoys offshore, manned and ready to respond to call. Most of the

operating hours are used to spill response training, escorting of tank vessels, and response drills. Under present law, OSRVs are not permitted to train or initially respond to an actual spill without meeting the two watch requirement (except in inland waters) and the three watch requirement for operations beyond 12 hours. This requirement leaves little time for actual training before the three watch requirement is triggered. The Committee intends that the Coast Guard establish practical, flexible watchstanding and licensing requirements for OSRVs that do not hamper oil spill response training and response operations.

Section 1104(e) amends the requirements for Merchant Mariner's Documents (MMDs) under section 8701 of title 46, U.S. Code, by providing the Secretary with the flexibility to prescribe which, if any, individuals onboard an OSRV should be required to hold an MMD. An MMD should only be required for individuals who have duties aboard an OSRV which require particular experience, training or qualifications to perform traditional maritime-related duties aboard a vessel. These duties should relate to operation of the vessel, not support activities associated with spill response activities. During a spill response, many "temporary" individuals, including equipment operators, regulatory personnel, scientific personnel, wildlife rehabilitators, government officials, maintenance and other spill response support technical personnel, may come aboard the vessel for activities associated with a spill response. In addition, numerous prospective "temporary" contractors, fisherman and member company personnel are trained on OSRVs to be available for the infrequent circumstances for which their services may be needed to aid in a spill response. Accordingly, the Secretary should not require individuals, other than the navigational crew, to have MMDs, without a determination that there is a substantial and practical nexus with traditional seaman duties and resulting benefits associated with requiring an MMD.

Section 1104(f) amends section 8905 of title 46, U.S. Code, to clarify that a person licensed to operate towing vessels should not be required to operate vessels engaged in oil spill response or training activities. Currently, section 8904 of title 46, U.S. Code, requires that a towing vessel that is at least 26 feet in length be operated by a licensed individual. These provisions are not intended to apply to vessels towing in an emergency or on an intermittent basis during oil spill response or training.

Section 1104(g) amends section 3301 of title 46, U.S. Code, to establish a new vessel inspection category for OSRVs. The Committee intends that the Coast Guard establish appropriate requirements for OSRVs that address the necessary standards applicable to this unique type of vessel, while accomplishing the desired goal of facilitating the development of resources for the oil spill response industry. In addition, the Coast Guard has the flexibility to determine that small OSRVs, including small skimming vessels, barges (particularly shallow water barges) and dracones up to approximately 100 gross tons, are "equipment", and are not subject to examination or inspection.

The Committee does not intend for the Secretary to use the flexibility under this section to regulate OSRVs in the same manner as tank vessels. There are fundamental differences between OSRVs,

as compared to commercial tank vessels carrying oil in bulk as cargo for purposes of commercial transportation. The Secretary should establish requirements for OSRVs that are appropriate and practical for the fledgling oil spill response industry.

Section 1105.—Sense of the Congress regarding passengers aboard commercial vessels

This section expresses the sense of the Congress that the North American Free Trade Act passenger fee required by Public Law 103-182 (19 U.S.C. 58c(a)(5)) was intended to be charged only once per voyage, and not each time a cruise ship reenters U.S. customs waters during a single voyage.

Section 1106.—California cruise industry revitalization

This section resolves a conflict between certain Federal and state laws involving authorized gambling aboard U.S.-flag cruise vessels. Section 1106 amends section 5(b)(2) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(2)), commonly referred to as the “Johnson Act”, to prohibit a state from regulating gambling in international waters during the intrastate segment of a voyage that begins or ends in the same state or U.S. possession and is part of a voyage to another state or country. States may still regulate gambling in state waters, on “voyages to nowhere,” and on other state voyages. This section does not apply to a voyage within the boundaries of the State of Hawaii.

Section 1107.—Lower Columbia River marine fire and safety activities

This section authorizes the Secretary to expend out of amounts appropriated for the Coast Guard for FY 1996 not more than \$491,000 for lower Columbia River marine, fire, oil, and toxic spill response communications, training, equipment, and program administration activities conducted by the Marine Fire and Safety Association.

Section 1108.—Oil pollution research training

OPA 90 authorizes oil pollution research and training on innovative oil pollution technology to be conducted using, as appropriate, the National Spill Control School in Corpus Christi, Texas, a Texas A&M University facility. Section 1108 would amend section 7001(c)(2)(D) of OPA 90 to allow this research and training to be conducted at the Center for Marine Training and Safety in Galveston, which is another Texas A&M University facility.

Section 1109.—Limitation on consolidation or relocation of Houston and Galveston marine safety offices

The Coast Guard has developed a plan to consolidate its Marine Safety Offices in Houston, Texas and Galveston, Texas in a third location in Texas. This streamlining has been projected to save the government approximately \$500,000 annually. Some maritime industry interests using the Houston-Galveston Ship Channel have expressed concern over the effects of this consolidation and relocation of these facilities. This section prohibits the Secretary from

consolidating or relocating the Coast Guard Marine Safety Offices in Galveston, Texas and Houston, Texas.

Section 1110.—Uninspected fish-tender vessels

This section clarifies the provision of title 46, U.S. Code, relating to the carriage of cargo in uninspected fish-tender vessels providing service outside the Aleutian trade geographic region. Section 3302(c)(3) of title 46, U.S. Code, permits uninspected fish-tender vessels of not more than 500 gross tons to carry: (1) cargo to or from a place in Alaska that does not receive weekly common carrier service by water from a place in the United States; or (2) cargo which is of the type not accepted by that common carrier service. The Coast Guard has interpreted this weekly common carrier test to apply only to general cargo. Section 1110 of the reported bill would apply the weekly common carrier service test to all cargo which is of the type accepted by common carriers. Such cargo includes frozen fish products, canning components, cardboard, salt, and other materials directly related to fishing or the preparation of fish.

Section 1111.—Foreign passenger vessel user fees

Section 3303(b) of title 46, U.S. Code, currently requires the Secretary to collect the same fees for the inspection of foreign passenger vessels that a foreign country charges U.S. vessels at the ports of that country. Because of this restriction in existing law, the Coast Guard is not able to treat foreign flag passenger vessels the same as other foreign vessels, nor the same as their U.S. passenger vessel counterparts. Section 1111 of the reported bill would amend section 3303 of title 46, U.S. Code, to strike subsection (b), allowing the Coast Guard to assess and collect user fees for examining foreign passenger vessels based on Coast Guard examination costs rather than on foreign fee levels. User fees for foreign passenger vessels would be established under the authority of section 2110 of title 46, U.S. Code, the same section under which the Coast Guard may already charge user fees for examining foreign non-passenger vessels and for inspecting U.S. passenger vessels.

The Committee intends that the fee the Coast Guard is authorized to collect under this section will be a reasonable fixed fee for the examination of foreign passenger vessels. On December 18, 1991, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) which would have established a fee for the control verification examinations of passenger vessels subject to SOLAS. As noted in the proposed rule, passenger vessels from foreign countries which are parties to SOLAS are inspected to verify that they have complied with the laws of the flag state and the control imposed by treaty. Over 95 percent of these foreign passenger vessel control verification examinations are straight forward, are conducted on a regular basis, and are predictable in terms of time spent per examination. In the NPRM, the Coast Guard proposed a fixed annual fee for the initial, annual, and reinspection examinations. The Coast Guard proposed a fee of \$1,047 for Control Verification examinations. Since these examinations are conducted quarterly when the vessels are operating from U.S. ports, the cost to a vessel owner could be as much as \$4,188 annually. The Committee understands

this section will allow the Coast Guard to collect an additional \$464,000 annually in user fees.

The Committee expects that the annual fees the Coast Guard is authorized to collect under this section will be within the limits proposed by the Coast Guard in 1991 and that the total impact on the industry will not exceed the Coast Guard's estimates.

Section 1112.—Coast Guard user fees

The Omnibus Budget Reconciliation Act of 1990 authorized user fees and required the Coast Guard to collect such fees for the inspection and certification of U.S. commercial vessels. Section 10401(g) of that Act (46 U.S.C. 2110(g)) authorized the Secretary to exempt persons from the requirement to pay these user fees if it is in the public interest to do so. During the rulemaking process, small passenger vessel operators informed the Coast Guard that the Coast Guard's proposed fee levels would force many operators out of business and leave gaps in small passenger vessel service throughout the nation. It is also clear that publicly-owned ferries serve the public interest by providing necessary, and in many cases, the only available, transportation between locations divided by bodies of water. The Coast Guard imposed the proposed fees effective May 1, 1995.

The Committee believes the Coast Guard failed to appropriately use the authority of 46 U.S.C. 2110(g) to set user fee levels for small passenger vessels that are in the public interest and, also in the public interest, to exempt publicly-owned ferries from the user fees. Therefore, section 1112 clarifies the intent of the Congress regarding U.S. vessel user fees by setting upper limits on user fees of \$300 annually for small passenger vessels shorter than 65 feet and \$600 annually for passenger vessels 65 feet or longer. In addition, section 1112 exempts publicly-owned ferries from these fees.

Section 1113.—Vessel financing

In 1988, Congress began easing the restrictions on persons that can be mortgagees for U.S.-flag vessels. Section 1113(a) amends section 31322 of title 46, U.S. Code, to broaden the categories of persons eligible to be mortgagees for U.S.-flag vessels without the approval of the Secretary. This amendment is intended to further promote vessel financing.

U.S. vessel owners should be able to obtain the cheapest financing available anywhere in the world in the same manner as their foreign competition without having to get approval from the Secretary. In the past, U.S. operators could obtain this financing by setting up a trust in a U.S. bank. These trusts, referred to as "Westhampton Trusts," resulted in additional costs to the U.S. vessel owners without giving any real protection to the government to control the vessel.

Section 1113(b) amends section 31328 of title 46, U.S. Code, to broaden the categories of persons eligible to act as trustees for ship mortgage purposes to include persons eligible to own a documented vessel under chapter 121 of that title.

Section 1113(c) amends section 12106 of title 46, U.S. Code, to ease leasing arrangements for vessels engaged in the coastwise trade. Leasing has become a very common way to finance capital

assets in many industries, including the maritime industry. Many vessel operators choose to acquire vessels through leasing instead of traditional mortgage financing. Currently, there are no citizenship requirements on leasing companies that finance U.S.-flag vessels that have registry endorsements. Section 1113(d) will also allow these companies to finance vessels that have coastwise endorsements.

This subsection of the reported bill also amends section 12106 to authorize the Secretary to issue coastwise endorsements for vessels owned by any leasing company that is eligible to own a documented vessel. Section 1113 provides, however, that if the leasing company is not a U.S. citizen under section 2 of the Shipping Act, 1916, the vessel may only be used in the coastwise trade if a section 2 citizen operates the vessel under a demise charter for a period of at least three years. It is expected that most of the demise charters will be long-term. However, once the initial long-term charter has expired or if there is a default of the lessee, the leasing company may find it necessary to enter into short-term demise charters until another long-term charter is obtained. The lease agreement need not remain in effect for the full three years if there is a default by the lessee or a casualty or other event where the lease could be terminated by the vessel owner or lessee prior to the expiration of that period. The Secretary may also authorize leases for a period shorter than three years under appropriate circumstances such as when a vessel's remaining useful life would not support a lease of three years or to preserve the use or possession of the vessel.

Finally, this subsection provides that upon default by a bareboat charterer of a demise charter, the coastwise endorsement may be continued for a period not to exceed six months on any terms and conditions that the Secretary may prescribe. This will allow the bareboat charterer to continue to operate the vessel while it attempts to remedy the default under its lease or allow the leasing company to move the vessel, maintain it, have it repaired, or laid-up.

Section 1114.—Manning and watch requirements on towing vessels on the Great Lakes

Section 1114 of the reported bill would amend section 8104 of title 46, U.S. Code, to conform the manning requirements for Great Lakes towing vessels to the requirements for towing vessels operating in other parts of the country. Subsection (a) of this section amends subsection (c) of section 8104 to permit licensed individuals and seamen aboard Great Lakes towing vessels to work no more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period. This section also would amend existing section 8104(e) to allow crewmen to work in both the deck and engine departments of a towing vessel operating on the Great Lakes. Finally, section 8104(g) would be amended to allow the licensed individuals and crewmembers aboard Great Lakes towing vessels to be divided in two watches, rather than the current three watch requirement.

Section 1115.—Repeal of Great Lakes endorsements

The Coast Guard Authorization Act of 1989 (Public Law 101-225) made technical changes to the Coast Guard vessels docu-

mentation scheme. These changes reflect the conversion from a system of separate and distinct types of documents based on the use of the vessel to a system of multiple endorsements for a particular trade or use. These changes unintentionally added all of the requirements of the U.S. coastwise trade (Jones Act) to all vessels operating on the Great Lakes, even those only trading between the United States and Canada. This section corrects the error and will permit U.S.-flag vessels to trade between the United States and Canada with a certificate of documentation with a registry endorsement. However, a vessel engaged in the coastwise trade or fisheries on the Great Lakes must meet all the requirements necessary to obtain coastwise or fisheries endorsements.

Section 1116.—Relief from U.S. documentation requirements

U.S. flag vessels built with the assistance of a Construction-Differential Subsidy [CDS] are required to be owned by United States citizens and documented under the laws of the United States for a period of 25 years. Section 1116 of the reported bill would authorize six specific vessels to be sold to a person that is not a citizen of the United States and to be transferred or placed under foreign registry, notwithstanding these CDS requirements.

Among the vessels granted authority to transfer to foreign flag or ownership are two liquified natural gas [LNG] tank vessels, the *Arzew* and the *Southern*. The Committee's decision to approve the transfer of these LNG vessels is based on the absence of U.S. trade opportunities for LNG vessels, which has resulted in an extensive period of idleness. Except in instances where an operating subsidy has been used, other CDS-built LNG vessels have also been idle.

The Committee is aware that three other LNG tank vessels are similarly situated and, as a matter of equity, should be afforded the same opportunity to flag out. Two of these vessels have been operating under an Operating-Differential Subsidy contract. The Committee notes that, if authority is granted for the two vessels with operating subsidies to flag foreign, the owner has stated that the vessels will operate under the U.S. flag until subsidy payments terminate.

The Committee considers the employment of American citizen seaman to be a vital national interest and is aware that U.S. crews are highly skilled in the operation of these highly complex ships. Therefore, the Committee is hopeful that, if these vessels are reactivated, the possibility of employing U.S. crew members will be explored.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new material is printed in italic, existing law in which no change is proposed is shown in roman):

**NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL
YEAR 1995**

SEC. 558. MILITARY RECRUITING ON CAMPUS.

(a) DENIAL OF FUNDS.—(1) No funds available to the Department of Defense *or the Department of Transportation* may be provided by grant or contract to any institution of higher education that has a policy of denying, or which effectively prevents, the Secretary of Defense *or the Secretary of Transportation* from obtaining for military recruiting purposes—

- (A) entry to campuses or access to students on campuses; or
- (B) access to directory information pertaining to students.

(2) Students referred to in paragraph (1) are individuals who are 17 years of age or older.

(b) PROCEDURES FOR DETERMINATION.—The Secretary of Defense, in consultation with the Secretary of Education *and the Secretary of Transportation*, shall prescribe regulations that contain procedures for determining if and when an educational institution has denied or prevented access to students or information described in subsection (a).

(c) DEFINITION.—For purposes of this section, the term “directory information” means, with respect to a student, the student’s name, address, telephone listing, date and place of birth, level of education, degrees received, and the most recent previous educational institution enrolled in by the student.

COAST GUARD AUTHORIZATION ACT OF 1991

SEC. 18. HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE.

(a)(1) There is established a Houston-Galveston Navigation Safety Advisory Committee (hereinafter referred to as the “Committee”). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the “Secretary”) on matters relating to the transit of vessels and products to and from the Ports of Galveston, Houston, Texas City, and Galveston Bay. The Secretary shall, whenever practicable, consult with the Committee before taking any significant action related to navigation safety at these port facilities. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

* * * * *

(h) *The Committee shall terminate on September 30, 2000.*

SEC. 19. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

(a)(1) There is established a Lower Mississippi River Waterway Advisory Committee (hereinafter referred to as the “Committee”). The Committee shall advise, consult with, and make recommendations to the Secretary of the department in which the Coast Guard is operating (hereinafter in this part referred to as the “Secretary”) on a wide range of matters regarding all facets of navigational safety related to the Lower Mississippi River. The Secretary shall,

whenever practicable, consult with the Committee before taking any significant action related to navigation safety in the Lower Mississippi River. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned.

* * * * *

(g) The Committee shall terminate on September 30, 2000.

TITLE 14. COAST GUARD

PART I. REGULAR COAST GUARD

CHAPTER 5. FUNCTIONS AND POWERS

§ 93. Commandant; general powers

For the purpose of executing the duties and functions of the Coast Guard the commandant may:

(a) maintain water, land, and air patrols, and ice-breaking facilities;

(b) establish and prescribe the purpose of, change the location of, consolidate, discontinue, re-establish, maintain, operate, and repair Coast Guard shore establishments;

(c) assign vessels, aircraft, vehicles, aids to navigation, equipment, appliances, and supplies to Coast Guard districts and shore establishments, and transfer any of the foregoing from one district or shore establishment to another;

(d) conduct experiments, investigate, or cause to be investigated, plans, devices, and inventions relating to the performance of any Coast Guard function and cooperate and coordinate such activities with other government agencies and with private agencies;

(e) conduct any investigations or studies that may be of assistance to the Coast Guard in the performance of any of its powers, duties, or functions;

(f) collect, publish, and distribute information concerning Coast Guard operations;

(g) conduct or make available to personnel of the Coast Guard such specialized training and courses of instruction, including correspondence courses, as may be necessary or desirable for the good of the service;

(h) design or cause to be designed, cause to be constructed, accept as gift, or otherwise acquire patrol boats and other small craft, equip, operate, maintain, supply, and repair such patrol boats, other small craft, aircraft, and vehicles, and subject to applicable regulations under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) dispose of them;

(i) acquire, accept as gift, maintain, repair, and discontinue aids to navigation, appliances, equipment, and supplies;

(j) equip, operate, maintain, supply, and repair Coast Guard districts and shore establishments;

(k) [Repealed]

(l) establish, equip, operate, and maintain shops, depots, and yards for the manufacture and construction of aids to navigation, equipment, apparatus, vessels, vehicles, and aircraft not normally or economically obtainable from private contractors, and for the maintenance and repair of any property used by the Coast Guard;

(m) accept and utilize, in times of emergency in order to save life or protect property, such voluntary services as may be offered to the Coast Guard;

(n) rent or lease, under such terms and conditions as are deemed advisable, for a period not exceeding five years, such real property under the control of the Coast Guard as may not be required for immediate use by the Coast Guard, the monies received from any such rental or lease, less amount of expenses incurred (exclusive of governmental personal services), to be deposited in the Treasury;

(o) grant, under such terms and conditions as are deemed advisable, permits, licenses, easements, and rights-of-way over, across, in, and upon lands under the control of the Coast Guard when in the public interest and without substantially injuring the interests of the United States in the property thereby affected;

(p) establish, install, abandon, re-establish, re-route, operate, maintain, repair, purchase, or lease such telephone and telegraph lines and cables, together with all facilities, apparatus, equipment, structures, appurtenances, accessories, and supplies used or useful in connection with the installation, operation, maintenance, or repair of such lines and cables, including telephones in residences leased or owned by the Government of the United States when appropriate to assure efficient response to extraordinary operational contingencies of a limited duration, and acquire such real property, rights-of-way, easements, or attachment privileges as may be required for the installation, operation, and maintenance of such lines, cables, and equipment;

(q) establish, install, abandon, re-establish, change the location of, operate, maintain, and repair radio transmitting and receiving stations;

(r) provide medical and dental care for personnel entitled thereto by law or regulation, including care in private facilities;

(s) accept, under terms and conditions the Commandant establishes, the service of an individual ordered to perform community service under the order of a Federal, State, or municipal court;

(t) notwithstanding any other law, enter into cooperative agreements with States, local governments, non-governmental organizations, and individuals, to accept and utilize voluntary services for the maintenance and improvement of natural and historic resources on, or to benefit natural and historic research on, Coast Guard facilities, subject to the requirement that—

(1) the cooperative agreements shall each provide for the parties to contribute funds or services on a matching basis

to defray the costs of such programs, projects, and activities under the agreement; and

(2) a person providing voluntary services under this subsection shall not be considered a Federal employee except for purposes of chapter 81 of title 5, United States Code, with respect to compensation for work-related injuries, and chapter 171 of title 28, United States Code, with respect to tort claims; [and]

(u) enter into cooperative agreements with other Government agencies and the National Academy of [Sciences.] *Sciences*; and

(v) *employ special recruiting programs, including, subject to appropriations Acts, the provision of financial assistance by grant, cooperative agreement, or contract to public or private associations, organizations, and individuals (including academic scholarships for individuals), to meet identified personnel resource requirements.*

§96. Prohibition on overhaul, repair, and maintenance of Coast Guard vessels in foreign shipyards

A Coast Guard vessel may not be overhauled, repaired, or maintained in any shipyard located outside the United States, except that this section does not apply to emergency repairs.

§97. Air interdiction authority

The Coast Guard may issue orders and make inquiries, searches, seizures, and arrests with respect to violations of laws of the United States occurring aboard any aircraft subject to the jurisdiction of the United States as defined in section 2237 of title 18, United States Code. Any order issued under this section to land an aircraft shall be communicated pursuant to regulations promulgated pursuant to section 2237 of title 18, United States Code.

* * * * *

CHAPTER 7. COOPERATION WITH OTHER AGENCIES

§141. [General] Cooperation with other agencies, States, Territories, and political subdivisions

(a) The Coast Guard may, when so requested by proper authority, utilize its personnel and facilities (*with include members of the Auxiliary and facilities governed under chapter 23*) to assist any Federal agency, State, Territory, possession, or political subdivision thereof, or the District of Columbia, to perform any activity for which such personnel and facilities are especially qualified. *The Commandant may prescribe conditions, including reimbursement, under which personnel and facilities may be provided under this subsection.*

(b) The Coast Guard, with the consent of the head of the agency concerned, may avail itself of such officers and employees, advice, information, and facilities of any Federal agency, State, Territory, possession, or political subdivision thereof, or the District of Columbia as may be helpful in the performance of its duties. In connection with the utilization of personal services of employees of state or local governments, the Coast Guard may make payments for

necessary traveling and per diem expenses as prescribed for Federal employees by the standardized Government travel regulations.

* * * * *

CHAPTER 11. PERSONNEL

OFFICERS

D. DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS

§ 283. Regular lieutenants; separation for failure of selection for promotion; continuation

(a) Each officer of the Regular Coast Guard appointed under section 211 of this title who is serving in the grade of lieutenant and who has failed of selection for promotion to the grade of lieutenant commander for the second time shall:

(1) be honorably discharged on June 30 of the promotion year in which his second failure of selection occurs; or

(2) if he so requests, be honorably discharged at an earlier date without loss of benefits that would accrue if he were discharged on that date under clause (1); or

(3) if, on the date specified for his discharge in this section, he has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date; or

(4) if, on the date specified for his discharge in clause (1), he has completed at least eighteen years of active service, be retained on active duty and retired on the last day of the month in which he completes twenty years of active service, unless earlier removed under another provision of law.

(b)(1) When the needs of the service require, the Secretary may direct a selection board, which has been convened under section 251 of this title, to recommend for continuation on active duty for terms of not less than two nor more than four years a designated number of officers of the grade of lieutenant who would otherwise be discharged or retired under this section. When so directed, the board shall recommend for continuation on active duty those officers under consideration who are, in the opinion of the board, best qualified for continuation. Each officer so recommended may, with the approval of the Secretary, and notwithstanding subsection (a), be continued on active duty for the term recommended. **[Upon the completion of such a term he shall, unless selected for further continuation, be honorably discharged with severance pay computed under section 286 of this title, or, if eligible for retirement under any law, be retired.]**

(2) *Upon the completion of a term under paragraph (1), an officer shall, unless selected for further continuation—*

(A) except as provided in subparagraph (B), be honorably discharged with severance pay computed under section 286 of this title;

(B) in the case of an officer who has completed at least 18 years of active service on the date of discharge under subparagraph (A), be retained on active duty and retired on the last day of the month in which the officer completes 20 years of active

service, unless earlier removed under another provision of law; or

(C) if, on the date specified for the officer's discharge under this section, the officer has completed at least 20 years of active service or is eligible for retirement under any law, be retired on that date.

(c) Each officer who has been continued on active duty under subsection (b) shall, unless earlier removed from active duty, be retired on the last day of the month in which he completes twenty years of active service.

* * * * *

§ 289. Captains; continuation on active duty; involuntary retirement

(a) The Secretary may, whenever the needs of the service require, but not more often than annually, convene a board consisting of not less than six officers of the grade of rear admiral (lower half) or rear admiral to recommend for continuation on active duty officers on the active duty promotion list serving in the grade of captain, who during the promotion year in which the board meets will complete at least three years' service in that grade and who have not been selected for promotion to the grade of rear admiral (lower half). Officers who are subject to retirement under section 288 of this title during the promotion year in which the board meets shall not be considered by this board.

(b) Whenever he convenes a board under this section, the Secretary shall establish a continuation zone. The zone shall consist of the most senior captains eligible for consideration for continuation on active duty who have not previously been placed in a continuation zone under this section. The Secretary shall, based upon the needs of the service, prescribe the number of captains to be included in the zone.

(c) Based on the needs of the service the Secretary shall furnish the board with the number of officers that may be recommended for continuation on active duty. This number shall be no less than 50 percent of the number considered. The board shall select from the designated continuation zone, in the number directed by the Secretary, those officers who are, in the opinion of the board, best qualified for continuation on active duty.

(d) The provisions of sections 253, 254, 258, and 260 of this title relating to selection for promotion shall, to the extent that they are not inconsistent with the provisions of this section, apply to boards convened under this section.

(e) The Secretary shall prescribe by regulation the detailed procedures whereby officers in a continuation zone will be selected for continuation on active duty.

(f) A board convened under this section shall submit its report to the secretary. If the board has acted contrary to law or regulation, the Secretary may return the report for proceedings in revision and resubmission to the Secretary. After his final review the Secretary shall submit the report of the board to the President for his approval. [Upon approval by the President, the names of the officers selected for continuation on active duty by the board shall

be promptly disseminated to the service at large.] Except as required by the procedures of this section, the proceedings of the board shall not be disclosed to any person not a member of the board.

(g) Each officer who is considered but not recommended for continuation on active duty under the provisions of this section shall, unless retired under some other provision of law, be retired on June 30 of the promotion year in which the report of the continuation board convened under this section is approved, or the last day of the month in which he completes twenty years of active service, whichever is later.

* * * * *

§515. Child development services

(a) *The Commandant may make child development services available for members and civilian employees of the Coast Guard, and thereafter as space is available for members of the Armed Forces and Federal civilian employees. Child development service benefits provided under the authority of this section shall be in addition to benefits provided under other laws.*

(b)(1) *Except as provided in paragraph (2), the Commandant may require that amounts received as fees for the provision of services under this section at Coast Guard child development centers be used only for compensation of employees at those centers who are directly involved in providing child care.*

(2) *If the Commandant determines that compliance with the limitation in paragraph (1) would result in an uneconomical and inefficient use of such fee receipts, the Commandant may (to the extent that such compliance would be uneconomical and inefficient) use such receipts—*

(A) *for the purchase of consumable or disposable items for Coast Guard child development centers; and*

(B) *if the requirements of such centers for consumable or disposable items for a given fiscal year have been met, for other expenses of those centers.*

(c) *The Commandant shall provide for regular and unannounced inspections of each child development center under this section and may use Department of Defense or other training programs to ensure that all child development center employees under this section meet minimum standards of training with respect to early childhood development, activities and disciplinary techniques appropriate to children of different ages, child abuse prevention and detection, and appropriate emergency medical procedures.*

(d) *Of the amounts available to the Coast Guard each fiscal year for operating expenses (and in addition to amounts received as fees), the Secretary may use for child development services under this section an amount not to exceed the total amount the Commandant estimates will be received by the Coast Guard in the fiscal year as fees for the provision of those services.*

(e) *The Commandant may use appropriated funds available to the Coast Guard to provide assistance to family home day care providers so that family home day care services can be provided to uniformed service members and civilian employees of the Coast Guard*

at a cost comparable to the cost of services provided by Coast Guard child development centers.

(f) The Secretary shall promulgate regulations to implement this section. The regulations shall establish fees to be charged for child development services provided under this section which take into consideration total family income.

(g) For purposes of this section, the term "child development center" does not include a child care services facility for which space is allotted under section 616 of the Act of December 22, 1987 (40 U.S.C. 490b).

* * * * *

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

§ 468. Procurement of personnel

[The Coast Guard may make expenditures as necessary in order to obtain recruits for the Service and cadet applicants, including advertising.]

The Coast Guard may expend operating expense funds for recruiting activities, including but not limited to advertising and entertainment, in order to—

- (1) *obtain recruits for the Service and cadet applicants; and*
- (2) *gain support of recruiting objectives from those who may assist in the recruiting effort.*

* * * * *

CHAPTER 17. ADMINISTRATION

§ 641. Disposal of certain material

(a) The Commandant subject to applicable regulations under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) may dispose of, with or without charge, *to the Coast Guard Auxiliary, including any incorporated unit thereof, to the sea-scout service of the Boy Scouts of America, [to any incorporated unit of the Coast Guard Auxiliary,]* and to any public body or private organization not organized for profit having an interest therein for historical or other special reasons, such obsolete or other material as may not be needed for the Coast Guard.

(b) The Commandant may, under regulations prescribed by the Secretary, sell apparatus or equipment manufactured by or in use in the Coast Guard, which is not readily procurable in the open market. The money received from such sale shall be deposited in the Treasury to the credit of the current appropriation from which purchase of similar apparatus or equipment is authorized.

(c)(1) The Commandant may—

- (A) provide for the sale of recyclable materials that the Coast Guard holds;
- (B) provide for the operation of recycling programs at Coast Guard installations; and
- (C) designate Coast Guard installations that have qualified recycling programs for the purposes of subsection (d)(2).

(2) Recyclable materials shall be sold in accordance with section 203 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484).

(d)(1) Proceeds from the sale of recyclable materials at a Coast Guard installation shall be credited to funds available for operations and maintenance at that installation in amounts sufficient to cover operations, maintenance, recycling equipment, and overhead costs for processing recyclable materials at the installation.

(2) If, after funds are credited, a balance remains available to a Coast Guard installation and the installation has a qualified recycling program, not more than 50 percent of that balance may be used at the installation for projects for pollution abatement, energy conservation, and occupational safety and health activities. The cost of the project may not be greater than 50 percent of the amount permissible for a minor construction project.

(3) The remaining balance available to a Coast Guard installation may be transferred to the Coast Guard Morale, Welfare, and Recreation Program.

(e) If the balance available to the Coast Guard installation under this section at the end of a fiscal year is in excess of \$200,000, the amount of that excess shall be deposited in the general fund of the Treasury as offsetting receipts of the Department in which the Coast Guard is operating and ascribed to Coast Guard activities.

* * * * *

§644a. Contracts for health care services

(a) *Subject to the availability of appropriations for this purpose; the Commandant may enter into personal services and other contracts to carry out health care responsibilities pursuant to section 93 of this title and other applicable provisions of law pertaining to the provision of health care services to Coast Guard personnel and covered beneficiaries. The authority provided in this subsection is in addition to any other contract authorities of the Commandant provided by law or as delegated to the Commandant from time to time by the Secretary, including but not limited to authority relating to the management of health care facilities and furnishing of health care services pursuant to title 10 and this title.*

(b) *The total amount of compensation paid to an individual in any year under a personal services contract entered into under subsection (a) shall not exceed the amount of annual compensation (excluding allowances for expenses) allowable for such contracts entered into by the Secretary of Defense pursuant to section 1091 of title 10.*

(c)(1) *The Secretary shall promulgate regulations to assure—*

(A) *the provision of adequate notice of contract opportunities to individuals residing in the area of a medical treatment facility involved; and*

(B) *consideration of interested individuals solely on the basis of the qualifications established for the contract and the proposed contract price.*

(2) *Upon establishment of the procedures under paragraph (1), the Secretary may exempt personal services contracts covered by this*

section from the competitive contracting requirements specified in section 2304 of title 10, or any other similar requirements of law.

(d) The procedures and exemptions provided under subsection (c) shall not apply to personal services contracts entered into under subsection (a) with entities other than individuals or to any contract that is not an authorized personal services contract under subsection (a).

* * * * *

§ 673. Civil penalty for failure to comply with a lawful boarding, order to land, obstruction of boarding, or providing false information

(a) The master, operator, or person in charge of a vessel, or the pilot, operator, or person in charge of an aircraft who fails to comply with an order of a Coast Guard commissioned officer, warrant officer, or petty officer relating to the boarding of a vessel or landing of an aircraft issued under the authority of section 2237 of title 18, United States Code, or section 96 of this title, and communicated according to regulations promulgated under section 2237 of title 18, United States Code, or according to any applicable, internationally recognized standards, or in any other manner reasonably calculated to be received and understood, shall be liable for a civil penalty of not more than \$15,000. For intentional violations of this section, a civil penalty of not more than \$25,000 shall be assessed.

(b) A vessel or aircraft used to violate an order relating to the boarding of a vessel or landing of an aircraft issued under the authority of section 2237 of title 18, United States Code, or Section 96 of this Title, is also liable in rem and may be seized, forfeited, and sold in accordance with Customs law, specifically section 1594 of Title 19, United States Code.

* * * * *

CHAPTER 21. COAST GUARD RESERVE

Subchapter A. General

§ 712. Active duty for emergency augmentation of regular forces

(a) Notwithstanding another law, and for the emergency augmentation of the Regular Coast Guard forces during a serious natural or manmade disaster, accident, or catastrophe, the Secretary may, without the consent of the member affected, order to active duty of not more than thirty days in any four-month period and not more than sixty days in any two-year period an organized training unit of the Coast Guard Ready Reserve, a member thereof, or a member not assigned to a unit organized to serve as a unit.

(b) Under the circumstances of the domestic emergency involved, a reasonable time shall be allowed between the date when a Reserve member ordered to active duty under this section is alerted for that duty and the date when the member is required to enter upon that duty. Unless the Secretary determines that the nature of the domestic emergency does not allow it, this period shall be at least two days.

(c) Active duty served under this section—

(1) satisfies on a day-for-day basis all or a part of the annual active duty for training requirement of section 10147 of title 10;

(2) does not satisfy any part of the active duty obligation of a member whose statutory Reserve obligation is not already terminated; and

(3) entitles a member while engaged therein, or while engaged in authorized travel to or from that duty, to all rights and benefits, including pay and allowances and time creditable for pay and retirement purposes, to which the member would be entitled while performing other active duty.

(d) *Members ordered to active duty under this section shall not be counted in computing authorized strength in members on active duty or members in grade under this title or under any other law.*

* * * * *

CHAPTER 23. COAST GUARD AUXILIARY

§ 821. Administration of the Coast Guard Auxiliary

【The Coast Guard Auxiliary established on February 19, 1941, is a nonmilitary organization administered by the Commandant under the direction of the Secretary.】

(a) *The Coast Guard Auxiliary is a nonmilitary organization administered by the Commandant under the direction of the Secretary. For command, control, and administrative purposes, the Auxiliary shall include such organizational elements and units as are approved by the Commandant, including but not limited to, a national board and staff (Auxiliary headquarters unit), districts, regions, divisions, flotillas, and other organizational elements and units. The Auxiliary organization and its officers shall have such rights, privileges, powers, and duties as may be granted to them by the Commandant, consistent with this title and other applicable provisions of law. The Commandant may delegate to officers of the Auxiliary the authority vested in the Commandant by this section, in the manner and to the extent the Commandant considers necessary or appropriate for the functioning, organization, and internal administration of the Auxiliary.*

(b) *Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 822, at all times be deemed to be an instrumentality of the United States, for purposes of the Federal Tort Claims Act (28 U.S.C. 2671, et seq.), the Military Claims Act (10 U.S.C. 2733), the Public Vessels Act (46 U.S.C. App. 781-790), the Suits in Admiralty Act (46 U.S.C. App. 741-752), the Admiralty Extension Act (46 U.S.C. App. 740), and for other noncontractual civil liability purposes.*

(c) *The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law, provided that the formation of such a corporation is in accordance with policies established by the Commandant.*

§ 822. Purpose of the Coast Guard Auxiliary

[The purpose of the Auxiliary is to assist the Coast Guard:

[(a) to promote safety and to effect rescues on and over the high seas and on navigable waters;

[(b) to promote efficiency in the operation of motorboats and yachts;

[(c) to foster a wider knowledge of, and better compliance with, the laws, rules, and regulations governing the operation of motorboats and yachts; and

[(d) to facilitate other operations of the Coast Guard.]

The purpose of the Auxiliary is to assist the Coast Guard, as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law.

* * * * *

§ 823a. Members of the Auxiliary; status

(a) Except as otherwise provided in this chapter, a member of the Coast Guard Auxiliary shall not be deemed to be a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those relating to hours of work, rates of compensation, leave, unemployment compensation, Federal employee benefits, ethics, conflicts of interest, and other similar criminal or civil statutes and regulations governing the conduct of Federal employees. However, nothing in this subsection shall constrain the Commandant from prescribing standards for the conduct and behavior of members of the Auxiliary.

(b) A member of the Auxiliary while assigned to duty shall be deemed to be a Federal employee only for the purposes of the following:

(1) the Federal Tort Claims Act (28 U.S.C. 2671 et seq.), the Military Claims Act (10 U.S.C. 2733), the Public Vessels Act (46 U.S.C. App. 781-790), the Suits in Admiralty Act (46 U.S.C. App. 741-752), the Admiralty Extension Act (46 U.S.C. App. 740), and for other noncontractual civil liability purposes;

(2) compensation for work injuries under chapter 81 of title 5, United States Code; and

(3) the resolution of claims relating to damage to or loss of personal property of the member incident to service under the Military Personnel and Civilian Employees' Claims Act of 1964 (31 U.S.C. 3721).

(c) A member of the Auxiliary, while assigned to duty, shall be deemed to be a person acting under an officer of the United States or an agency thereof for purposes of section 1442(a)(1) of title 28, United States Code.

* * * * *

§ 827. Vessel deemed public vessel

[Any motorboat or yacht, while assigned to authorized Coast Guard duty shall be deemed to be a public vessel of the United States, and within the meaning of section 646 of this title shall be deemed to be a vessel of the Coast Guard.]

While assigned to authorized Coast Guard duty, any motorboator yacht shall be deemed to be a public vessel of the United States and

a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law.

§ 828. Aircraft deemed public aircraft

[Any aircraft, while assigned to authorized Coast Guard duty shall be deemed to be a vessel of the Coast Guard within the meaning of section 646 of this title.]

While assigned to authorized Coast Guard duty, any aircraft shall be deemed to be a Coast Guard aircraft, a public vessel of the United States, and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law. Subject to the provisions of sections 823a and 831 of this title, while assigned to duty, qualified Auxiliary pilots shall be deemed to be Coast Guard pilots.

* * * * *

§ 830. Availability of appropriations

(a) Appropriations of the Coast Guard shall be available for the payment of actual necessary traveling expense and subsistence, or commutation of ration allowance in lieu of subsistence, of members of the Auxiliary assigned to authorized [specific] duties and for actual necessary expenses of operation of any motorboat, yacht, aircraft, or radio station when assigned to Coast Guard duty, but shall not be available for the payment of compensation for personal services, incident to such operation, other than to personnel of the Coast Guard or the Reserve. The term "actual necessary expenses of operation," as used in this section, shall include payment for fuel, oil, power, water, supplies, provisions, replacement or repair of equipment, repair of any damaged motorboat, yacht, aircraft, or radio station and for the constructive or actual loss of any motorboat, yacht, aircraft, or radio station where it is determined, under applicable regulations, that responsibility for the loss or damage necessitating such replacement or repair of equipment, or for the damage or loss, constructive or actual, of such motorboat, yacht, aircraft, or radio station rests with the Coast Guard.

(b) The Secretary may pay interest on a claim under this section in any case in which a payment authorized under this section is not made within 60 days after the submission of the claim in a manner prescribed by the Secretary. The rate of interest for purposes of this section shall be the annual rate established under section 6621 of the Internal Revenue Code of 1954.

§ 831. Assignment and performance of duties

No member of the Auxiliary, solely by reason of such membership, shall be vested with, or exercise, any right, privilege, power, or duty vested in or imposed upon the personnel of the Coast Guard or the Reserve, except that any such member may, under applicable regulations, be assigned [specific] duties, which, after appropriate training and examination, he has been found competent to perform, to effectuate the purposes of the Auxiliary. No member of the Auxiliary shall be placed in charge of a motorboat, yacht, aircraft, or radio station assigned to Coast Guard duty unless he has been specifically designated by authority of the Com-

mandant to perform such duty. Members of the Auxiliary, when assigned to [specific] duties as herein authorized shall, unless otherwise limited by the Commandant, be vested with the same power and authority, in the execution of such duties, as members of the regular Coast Guard assigned to similar duty. When any member of the Auxiliary is assigned to such duty he may, pursuant to regulations issued by the Secretary, be paid actual necessary traveling expenses, including a per diem allowance in conformity with standardized Government travel regulations in lieu of subsistence, while traveling and while on duty away from his home. No per diem shall be paid for any period during which quarters and subsistence in kind are furnished by the Government, and no per diem shall be paid for any period while such member is performing duty on a vessel.

§ 832. Injury or death in line of duty

When any member of the Auxiliary is physically injured or dies as a result of physical injury incurred while performing any [specific] duty to which he has been assigned by competent Coast Guard authority, such member or his beneficiary shall be entitled to the same benefits provided for temporary members of the Reserve who suffer physical injury or death resulting from physical injury incurred incident to service. Members of the Auxiliary who incur physical injury or contract sickness or disease while performing any [specific] duty to which they have been assigned by competent Coast Guard authority shall be entitled to the same hospital treatment afforded members of the Coast Guard. The performance of a [specific] duty as the term is used in this section includes time engaged in traveling back and forth between the place of assigned duty and the permanent residence of a member of the Auxiliary.

SECTION 5, JOHNSON ACT (15 USC 1175)

§ 1175. Specific jurisdictions within which manufacturing, repairing, selling, possessing, etc., prohibited

(a) GENERAL RULE.—It shall be unlawful to manufacture, recondition, repair, sell, transport, possess, or use any gambling device in the District of Columbia, in any possession of the United States, within Indian country as defined in section 1151 of title 18 of the United States Code or within the special maritime and territorial jurisdiction of the United States as defined in section 7 of title 18 of the United States Code, including on a vessel documented under chapter 121 of title 46, United States Code, or documented under the laws of a foreign country.

[(b) EXCEPTION.—

[(1) IN GENERAL.—Except as provided in paragraph (2), this section does not prohibit—

[(A) the repair, transport, possession, or use of a gambling device on a vessel that is not within the boundaries of any State or possession of the United States; or

[(B) the transport or possession, on a voyage, of a gambling device on a vessel that is within the boundaries of any State or possession of the United States, if—

[(i) use of the gambling device on a portion of that voyage is, by reason of subparagraph (A), not a violation of this section; and

[(ii) the gambling device remains on board that vessel while the vessel is within the boundaries of that State or possession.

[(2) APPLICATION TO CERTAIN VOYAGES.—

[(A) GENERAL RULE.—Paragraph (1)(A) does not apply to the repair or use of a gambling device on a vessel that is on a voyage or segment of a voyage described in subparagraph (B) of this paragraph if the State or possession of the United States in which the voyage or segment begins and ends has enacted a statute the terms of which prohibit that repair or use on that voyage or segment.

[(B) VOYAGE AND SEGMENT DESCRIBED.—A voyage or segment of a voyage referred to in subparagraph (A) is a voyage or segment, respectively—

[(i) that begins and ends in the same State or possession of the United States, and

[(ii) during which the vessel does not make an intervening stop within the boundaries of another State or possession of the United States or a foreign country.]

(b)(1) Of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to \$15,000,000 for fiscal year 1995, \$40,000,000 for fiscal year 1996, \$55,000,000 for fiscal year 1997, and \$69,000,000 for each of fiscal years 1998 and 1999, shall, subject to paragraph (2), be used as follows:

(A) A sum equal to \$7,500,000 of the amount available for fiscal year 1995, and a sum equal to \$10,000,000 of the amount available for each of fiscal years 1996 and 1997, shall be available for use by the Secretary of the Interior for grants under section 5604(c) of the Clean Vessel Act of 1992. Any portion of such a sum available for a fiscal year that is not obligated for those grants before the end of the following fiscal year shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for State recreational boating safety programs under section 13106 of title 46, United States Code.

(B) A sum equal to \$7,500,000 of the amount available for fiscal year 1995, \$30,000,000 of the amount available for fiscal year 1996, \$45,000,000 of the amount available for fiscal year 1997, and \$59,000,000 of the amount available for each of fiscal years 1998 and 1999, shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for recreational boating safety programs under section 13106 of title 46, United States Code.

(C) A sum equal to \$10,000,000 of the amount available for each of fiscal years 1998 and 1999 shall be available for use by the Secretary of the Interior for—

(i) grants under section 502(e) of the Coast Guard Authorization Act of 1995; and

(ii) grants under section 5604(c) of the Clean Vessel Act of 1992.

Any portion of such a sum available for a fiscal year that is not obligated for those grants before the end of the following fiscal year shall be transferred to the Secretary of Transportation and shall be expended by the Secretary of Transportation for State recreational boating safety programs under section 13106 of title 46, United States Code.

(2)(A) Beginning with fiscal year 1996, the amount transferred under paragraph (1)(B) for a fiscal year shall be reduced by the lesser of—

(i) the amount appropriated for that fiscal year from the Boat Safety Account in the Aquatic Resources Trust Fund established under section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106 of title 46, United States Code; or

(ii) \$35,000,000.

(iii) for fiscal year 1996 only, \$30,000,000.

(B) The amount of any reduction under subparagraph (A) shall be apportioned among the several States under subsection (d) of this section by the Secretary of the Interior.

(C) EXCLUSION OF CERTAIN VOYAGES AND SEGMENTS.—Except for a voyage or segment of a voyage that occurs within the boundaries of the State of Hawaii, a voyage or segment of a voyage is not described in subparagraph (B) if it includes or consists of a segment—

(i) that begins and ends in the same State;

(ii) that is part of a voyage to another State or to a foreign country; and

(iii) in which the vessel reaches the other State or foreign country within 3 days after leaving the State in which it begins.

TITLE 16. CONSERVATION

CHAPTER 10B. FISH RESTORATION AND MANAGEMENT PROJECTS

§ 777c. Division of annual appropriations

(a) INITIAL DISTRIBUTION.—The Secretary of the Interior shall distribute 18 per centum of each annual appropriation made in accordance with the provisions of section 3 of this Act as provided in the Coastal Wetlands Planning, Protection, and Restoration Act (title III, Public Law 101-646). Notwithstanding the provisions of section 3 of this Act, such sums shall remain available to carry out such Act through fiscal year 1999.

(b) USE OF BALANCE AFTER DISTRIBUTION.—Of the balance of each such annual appropriation remaining after making the distribution under subsection (a), an amount equal to \$10,000,000 for fiscal year 1993, \$15,000,000 for each of fiscal years 1994 and 1995, and \$20,000,000 for each of fiscal years 1996, and 1997 shall be used as follows:

(1) one-half shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code; and

(2) one-half of amounts made available under this subsection in a fiscal year shall be available for two years for obligation under section 5604(c) of the Clean Vessel Act of 1992. The Secretary of the Interior may make grants for qualified projects in an amount up to the amount available under this paragraph. Amounts unobligated by the Secretary of the Interior after two years shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.

In fiscal year 1998, an amount equal to \$20,000,000 of the balance remaining after the distribution under subsection (a) shall be transferred to the Secretary of Transportation and be expended for State recreational boating safety programs under section 13106(a)(1) of title 46, United States Code.

(c) FUNDS AVAILABLE FOR EXPENSES OF INVESTIGATIONS AND ADMINISTRATION.—Of the balance of each such annual appropriation remaining after the distribution and use under subsections (a) and (b), respectively, so much, not to exceed 6 per centum of such balance, as the Secretary of the Interior may estimate to be necessary for his or her expenses in the conduct of necessary investigations, administration, and the execution of this Act and for aiding in the formulation, adoption, or administration of any compact between two or more States for the conservation and management of migratory fishes in marine or freshwaters, shall be deducted for that purpose, and such sum is authorized to be made available until the expiration of the next succeeding fiscal year.

(d) APPORTIONMENT AMONG STATES.—The Secretary of the Interior, after the distribution, transfer, use, and deduction under subsections (a), (b), and (c), respectively, shall apportion the remainder of each such annual appropriation among the several States in the following manner: 40 per centum in the ratio which the area of each State including coastal and Great Lakes waters (as determined by the Secretary of the Interior) bears to the total area of all the States, and 60 per centum in the ratio which the number of persons holding paid licenses to fish for sport or recreation in the State in the second fiscal year preceding the fiscal year for which such apportionment is made, as certified to said Secretary by the State fish and game departments, bears to the number of such persons in all the States. Such apportionments shall be adjusted equitably so that no State shall receive less than 1 per centum nor more than 5 per centum of the total amount apportioned. Where the apportionment to any State under this section is less than \$4,500 annually, the Secretary of the Interior may allocate not more than \$4,500 of said appropriation to said State to carry out the purposes of this Act when said State certifies to the Secretary of the Interior that it has set aside not less than \$1,500 from its fish-and-game funds or has made, through its legislature, an appropriation in this amount for said purposes.

(e) UNALLOCATED FUNDS.—So much of any sum not allocated under the provisions of this section for any fiscal year is hereby authorized to be made available for expenditure to carry out the purposes of this Act until the close of the succeeding fiscal year, and if unexpended or unobligated at the end of such year, such sum is hereby authorized to be made available for expenditure by the Sec-

retary of the Interior in carrying on the research program of the Fish and Wildlife Service in respect to fish of material value for sport or recreation. The term fiscal year as used in this section shall be a period of twelve consecutive months from October 1 through the succeeding September 30, except that the period for enumeration of persons holding licenses to fish shall be a State's fiscal or license year.

TITLE 18. CRIMES AND CRIMINAL PROCEDURE

§2237. Sanctions for failure to land or to bring to; sanctions for obstruction of boarding and providing false information

(a)(1) *It shall be unlawful for the pilot, operator, or person in charge of an aircraft which has crossed the border of the United States, or an aircraft subject to the jurisdiction of the United States operating outside the United States, to fail to obey an order to land by an authorized Federal law enforcement officer who is enforcing the laws of the United States relating to controlled substances, as that term is defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), or relating to money laundering (sections 1956-57 of this title).*

(2) *The Administrator of the Federal Aviation Administration, in consultation with the Commissioner of Customs and the Attorney General, shall prescribe regulations governing the means by which a Federal law enforcement officer may communicate an order to land to a pilot, operator, or person in charge of an aircraft.*

(b)(1) *It shall be unlawful for the master, operator, or person in charge of a vessel of the United States or a vessel subject to the jurisdiction of the United States, to fail to obey an order to bring to that vessel on being ordered to do so by an authorized Federal law enforcement officer.*

(2) *It shall be unlawful for any person on board a vessel of the United States or a vessel subject to the jurisdiction of the United States to—*

(A) *fail to comply with an order of an authorized Federal law enforcement officer in connection with the boarding of the vessel;*

(B) *impede or obstruct a boarding or arrest, or other law enforcement action authorized by any Federal law; or*

(C) *provide information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew, which that person knows or has reason to know is false.*

(c) *This section does not limit in any way the preexisting authority of a customs officer under section 581 of the Tariff Act of 1930 or any other provision of law enforced or administered by the Customs Service, or the preexisting authority of any Federal law enforcement officer under any law of the United States to order an aircraft to land or a vessel to bring to.*

(d) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the Secretary's designee.

(e) For purposes of this section—

(1) A "vessel of the United States" and a "vessel subject to the jurisdiction of the United States" have the meaning set forth for these terms in the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903);

(2) an aircraft "subject to the jurisdiction of the United States" includes—

(A) an aircraft located over the United States or the customs waters of the United States;

(B) an aircraft located in the airspace of a foreign nation, where that nation consents to the enforcement of United States law by the United States; and

(C) over the high seas, an aircraft without nationality, an aircraft of United States registry, or an aircraft registered in a foreign nation that has consented or waived objection to the enforcement of United States law by the United States;

(3) an aircraft "without nationality" includes—

(A) an aircraft aboard which the pilot, operator, or person in charge makes a claim of registry, which claim is denied by the nation whose registry is claimed; and

(B) an aircraft aboard which the pilot, operator, or person in charge fails, upon request of an officer of the United States empowered to enforce applicable provisions of United States law, to make a claim of registry for that aircraft.

(4) the term "bring to" means to cause a vessel to slow or come to a stop to facilitate a law enforcement boarding by adjusting the course and speed of the vessel to account for the weather conditions and sea state; and

(5) the term "Federal law enforcement officer" has the meaning set forth in section 115 of this title.

(f) Any person who intentionally violates the provisions of this section shall be subject to—

(1) imprisonment for not more than 5 years; and

(2) a fine as provided in this title.

(g) An aircraft or vessel that is used in violation of this section may be seized and forfeited. The laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures undertaken, or alleged to have been undertaken, under any of the provisions of this section; except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose. A vessel or air-

craft that is used in violation of this section is also liable in rem for any fine or civil penalty imposed under this section.

TITLE 19. CUSTOMS DUTIES

CHAPTER 4. TARIFF ACT OF 1930

ADMINISTRATIVE PROVISIONS; ENFORCEMENT PROVISIONS

§ 1581. Boarding vessels

(a) **CUSTOMS OFFICERS.**—Any officer of the customs may at any time go on board of any vessel or vehicle at any place in the United States or within the customs waters or, as he may be authorized, within a customs-enforcement area established under the Anti-Smuggling Act, or at any other authorized place without as well as within his district, and examine the manifest and other documents and papers and examine, inspect, and search the vessel or vehicle and every part thereof and any person, trunk, package, or cargo on board, and to this end may hail and stop such vessel or vehicle, and use all necessary force to compel compliance.

(b) **OFFICERS OF DEPARTMENT OF TREASURY.**—Officers of the Department of Commerce and other persons authorized by such department may go on board of any vessel at any place in the United States or within the customs waters and hail, stop, and board such vessel in the enforcement of the navigation laws and arrest or, in case of escape or attempted escape, pursue and arrest any person engaged in the breach or violation of the navigation laws.

(c) **PENALTY FOR PRESENTING FORGED, ALTERED, OR FALSE DOCUMENTS.**—Any master of a vessel being examined as herein provided, who presents any forged, altered, or false document or paper to the examining officer, knowing the same to be forged, altered, or false and without revealing the fact shall, in addition to any forfeiture to which in consequence the vessel may be subject, be liable to a fine of not more than \$5,000 nor less than \$500.

(d) **PENALTY FOR FAILURE TO STOP AT COMMAND.**—Any vessel or vehicle which, at any authorized place, is directed to come to a stop by any officer of the customs, or is directed to come to a stop by signal made by any vessel employed in the service of the customs and displaying proper insignia, shall come to a stop, and upon failure to comply a vessel or vehicle so directed to come to a stop shall become subject to pursuit and the master, owner, operator, or person in charge thereof shall be liable to a penalty of not more than \$5,000 nor less than \$1,000.

(e) **SEIZURE OF VESSEL OR MERCHANDISE.**—If upon the examination of any vessel or vehicle it shall appear that a breach of the laws of the United States is being or has been committed so as to render such vessel or vehicle, or the merchandise, or any part thereof, on board of, or brought into the United States by, such vessel or vehicle, liable to forfeiture or to secure any fine or penalty, the same shall be seized and any person who has engaged in such breach shall be arrested.

(f) **DUTY OF CUSTOMS OFFICERS TO SEIZE VESSEL.**—It shall be the duty of the several officers of the customs to seize and secure

any vessel, vehicle, or merchandise which shall become liable to seizure, and to arrest any person who shall become liable to arrest, by virtue of any law, respecting the revenue, as well without as within their respective districts, and to use all necessary force to seize or arrest the same.

(g) **VESSELS DEEMED EMPLOYED WITHIN UNITED STATES.**—Any vessel, within or without the customs waters, from which any merchandise is being, or has been, unlawfully introduced into the United States by means of any boat belonging to, or owned, controlled, or managed in common with, said vessel, shall be deemed to be employed within the United States and, as such, subject to the provisions of this section.

(h) **APPLICATION OF SECTION TO TREATIES OF UNITED STATES.**—The provisions of this section shall not be construed to authorize or require any officer of the United States to enforce any law of the United States upon the high seas upon a foreign vessel in contravention of any treaty with a foreign government enabling or permitting the authorities of the United States to board, examine, search, seize, or otherwise to enforce upon said vessel upon the high seas the laws of the United States except as such authorities are or may otherwise be enabled or permitted under special arrangement with such foreign government.

(i) *As used in this section, the term "authorized place" includes—*

(1) with respect to a vehicle, a location in a foreign country at which United States customs officers are permitted to conduct inspections, examinations, or searches; and

(2) with respect to aircraft to which this section applies by virtue of section 644 of this Act (19 U.S.C. 1644), or regulations issued thereunder, or section 2237 of title 18, United States Code, any location outside of the United States, including a foreign country at which United States customs officers are permitted to conduct inspections, examinations, or searches.

* * * * *

§ 591. Civil penalty for failure to obey an order to land

(a) The pilot, operator, or person in charge of an aircraft who fails to comply with an order of an authorized Federal law enforcement officer relating to the landing of an aircraft issued under the authority of section 581 of this Act, or section 2237 of title 18, United States Code, and communicated according to regulations promulgated under section 2237 of title 18, United States Code, or according to any applicable, internationally recognized standards, or in any other manner reasonably calculated to be received and understood, shall be liable for a civil penalty of not more than \$15,000. For intentional violations of this section, a civil penalty of not more than \$25,000 shall be assessed.

(b) An aircraft used to violate an order relating to the landing of an aircraft issued under the authority of section 581 of this Act, or section 2237 of title 18, United States Code, is also liable in rem and may be seized, forfeited, and sold in accordance with Customs law, specifically section 1594 of title 19, United States Code.

TITLE 33. NAVIGATION AND NAVIGABLE WATERS

CHAPTER 18. LONGSHORE AND HARBOR WORKERS' COMPENSATION

§ 903. Coverage

(a) **DISABILITY OR DEATH; INJURIES OCCURRING UPON NAVIGABLE WATERS OF UNITED STATES.**—Except as otherwise provided in this section, compensation shall be payable under this Act in respect of disability or death of an employee, but only if the disability or death results from an injury occurring upon the navigable waters of the United States (including any adjoining pier, wharf, drydock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, dismantling, or building a vessel).

(b) **GOVERNMENTAL OFFICERS AND EMPLOYEES.**—No compensation shall be payable in respect of the disability or death of an officer or employee of the United States, or any agency thereof, or of any State or foreign government, or any subdivision thereof.

(c) **INTOXICATION; WILLFUL INTENTION TO KILL.**—No compensation shall be payable if the injury was occasioned solely by the intoxication of the employee or by the willful intention of the employee to injure or kill himself or another.

(d) **SMALL VESSELS.**—

(1) No compensation shall be payable to an employee employed at a facility of an employer if, as certified by the Secretary, the facility is engaged in the business of building, repairing, or dismantling exclusively small vessels (as defined in paragraph (3) of this subsection), unless the injury occurs while upon the navigable waters of the United States or while upon any adjoining pier, wharf, dock, facility over land for launching vessels, or facility over land for hauling, lifting, or drydocking vessels.

(2) Notwithstanding paragraph (1), compensation shall be payable to an employee—

(A) who is employed at a facility which is used in the business of building, repairing, or dismantling small vessels if such facility receives Federal maritime subsidies; or

(B) if the employee is not subject to coverage under a State workers' compensation law.

(3) For purposes of this subsection, a small vessel means—

(A) a commercial barge which is under 900 lightship displacement tons; or

(B) a commercial tugboat, towboat, crew boat, supply boat, fishing vessel, or other work vessel which is under 1,600 tons gross *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title.*

(e) **CREDIT FOR BENEFITS PAID UNDER OTHER LAWS.**—Notwithstanding any other provision of law, any amounts paid to an employee for the same injury, disability, or death for which benefits

are claimed under this Act pursuant to any other workers' compensation law or section 20 of the Act of March 4, 1915 (38 Stat. 1185, chapter 153; 46 U.S.C. 688) (relating to recovery for injury to or death of seamen) shall be credited against any liability imposed by this Act.

* * * * *

CHAPTER 24. VESSEL BRIDGE-TO-BRIDGE COMMUNICATIONS

§ 1203. Radiotelephone requirement

(a) VESSEL COVERAGE; EXCHANGE OF NAVIGATIONAL INFORMATION.—Except as provided in section 7 of this Act—

(1) every power-driven vessel of twenty meters or over in length while navigating;

(2) every vessel of one hundred gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*, and upward carrying one or more passengers for hire while navigating;

(3) every towing vessel of twenty-six feet or over in length while navigating; and

(4) every dredge and floating plant engaged in or near a channel or fairway in operations likely to restrict or affect navigation of other vessels—

shall have a radiotelephone capable of operation from its navigational bridge or, in the case of a dredge, from its main control station and capable of transmitting and receiving on the frequency or frequencies within the 156—162 Mega-Hertz band using the classes of emissions designated by the Federal Communications Commission, after consultation with other cognizant agencies, for the exchange of navigational information.

(b) VESSELS UPON NAVIGABLE WATERS OF UNITED STATES INSIDE HIGH SEAS LINES.—The radiotelephone required by subsection (a) shall be carried on board the described vessels, dredges, and floating plants upon the navigable waters of the United States inside the lines established pursuant to section 2 of the Act of February 19, 1895 (28 Stat. 672), as amended.

CHAPTER 25. PORTS AND WATERWAYS SAFETY PROGRAM

§ 1223. Vessel operating requirements

(a) IN GENERAL.—Subject to the requirements of section 5, the Secretary—

(1) in any port or place under the jurisdiction of the United States, in the navigable waters of the United States, or in any area covered by an international agreement negotiated pursuant to section 11, may construct, operate, maintain, improve, or expand vessel traffic services, consisting of measures for controlling or supervising vessel traffic or for protecting navigation and the marine environment and may include, but need not be limited to one or more of the following: reporting and

operating requirements, surveillance and communications systems, routing systems, and fairways;

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

(3) may require vessels to install and use specified navigation equipment, communications equipment, electronic relative motion analyzer equipment, or any electronic or other device necessary to comply with a vessel traffic service or which is necessary in the interests of vessel safety: *Provided*, That the Secretary shall not require fishing vessels under 300 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title or recreational vessels 65 feet or less to possess or use the equipment or devices required by this subsection solely under the authority of this Act;

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

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

(B) establishing vessel traffic routing schemes;

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

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

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

(b) SPECIAL POWERS.—The Secretary may order any vessel, in a port or place subject to the jurisdiction of the United States or in the navigable waters of the United States, to operate or anchor in a manner he directs if—

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

(2) he determines that such vessel does not satisfy the conditions for port entry set forth in section 9; or

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

(c) PORT ACCESS ROUTES.—

(1) In order to provide safe access routes for the movement of vessel traffic proceeding to or from ports or places subject to

the jurisdiction of the United States, and subject to the requirements of paragraph (3) hereof, the Secretary shall designate necessary fairways and traffic separation schemes for vessels operating in the territorial sea of the United States and in high seas approaches, outside the territorial sea, to such ports or places. Such a designation shall recognize, within the designated area, the paramount right of navigation over all other uses.

(2) No designation may be made by the Secretary pursuant to this subsection, if such a designation, as implemented, would deprive any person of the effective exercise of a right granted by a lease or permit executed or issued under other applicable provisions of law: *Provided*, That such right has become vested prior to the time of publication of the notice required by clause (A) of paragraph (3) hereof: *Provided further*, That the determination as to whether the designation would so deprive any such person shall be made by the Secretary, after consultation with the responsible official under whose authority the lease was executed or the permit issued.

(3) Prior to making a designation pursuant to paragraph (1) hereof, and in accordance with the requirements of section 5, the Secretary shall—

(A) within six months after date of enactment of this Act (and may, from time to time thereafter), undertake a study of the potential traffic density and the need for safe access routes for vessels in any area for which fairways or traffic separation schemes are proposed or which may otherwise be considered and shall publish notice of such undertaking in the Federal Register;

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

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

(4) In carrying out his responsibilities under paragraph (3), the Secretary shall proceed expeditiously to complete any study undertaken. Thereafter, he shall promptly issue a notice of proposed rulemaking for the designation contemplated or shall have published in the Federal Register a notice that no designation is contemplated as a result of the study and the reason for such determination.

(5) In connection with a designation made pursuant to this subsection, the Secretary—

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

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

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

(D) shall, through appropriate channels, (i) notify cognizant international organizations of any designation, or adjustment thereof, and (ii) take action to seek the cooperation of foreign States in making it mandatory for vessels under their control to use any fairway or traffic separation scheme designated pursuant to this subsection in any area of the high seas, to the same extent as required by the Secretary for vessels of the United States.

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

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

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

* * * * *

§ 1231a. Towing Safety Advisory Committee

(a) ESTABLISHMENT; MEMBERSHIP.—There is established a Towing Safety Advisory Committee (hereinafter referred to as the “Committee”). The Committee shall consist of sixteen members with particular expertise, knowledge, and experience regarding shallow-draft inland and coastal waterway navigation and towing safety follows:

(1) seven members from the barge and towing industry, reflecting a regional geographic balance;

(2) one member from the offshore mineral and oil supply vessel industry; and

(3) two members from each of the following—

- (A) port districts, authorities, or terminal operators;
- (B) maritime labor;
- (C) shippers (of whom at least one shall be engaged in the shipment of oil or hazardous materials by barge); and
- (D) the general public.

(b) APPOINTMENTS; CHAIRMAN, VICE CHAIRMAN, AND OBSERVERS; PUBLICATION IN FEDERAL REGISTER.—The Secretary of the department in which the Coast Guard is operating (hereinafter referred to as the “Secretary”) shall appoint the members of the Committee. The Secretary shall designate one of the members of the committee as the Chairman and one of the members as the Vice Chairman. The Vice chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman. The Secretary may request the Secretary of the Army and the Secretary of Commerce to each designate a representative to participate as an observer on the Committee. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the Committee.

(c) FUNCTIONS; MEETINGS; PUBLIC PROCEEDINGS AND RECORDS; DISCLOSURES TO CONGRESS.—The Committee shall advise, consult with, and make recommendations to the Secretary on matters relating to shallow-draft inland and coastal waterway navigation and towing safety. Any advice or recommendation made by the Committee to the Secretary shall reflect the independent judgment of the Committee on the matter concerned. The Secretary shall consult with the Committee before taking any significant action affecting shallow-draft inland and coastal waterway navigation and towing safety. The Committee shall meet at the call of the Secretary, but in any event not less than once during each calendar year. All proceedings of the Committee shall be open to the public, and a record of the proceedings shall be made available for public inspection. The Committee is authorized to make available to Congress any information, advice, and recommendations which the Committee is authorized to give to the Secretary.

(d) COMPENSATION AND TRAVEL EXPENSES; ADMINISTRATIVE SERVICES; PERSONNEL; AUTHORIZATION OF APPROPRIATIONS.—Members of the Committee who are not officers or employees of the United States shall serve without pay and members of the Committee who are officers or employees of the United States shall receive no additional pay on account of their service on the Committee. While away from their homes or regular places of business, members of the Committee may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. The Secretary shall furnish to the Committee an executive secretary and such secretarial, clerical, and other services as are considered necessary for the conduct of its business. There are authorized to be appropriated such sums as may be necessary to implement the provisions of this subsection.

(e) TERMINATION.—Unless extended by subsequent Act of Congress, the Committee shall terminate on [September 30, 1995.] *September 30, 2000.*

**CHAPTER 26. WATER POLLUTION PREVENTION AND
CONTROL STANDARDS AND ENFORCEMENT**

§ 1322. Marine sanitation devices

- (a) DEFINITIONS.—For the purpose of this section, the term—
- (1) “new vessel” includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated after promulgation of standards and regulations under this section;
 - (2) “existing vessel” includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters, the construction of which is initiated before promulgation of standards and regulations under this section;
 - (3) “public vessel” means a vessel owned or bareboat chartered and operated by the United States, by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;
 - (4) “United States” includes the States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Canal Zone, and the Trust Territory of the Pacific Islands;
 - (5) “marine sanitation device” includes any equipment for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage;
 - (6) “sewage” means human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes except that, with respect to commercial vessels on the Great Lakes, such term shall include graywater;
 - (7) “manufacturer” means any person engaged in the manufacturing, assembling, or importation of marine sanitation devices or of vessels subject to standards and regulations promulgated under this section;
 - (8) “person” means an individual, partnership, firm, corporation, or association, but does not include an individual on board a public vessel;
 - (9) “discharge” includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping;
 - (10) “commercial vessels” means those vessels used in the business of transporting property for compensation or hire, or in transporting property in the business of the owner, lessee, or operator of the vessel;
 - (11) “graywater” means galley, bath, and shower water.
- (b) FEDERAL STANDARDS OF PERFORMANCE.—
- (1) As soon as possible, after the enactment of this section and subject to the provisions of section 104(j) of this Act, the Administrator, after consultation with the Secretary of the department in which the Coast Guard is operating, after giving appropriate consideration to the economic costs involved, and within the limits of available technology, shall promulgate Federal standards of performance for marine sanitation devices (hereafter in this section referred to as “standards”) which

shall be designed to prevent the discharge of untreated or inadequately treated sewage into or upon the navigable waters from new vessels and existing vessels, except vessels not equipped with installed toilet facilities. Such standards and standards established under subsection (c)(1)(B) of this section shall be consistent with maritime safety and the marine and navigation laws and regulations and shall be coordinated with the regulations issued under this subsection by the Secretary of the department in which the Coast Guard is operating. The Secretary of the department in which the Coast Guard is operating shall promulgate regulations, which are consistent with standards promulgated under this subsection and subsection (c) of this section and with maritime safety and the marine and navigation laws and regulations governing the design, construction, installation, and operation of any marine sanitation device on board such vessels.

(2) Any existing vessel equipped with a marine sanitation device on the date of promulgation of initial standards and regulations under this section, which device is in compliance with such initial standards and regulations, shall be deemed in compliance with this section until such time as the device is replaced or is found not to be in compliance with such initial standards and regulations.

(c) INITIAL STANDARDS; EFFECTIVE DATES; REVISION; WAIVER.—

(1)(A) Initial standards and regulations under this section shall become effective for new vessels two years after promulgation; and for existing vessels five years after promulgation. Revisions of standards and regulations shall be effective upon promulgation, unless another effective date is specified, except that no revision shall take effect before the effective date of the standard or regulation being revised.

(B) The Administrator shall, with respect to commercial vessels on the Great Lakes, establish standards which require at a minimum the equivalent of secondary treatment as defined under section 304(d) of this Act. Such standards and regulations shall take effect for existing vessels after such time as the Administrator determines to be reasonable for the upgrading of marine sanitation devices to attain such standard.

(2) The Secretary of the department in which the Coast Guard is operating with regard to his regulatory authority established by this section, after consultation with the Administrator, may distinguish among classes, type, and sizes of vessels as well as between new and existing vessels, and may waive applicability of standards and regulations as necessary or appropriate for such classes, types, and sizes of vessels (including existing vessels equipped with marine sanitation devices on the date of promulgation of the initial standards required by this section), and, upon application, for individual vessels.

(d) VESSELS OWNED AND OPERATED BY THE UNITED STATES.—The provisions of this section and the standards and regulations promulgated hereunder apply to vessels owned and operated by the United States unless the Secretary of Defense finds that compliance would not be in the interest of national security. With respect

to vessels owned and operated by the Department of Defense, regulations under the last sentence of subsection (b)(1) of this section and certifications under subsection (g)(2) of this section shall be promulgated and issued by the Secretary of Defense.

(e) **PRE-PROMULGATION CONSULTATION.**—Before the standards and regulations under this section are promulgated, the Administrator and the Secretary of the department in which the Coast Guard is operating shall consult with the Secretary of State; the Secretary of Health, Education, and Welfare; the Secretary of Defense; the Secretary of the Treasury; the Secretary of Commerce; other interested Federal agencies; and the States and industries interested; and otherwise comply with the requirements of section 553 of title 5 of the United States Code.

(f) **REGULATION BY STATES OR POLITICAL SUBDIVISIONS THEREOF; COMPLETE PROHIBITION UPON DISCHARGE OF SEWAGE.**

(1)(A) Except as provided in subparagraph (B), after the effective date of the initial standards and regulations promulgated under this section, no State or political subdivision thereof shall adopt or enforce any statute or regulation of such State or political subdivision with respect to the design, manufacture, or installation or use of any marine sanitation device on any vessel subject to the provisions of this section.

(B) A State may adopt and enforce a statute or regulation with respect to the design, manufacture, or installation or use of any marine sanitation device on a houseboat, if such statute or regulation is more stringent than the standards and regulations promulgated under this section. For purposes of this paragraph, the term “houseboat” means a vessel which, for a period of time determined by the State in which the vessel is located, is used primarily as a residence and is not used primarily as a means of transportation.

(2) If, after promulgation of the initial standards and regulations and prior to their effective date, a vessel is equipped with a marine sanitation device in compliance with such standards and regulations and the installation and operation of such device is in accordance with such standards and regulations, such standards and regulations shall, for the purposes of paragraph (1) of this subsection, become effective with respect to such vessel on the date of such compliance.

(3) After the effective date of the initial standards and regulations promulgated under this section, if any State determines that the protection and enhancement of the quality of some or all of the waters within such State require greater environmental protection, such State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters, except that no such prohibition shall apply until the Administrator determines that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for such waters to which such prohibition would apply. Upon application of the State, the Administrator shall make such determination within 90 days of the date of such application.

(4)(A) If the Administrator determines upon application by a State that the protection and enhancement of the quality of

specified waters within such State requires such a prohibition, he shall by regulation completely prohibit the discharge from a vessel of any sewage (whether treated or not) into such waters.

(B) Upon application by a State, the Administrator shall, by regulation, establish a drinking water intake zone in any waters within such State and prohibit the discharge of sewage from vessels within that zone.

(g) SALES LIMITED TO CERTIFIED DEVICES; CERTIFICATION OF TEST DEVICE; RECORDKEEPING; REPORTS.

(1) No manufacturer of a marine sanitation device shall sell, offer for sale, or introduce or deliver for introduction in interstate commerce, or import into the United States for sale or resale any marine sanitation device manufactured after the effective date of the standards and regulations promulgated under this section unless such device is in all material respects substantially the same as a test device certified under this subsection.

(2) Upon application of the manufacturer, the Secretary of the department in which the Coast Guard is operating shall so certify a marine sanitation device if he determines, in accordance with the provisions of this paragraph, that it meets the appropriate standards and regulations promulgated under this section. The Secretary of the department in which the Coast Guard is operating shall test or require such testing of the device in accordance with procedures set forth by the Administrator as to standards of performance and for such other purposes as may be appropriate. If the Secretary of the department in which the Coast Guard is operating determines that the device is satisfactory from the standpoint of safety and any other requirements of maritime law or regulation, and after consideration of the design, installation, operation, material, or other appropriate factors, he shall certify the device. Any device manufactured by such manufacturer which is in all material respects substantially the same as the certified test device shall be deemed to be in conformity with the appropriate standards and regulations established under this section.

(3) Every manufacturer shall establish and maintain such records, make such reports, and provide such information as the Administrator or the Secretary of the department in which the Coast Guard is operating may reasonably require to enable him to determine whether such manufacturer has acted or is acting in compliance with this section and regulations issued thereunder and shall, upon request of an officer or employee duly designated by the Administrator or the Secretary of the department in which the Coast Guard is operating, permit such officer or employee at reasonable times to have access to and copy such records. All information reported to or otherwise obtained by the Administrator or the Secretary of the department in which the Coast Guard is operating or their representatives pursuant to this subsection which contains or relates to a trade secret or other matter referred to in section 1905 of title 18 of the United States Code shall be considered confidential for the purpose of that section, except that such informa-

tion may be disclosed to other officers or employees concerned with carrying out this section. This paragraph shall not apply in the case of the construction of a vessel by an individual for his own use.

(h) SALE AND RESALE OF PROPERLY EQUIPPED VESSELS; OPERABILITY OF CERTIFIED MARINE SANITATION DEVICES.—After the effective date of standards and regulations promulgated under this section, it shall be unlawful—

(1) for the manufacturer of any vessel subject to such standards and regulations to manufacture for sale, to sell or offer for sale, or to distribute for sale or resale any such vessel unless it is equipped with a marine sanitation device which is in all material respects substantially the same as the appropriate test device certified pursuant to this section;

(2) for any person, prior to the sale or delivery of a vessel subject to such standards and regulations to the ultimate purchaser, wrongfully to remove or render inoperative any certified marine sanitation device or element of design of such device installed in such vessel;

(3) for any person to fail or refuse to permit access to or copying of records or to fail to make reports or provide information required under this section; and

(4) for a vessel subject to such standards and regulations to operate on the navigable waters of the United States, if such vessel is not equipped with an operable marine sanitation device certified pursuant to this section.

(i) JURISDICTION TO RESTRAIN VIOLATIONS; CONTEMPTS.—The district courts of the United States shall have jurisdictions to restrain violations of subsection (g)(1) of this section and subsections (h)(1) through (3) of this section. Actions to restrain such violations shall be brought by, and in, the name of the United States. In case of contumacy or refusal to obey a subpoena served upon any person under this subsection, the district court of the United States for any district in which such person is found or resides or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony or to appear and produce documents, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(j) PENALTIES.—Any person who violates subsection (g)(1) of this section or clause (1) or (2) of subsection (h) of this section shall be liable to a civil penalty of not more than \$ 5,000 for each violation. Any person who violates clause (4) of subsection (h) of this section or any regulation issued pursuant to this section shall be liable to a civil penalty of not more than \$2,000 for each violation. Each violation shall be a separate offense. The Secretary of the department in which the Coast Guard is operating may assess and compromise any such penalty. No penalty shall be assessed until the person charged shall have been given notice and an opportunity for a hearing on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the gravity of the violation, and the demonstrated good faith of the person charged in attempting to achieve rapid compliance, after notification of a violation, shall be considered by said Secretary.

(k) ENFORCEMENT AUTHORITY.—The provisions of this section shall be enforced by the Secretary of the department in which the Coast Guard is operating and he may utilize by agreement, with or without reimbursement, law enforcement officers or other personnel and facilities of the Administrator, other Federal agencies, or the States to carry out the provisions of this section. The provisions of this section may also be enforced by a State.

(l) BOARDING AND INSPECTION OF VESSELS; EXECUTION OF WARRANTS AND OTHER PROCESS.—Anyone authorized by the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section may, except as to public vessels, (1) board and inspect any vessel upon the navigable waters of the United States and (2) execute any warrant or other process issued by an officer or court of competent jurisdiction.

(m) ENFORCEMENT IN UNITED STATES POSSESSIONS.—In the case of Guam and the Trust Territory of the Pacific Islands, actions arising under this section may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the Virgin Islands. In the case of American Samoa and the Trust Territory of the Pacific Islands, such actions may be brought in the District Court of the United States for the District of Hawaii and such court shall have jurisdiction of such actions. In the case of the Canal Zone, such actions may be brought in the District Court for the District of the Canal Zone.

[33 U.S.C. 1322 NOTE]

SEC. 5601. SHORT TITLE

This subtitle may be cited as the “Clean Vessel Act of 1992”.

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SEC. 5604. FUNDING

* * * * *

(c) GRANT PROGRAM.

(1) MATCHING GRANTS.—The Secretary of the Interior may obligate an amount not to exceed the amount made available under [section 4(b)(2) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(2), as amended by this Act),] *section 4(b)(1) of the Act of August 9, 1950 (16 U.S.C. 777c(b)(1))*, to make grants to—

(A) coastal States to pay not more than 75 percent of the cost to a coastal State of—

- (i) conducting a survey under section 5603(a);
- (ii) developing and submitting a plan and accompanying list under section 5603(b);
- (iii) constructing and renovating pumpout stations and waste reception facilities; and
- (iv) conducting a program to educate recreational boaters about the problem of human body waste discharges from vessels and inform them of the location of pumpout stations and waste reception facilities.

(B) inland States, which can demonstrate to the Secretary of the Interior that there are an inadequate number of pumpout stations and waste reception facilities to meet

the needs of recreational vessels in the waters of that State, to pay 75 percent of the cost to that State of—

- (i) constructing and renovating pumpout stations and waste reception facilities in the inland State; and
- (ii) conducting a program to educate recreational boaters about the problem of human body waste discharges from vessels and inform them of the location of pumpout stations and waste reception facilities.

(2) PRIORITY.—In awarding grants under this subsection, the Secretary of the Interior shall give priority consideration to grant applications that—

(A) in coastal States, propose constructing and renovating pumpout stations and waste reception facilities in accordance with a coastal State's plan approved under section 5603(c);

(B) provide for public/private partnership efforts to develop and operate pump outstations and waste reception facilities; and

(C) propose innovative ways to increase the availability and use of pump outstations and waste reception facilities.

(d) DISCLAIMER.—Nothing in this subtitle shall be interpreted to preclude a State from carrying out the provisions of this subtitle with funds other than those described in this section.

* * * * *

CHAPTER 33. PREVENTION OF POLLUTION FROM SHIPS

§ 1902. Ships subject to preventive measures

(a) INCLUDED VESSELS.—This Act shall apply—

(1) to a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located;

(2) with respect to Annexes I and II to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters of the United States;

(3) with respect to the requirements of Annex V to the Convention, to a ship, other than a ship referred to in paragraph (1), while in the navigable waters or the exclusive economic zone of the United States; and

(4) with respect to regulations prescribed under section 6 of this Act, any port or terminal in the United States.

(b) EXCLUDED VESSELS.—

(1) Except as provided in paragraph (2), this Act shall not apply to—

(A) a warship, naval auxiliary, or other ship owned or operated by the United States when engaged in non-commercial service; or

(B) any other ship specifically excluded by the MARPOL Protocol.

(2)(A) Notwithstanding any provision of the MARPOL Protocol, and subject to subparagraph (B) of this paragraph, the requirements of Annex V to the Convention shall apply as follows:

(i) After December 31, 1993, to all ships referred to in paragraph (1)(A) of this subsection other than those owned or operated by the Department of the Navy.

(ii) Except as provided in subsection (c) of this section, after December 31, 1998, to all ships referred to in paragraph (1)(A) of this subsection other than submersibles owned or operated by the Department of the Navy.

(iii) Except as provided in subsection (c) of this section, after December 31, 2008, to all ships referred to in paragraph (1)(A) of this subsection.

(B) This paragraph shall not apply during time of war or a declared national emergency.

(c) DISCHARGES IN SPECIAL AREAS.—

(1) Not later than December 31, 2000, all surface ships owned or operated by the Department of the Navy, and not later than December 31, 2008, all submersibles owned or operated by the Department of the Navy, shall comply with the special area requirements of Regulation 5 of Annex V to the Convention.

(2) Not later than 3 years after the date of the enactment of the National Defense Authorization Act for Fiscal Year 1994, the Secretary of the Navy shall, in consultation with the Secretary of State, the Secretary of Commerce, the Secretary of Transportation, and the Administrator of the Environmental Protection Agency, submit to the Congress a plan for the compliance by all ships owned or operated by the Department of the Navy with the requirements set forth in paragraph (1) of this subsection. Such plan shall be submitted after opportunity for public participation in its preparation, and for public review and comment.

(3) If the Navy plan for compliance demonstrates that compliance with the requirements set forth in paragraph (1) of this subsection is not technologically feasible in the case of certain ships under certain circumstances, the plan shall include information describing—

(A) the ships for which full compliance with the requirements of paragraph (1) of this subsection is not technologically feasible;

(B) the technical and operational impediments to achieving such compliance;

(C) a proposed alternative schedule for achieving such compliance as rapidly as is technologically feasible; and

(D) such other information as the Secretary of the Navy considers relevant and appropriate.

(4) Upon receipt of the compliance plan under paragraph (2) of this subsection, the Congress may modify the applicability of paragraph (1) of this subsection, as appropriate.

(d) REGULATIONS.—The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol, including regulations conforming to and giving effect to the requirements of Annex V as they apply under subsection (a) of section 3, to ensure that their treatment is not more favorable than that accorded ships to parties to the MARPOL Protocol.

(e) COMPLIANCE BY EXCLUDED VESSELS.—

(1) The Secretary of the Navy shall develop and, as appropriate, support the development of technologies and practices for solid waste management aboard ships owned or operated by the Department of the Navy, including technologies and practices for the reduction of the waste stream generated aboard such ships, that are necessary to ensure the compliance of such ships with Annex V to the Convention on or before the dates referred to in subsections (b)(2)(A) and (c)(1) of this section.

(2) Notwithstanding any effective date of the application of this section to a ship, the provisions of Annex V to the Convention with respect to the disposal of plastic shall apply to ships equipped with plastic processors required for the long-term collection and storage of plastic aboard ships of the Navy upon the installation of such processors in such ships.

(3) Except when necessary for the purpose of securing the safety of the ship, the health of the ship's personnel, or saving life at sea, it shall be a violation of this Act for a ship referred to in subsection (b)(1)(A) of this section that is owned or operated by the Department of the Navy:

(A) With regard to a submersible, to discharge buoyant garbage or garbage that contains more than the minimum amount practicable of plastic.

(B) With regard to a surface ship, to discharge plastic contaminated by food during the last 3 days before the ship enters port.

(C) With regard to a surface ship, to discharge plastic, except plastic that is contaminated by food, during the last 20 days before the ship enters port.

(4) The Secretary of Defense shall publish in the Federal Register:

(A) Beginning on October 1, 1994, and each year thereafter until October 1, 2000, the amount and nature of the discharges in special areas, not otherwise authorized under Annex V to the Convention, during the preceding year from ships referred to in subsection (b)(1)(A) of this section owned or operated by the Department of the Navy.

(B) Beginning on October 1, 1996, and each year thereafter until October 1, 1998, a list of the names of such ships equipped with plastic processors pursuant to section 1003(e) of the National Defense Authorization Act for Fiscal Year 1994.

(f) **WAIVER AUTHORITY.**—The President may waive the effective dates of the requirements set forth in subsection (c) of this section and in subsection 1003(e) of the National Defense Authorization Act for Fiscal Year 1994 if the President determines it to be in the paramount interest of the United States to do so. Any such waiver shall be for a period not in excess of one year. The President shall submit to the Congress each January a report on all waivers from the requirements of this section granted during the preceding calendar year, together with the reasons for granting such waivers.

(g) **NONCOMMERCIAL SHIPPING STANDARDS.**—The heads of Federal departments and agencies shall prescribe standards applicable to ships excluded from this Act by subsection (b)(1) of this section and for which they are responsible. Standards prescribed under

this subsection shall ensure, so far as is reasonable and practicable without impairing the operations or operational capabilities of such ships, that such ships act in a manner consistent with the MARPOL Protocol.

[33 U.S.C. 1902 NOTE]

Compliance reports. Act Dec. 29, 1987, P.L. 100-220, Title II, Subtitle B, §2201, 101 Stat. 1464, prospectively effective as provided by §2002 of such Act, which appears as 33 USCS §1901 note, provides:

“(a) IN GENERAL.—Within 1 year after the effective date of this section, and biennially thereafter [for a period of 6 years,] the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Agriculture and the Secretary of Commerce, shall report to the Congress regarding compliance with Annex V to the International Convention for the Prevention of Pollution from Ships, 1973, in United States waters *and, not later than 1 year after the date of enactment of the Coast Guard Authorization Act of 1995, and annually thereafter, shall publish in the Federal Register a list of the enforcement actions taken against any domestic or foreign ship (including any commercial or recreational ship) pursuant to the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.)*.

“(b) REPORT ON INABILITY TO COMPLY.—Within 3 years after the effective date of this section, the head of each Federal agency that operates or contracts for the operation of any ship referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships that may not be able to comply with the requirements of that section shall report to the Congress describing—

“(1) the technical and operational impediments to achieving that compliance;

“(2) an alternative schedule for achieving that compliance as rapidly as is technologically feasible;

“(3) the ships operated or contracted for operation by the agency for which full compliance with section 3(b)(2)(A) is not technologically feasible; and

“(4) any other information which the agency head considers relevant and appropriate.

“(c) CONGRESSIONAL ACTION.—Upon receipt of the compliance report under subsection (b), the Congress shall modify the applicability of Annex V to ships referred to in section 3(b)(1)(A) of the Act to Prevent Pollution from Ships, as may be appropriate with respect to the requirements of Annex V to the Convention.”.

* * * * *

§ 1905. Pollution reception facilities

(a) ADEQUACY; CRITERIA.—

(1) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall establish regulations setting criteria for determining the adequacy of a port's or terminal's reception facilities for mixtures containing oil or noxious liquid substances and shall establish procedures whereby a person in charge of a port or terminal may request

the Secretary to certify that the port's or terminal's facilities for receiving the residues and mixtures containing oil or noxious liquid substance from seagoing ships are adequate.

(2) The Secretary, after consulting with appropriate Federal agencies, shall establish regulations setting criteria for determining the adequacy of reception facilities for garbage at a port or terminal, and stating such additional measures and requirements as are appropriate to ensure such adequacy. Persons in charge of ports and terminals shall provide reception facilities, or ensure that such facilities are available, for receiving garbage in accordance with those regulations.

(b) **TRAFFIC CONSIDERATIONS.**—In determining the adequacy of reception facilities required by the MARPOL Protocol at a port or terminal, and in establishing regulations under subsection (a) of this section, the Secretary may consider, among other things, the number and types of ships or seagoing ships using the port or terminal, including their principal trades.

(c) **CERTIFICATE; ISSUANCE; VALIDITY; APPEAL OF SUSPENSION OR REVOCATION.**—

(1) If reception facilities of a port or terminal meet the requirements of Annex I and Annex II to the Convention or of this Act and the regulations prescribed under subsection (a)(1), the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant.

[(2) If] (2)(A) *subject to subparagraph (B), if reception facilities of a port or terminal meet the requirements of Annex V to the Convention and the regulations prescribed under subsection (a)(2), the Secretary may, after consultation with appropriate Federal agencies, issue a certificate to that effect to the person in charge of the port or terminal.*

(B) The Secretary may not issue a certificate attesting to the adequacy of reception facilities under this paragraph unless, prior to the issuance of the certificate, the Secretary conducts an inspection of the reception facilities of the port or terminal that is the subject of the certificate.

(C) The Secretary may, with respect to certificates issued under this paragraph prior to the date of enactment of the Coast Guard Authorization Act of 1995, prescribe by regulation differing periods of validity for such certificates.

(3) A certificate issued under this subsection—

[(A) is valid until suspended or revoked by the Secretary for cause or because of changed conditions; and]

(A) is valid for the 5-year period beginning on the date of issuance of the certificate, except that if—

(i) the charge for operation of the port or terminal is transferred to a person or entity other than the person or entity that is the operator on the date of issuance of the certificate—

(I) the certificate shall expire on the date that is 30 days after the date of the transfer; and

(II) the new operator shall be required to submit an application for a certificate before a certificate may be issued for the port or terminal; or

(ii) the certificate is suspended or revoked by the Secretary, the certificate shall cease to be valid; and

(B) shall be available for inspection upon the request of the master, other person in charge, or agent of a ship using or intending to use the port or terminal.

(4) The suspension or revocation of a certificate issued under this subsection may be appealed to the Secretary and acted on by the Secretary in the manner prescribed by regulation.

[(d) PUBLICATION IN FEDERAL REGISTER; LIST OF CERTIFICATED PORTS OR TERMINALS.—The Secretary shall periodically cause to be published in the Federal Register a list of the ports or terminals holding a valid certificate issued under this section.]

(d)(1) The Secretary shall maintain a list of ports or terminals with respect to which a certificate issued under this section—

(A) is in effect; or

(B) has been revoked or suspended.

(2) The Secretary shall make the list referred to in paragraph (1) available to the general public.

(e) ENTRY; DENIAL.—Except in the case of force majeure, the Secretary shall deny entry to a seagoing ship required by the Convention to retain onboard while at sea, residues and mixtures containing oil or noxious liquid substances, if—

(1) the port or terminal is one required by the MARPOL Protocol or regulations hereunder to have adequate reception facilities; and

(2) the port or terminal does not hold a valid certificate issued by the Secretary under this section.

(f) SURVEYS.—(1) The Secretary is authorized to conduct surveys of existing reception facilities in the United States to determine measures needed to comply with the MARPOL Protocol.

(2) Not later than 18 months after the date of enactment of the Coast Guard Authorization Act of 1995, the Secretary shall promulgate regulations that require the operator of each port or terminal that is subject to any requirement of the MARPOL Protocol relating to reception facilities to post a placard in a location that can easily be seen by port and terminal users. The placard shall state, at a minimum, that a user of a reception facility of the port or terminal should report to the Secretary any inadequacy of the reception facility.

CHAPTER 34. INLAND NAVIGATIONAL RULES

§ 2009. Narrow channels (Rule 9)

(a) KEEPING NEAR TO OUTER LIMIT OF CHANNEL OR FAIRWAY WHICH LIES ON VESSEL'S STARBOARD SIDE; EXCEPTION.—

(i) A vessel proceeding along the course of a narrow channel or fairway shall keep as near to the outer limit of the channel or fairway which lies on her starboard side as is safe and practicable.

(ii) Notwithstanding paragraph (a)(i) and Rule 14(a), a power-driven vessel operating in narrow channels or fairways on the Great Lakes, Western Rivers, or waters specified by the Secretary, and proceeding downbound with a following current shall have the right-of-way over an upbound vessel, shall pro-

pose the manner and place of passage, and shall initiate the maneuvering signals prescribed by Rule 34(a)(i), as appropriate. The vessel proceeding upbound against the current shall hold as necessary to permit safe passing.

(b) **VESSELS OF LESS THAN 20 METERS IN LENGTH; SAILING VESSELS.**—A vessel of less than 20 meters in length or a sailing vessel shall not impede the passage of a vessel that can safely navigate only within a narrow channel or fairway.

(c) **VESSELS ENGAGED IN FISHING.**—A vessel engaged in fishing shall not impede the passage of any other vessel navigating within a narrow channel or fairway.

(d) **CROSSING NARROW CHANNELS OR FAIRWAYS.**—A vessel shall not cross a narrow channel or fairway if such crossing impedes the passage of a vessel which can safely navigate only within that channel or fairway. The latter vessel shall use the danger signal prescribed in Rule 34(d) if in doubt as to the intention of the crossing vessel.

(e) **OVERTAKING VESSELS.**—

[(i) In a narrow channel or fairway when overtaking, the vessel intending to overtake shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) and take steps to permit safe passing. The overtaken vessel, if in agreement, shall sound the same signal. If in doubt she shall sound the danger signal prescribed in Rule 34(d).]

(i) In a narrow channel or fairway when overtaking, the power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by sounding the appropriate signal prescribed in Rule 34(c) and take steps to permit safe passing. The power-driven vessel being overtaken, if in agreement, shall sound the same signal and may, if specifically agreed to take steps to permit safe passing. If in doubt she shall sound the danger signal prescribed in Rule 34(d).;

(ii) This Rule does not relieve the overtaking vessel of her obligation under Rule 13.

(f) **AREAS OF OBSCURED VISIBILITY DUE TO INTERVENING OBSTRUCTIONS.**—A vessel nearing a bend or an area of a narrow channel or fairway where other vessels may be obscured by an intervening obstruction shall navigate with particular alertness and caution and shall sound the appropriate signal prescribed in Rule 34(e).

(g) **AVOIDANCE OF ANCHORING IN NARROW CHANNELS.**—Every vessel shall, if the circumstances of the case admit, avoid anchoring in a narrow channel.

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§ 2015. Crossing situation (Rule 15)

(a) **VESSEL WHICH MUST KEEP OUT OF THE OTHER VESSEL'S WAY.**—When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her starboard side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel.

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§ 2023. Power-driven vessels underway (Rule 23)

(a) LIGHTS EXHIBITED BY POWER-DRIVEN VESSELS UNDERWAY.—A power-driven vessel underway shall exhibit:

- (i) a masthead light forward; [except that a vessel of less than 20 meters in length need not exhibit this light forward of amidships but shall exhibit it as far forward as is practicable;]
- (ii) a second masthead light abaft of and higher than the forward one; except that a vessel of less than 50 meters in length shall not be obliged to exhibit such light but may do so:
- (iii) sidelights; and
- (iv) a sternlight.

(b) AIR-CUSHION VESSELS.—An air-cushion vessel when operating in the nondisplacement mode shall, in addition to the lights prescribed in paragraph (a) of this Rule, exhibit an all-round flashing yellow light where it can best be seen.

(c) ALTERNATIVE LIGHTS FOR POWER-DRIVEN VESSELS OF LESS THAN 12 METERS IN LENGTH.—A power-driven vessel of less than 12 meters in length may, in lieu of the lights prescribed in paragraph (a) of this Rule, exhibit an all-round white light and sidelights.

(d) POWER-DRIVEN VESSELS WHEN OPERATING ON GREAT LAKES.—A power-driven vessel when operating on the Great Lakes may carry an all-round white light in lieu of the second masthead light and sternlight prescribed in paragraph (a) of this Rule. The light shall be carried in the position of the second masthead light and be visible at the same minimum range.

§ 2024. Towing and pushing (Rule 24)

(a) POWER-DRIVEN VESSELS WHEN TOWING ASTERN.—A power-driven vessel when towing astern shall exhibit:

- (i) instead of the light prescribed either in Rule 23(a)(i) or 23(a)(ii), two masthead lights in a vertical line. When the length of the tow, measuring from the stern of the towing vessel to the after end of the tow exceeds 200 meters, three such lights in a vertical line;
- (ii) sidelights;
- (iii) a sternlight;
- (iv) a towing light in a vertical line above the sternlight; and
- (v) when the length of the tow exceeds 200 meters, a diamond shape where it can best be seen.

(b) PUSHING VESSEL AND PUSHED VESSEL RIGIDLY CONNECTED IN COMPOSITE UNIT.—When a pushing vessel and a vessel being pushed ahead are rigidly connected in a composite unit they shall be regarded as a power-driven vessel and exhibit the lights prescribed in Rule 23.

(c) POWER-DRIVEN VESSEL WHEN PUSHING AHEAD OR TOWING ALONGSIDE.—A power-driven vessel when pushing ahead or towing alongside, except as required by paragraphs (b) and (i) of this Rule, shall exhibit:

- (i) instead of the light prescribed either in Rule 23(a)(i) or 23(a)(ii), two masthead lights in a vertical line;
- (ii) sidelights; and
- (iii) two towing lights in a vertical line.

(d) COMPLIANCE WITH OTHER REQUIREMENTS.—A power-driven vessel to which paragraphs (a) or (c) of this Rule apply shall also comply with Rule 23(a)(i) and 23(a)(ii).

(e) VESSELS BEING TOWED.—A vessel or object other than those referred to in paragraph (g) of this Rule being towed shall exhibit:

- (i) sidelights;
- (ii) a sternlight; and
- (iii) when the length of the tow exceeds 200 meters, a diamond shape where it can best be seen.

[(f) VESSELS BEING TOWED ALONGSIDE OR PUSHED IN A GROUP.— Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel:

[(i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end sidelights, and a special flashing light; and

[(ii) a vessel being towed alongside shall exhibit a sternlight and at the forward end sidelights.]

(f) *Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel, except as provided in paragraph (iii)—*

(i) a vessel being pushed ahead, not being part of a composite unit, shall exhibit at the forward end, sidelights and a special flashing light;

(ii) a vessel being towed alongside shall exhibit a sternlight and at the forward end, sidelights and a special flashing light; and

(iii) when vessels are towed alongside on both sides of the towing vessels a stern light shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and a single set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.

(g) INCONSPICUOUS, PARTLY SUBMERGED VESSEL OR OBJECT BEING TOWED.—An inconspicuous, partly submerged vessel or object being towed shall exhibit:

(i) if it is less than 25 meters in breadth, one all-round white light at or near each end;

(ii) if it is 25 meters or more in breadth, four all-round white lights to mark its length and breadth;

(iii) if it exceeds 100 meters in length, additional all-round white lights between the lights prescribed in subparagraphs (i) and (ii) so that the distance between the lights shall not exceed 100 meters: Provided, That any vessels or objects being towed alongside each other shall be lighted as one vessel or object;

(iv) a diamond shape at or near the aftermost extremity of the last vessel or object being towed; and

(v) the towing vessel may direct a searchlight in the direction of the tow to indicate its presence to an approaching vessel.

(h) ALTERNATIVE LIGHTING OF VESSEL OR OBJECT BEING TOWED.—Where from any sufficient cause it is impracticable for a vessel or object being towed to exhibit the lights prescribed in paragraph (e) or (g) of this Rule, all possible measures shall be taken to light the vessel or object towed or at least to indicate the presence of the unlighted vessel or object.

(i) WESTERN RIVERS OR OTHER SPECIFIED WATERS; EXCEPTION.—Notwithstanding paragraph (c), on the Western Rivers (except below the Huey P. Long Bridge on the Mississippi River) and on waters specified by the Secretary, a power-driven vessel when pushing ahead or towing alongside, except as paragraph (b) applies, shall exhibit:

- (i) sidelights; and
- (ii) two towing lights in a vertical line.

(j) TOWING ANOTHER VESSEL IN DISTRESS OR OTHERWISE IN NEED OF ASSISTANCE.—Where from any sufficient cause it is impracticable for a vessel not normally engaged in towing operations to display the lights prescribed by paragraph (a), (c) or (i) of this Rule, such vessel shall not be required to exhibit those lights when engaged in towing another vessel in distress or otherwise in need of assistance. All possible measures shall be taken to indicate the nature of the relationship between the towing vessel and the vessel being assisted. The searchlight authorized by Rule 36 may be used to illuminate the tow.

* * * * *

§ 2026. Fishing vessels (Rule 26)

(a) EXHIBITION OF ONLY PRESCRIBED LIGHTS AND SHAPES.—A vessel engaged in fishing, whether underway or at anchor, shall exhibit only the lights and shapes prescribed in this Rule.

(b) VESSELS ENGAGED IN TRAWLING.—A vessel when engaged in trawling, by which is meant the dragging through the water of a dredge net or other apparatus used as a fishing appliance, shall exhibit:

- (i) two all-round lights in a vertical line, the upper being green and the lower white, or a shape consisting of two cones with their apexes together in a vertical line one above the other; [a vessel of less than 20 meters in length may instead of this shape exhibit a basket;]
- (ii) a masthead light abaft of and higher than the all-round green light; a vessel of less than 50 meters in length shall not be obliged to exhibit such light but may do so; and
- (iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

(c) VESSELS ENGAGED IN FISHING OTHER THAN TRAWLING.—A vessel engaged in fishing, other than trawling, shall exhibit:

- (i) two all-round lights in a vertical line, the upper being red and the lower white, or a shape consisting of two cones with apexes together in a vertical line one above the other; [a vessel of less than 20 meters in length may instead of this shape exhibit a basket;]
- (ii) when there is outlying gear extending more than 150 meters horizontally from the vessel, an all-round white light or a cone apex upward in the direction of the gear; and
- (iii) when making way through the water, in addition to the lights prescribed in this paragraph, sidelights and a sternlight.

[(d) VESSELS ENGAGED IN FISHING IN CLOSE PROXIMITY TO OTHER VESSELS ENGAGED IN FISHING.—A vessel engaged in fishing

in close proximity to other vessels engaged in fishing may exhibit the additional signals described in Annex II to these Rules.】

(d) *The additional signals described in Annex II to these Rules apply to a vessel engaged in fishing in close proximity to other vessels engaged in fishing.*

(e) **VESSELS WHEN NOT ENGAGED IN FISHING.**—A vessel when not engaged in fishing shall not exhibit the lights or shapes prescribed in this Rule, but only those prescribed for a vessel of her length.

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§ 2034. Maneuvering and warning signals (Rule 34)

(a) **WHISTLE SIGNALS.**—When power-driven vessels are in sight of one another and meeting or crossing at a distance within half a mile of each other, each vessel underway, when maneuvering as authorized or required by these Rules:

(i) shall indicate that maneuver by the following signals on her whistle: one short blast to mean “I intend to leave you on my port side”; two short blasts to mean “I intend to leave you on my starboard side”; and three short blasts to mean “I am operating astern propulsion”.

(ii) upon hearing the one or two blast signal of the other shall, if in agreement, sound the same whistle signal and take the steps necessary to effect a safe passing. If, however, from any cause, the vessel doubts the safety of the proposed maneuver, she shall sound the danger signal specified in paragraph (d) of this Rule and each vessel shall take appropriate precautionary action until a safe passing agreement is made.

(b) **LIGHT SIGNALS.**—A vessel may supplement the whistle signals prescribed in paragraph (a) of this Rule by light signals:

(i) These signals shall have the following significance: one flash to mean “I intend to leave you on my port side”; two flashes to mean “I intend to leave you on my starboard side”; three flashes to mean “I am operating astern propulsion”;

(ii) The duration of each flash shall be about 1 second; and

(iii) The light used for this signal shall, if fitted, be one all-round white or yellow light, visible at a minimum range of 2 miles, synchronized with the whistle, and shall comply with the provisions of Annex I to these Rules.

(c) **OVERTAKING SITUATIONS.**—When in sight of one another:

(i) a power-driven vessel intending to overtake another power-driven vessel shall indicate her intention by the following signals on her whistle: one short blast to mean “I intend to overtake you on your starboard side”; two short blasts to mean “I intend to overtake you on your port side”; and

(ii) the power-driven vessel about to be overtaken shall, if in agreement, sound a similar sound signal. If in doubt she shall sound the danger signal prescribed in paragraph (d).

(d) **DOUBTS OR FAILURE TO UNDERSTAND SIGNALS.**—When vessels in sight of one another are approaching each other and from any cause either vessel fails to understand the intentions or actions of the other, or is in doubt whether sufficient action is being taken by the other to avoid collision, the vessel in doubt shall imme-

diately indicate such doubt by giving at least five short and rapid blasts on the whistle. This signal may be supplemented by a light signal of at least five short and rapid flashes.

(e) VESSELS IN AREAS OF OBSCURED VISIBILITY DUE TO INTERVENING OBSTRUCTIONS.—A vessel nearing a bend or an area of a channel or fairway where other vessels may be obscured by an intervening obstruction shall sound one prolonged blast. This signal shall be answered with a prolonged blast by any approaching vessel that may be within hearing around the bend or behind the intervening obstruction.

(f) USE OF ONE WHISTLE ONLY ON A VESSEL.—If whistles are fitted on a vessel at a distance apart of more than 100 meters, one whistle only shall be used for giving maneuvering and warning signals.

(g) POWER-DRIVEN VESSELS LEAVING DOCK OR BERTH.—When a power-driven vessel is leaving a dock or berth, she shall sound one prolonged blast.

[(h) AGREEMENT BETWEEN VESSELS USING RADIOTELEPHONE.—A vessel that reaches agreement with another vessel in a meeting, crossing, or overtaking situation by using the radiotelephone as prescribed by the Bridge-to-Bridge Radiotelephone Act (85 Stat. 165; 33 U.S.C. 1207), is not obliged to sound the whistle signals prescribed by this Rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.]

(h) A vessel that reaches agreement with another vessel in a head-on, crossing, or overtaking situation, as for example, by using the radiotelephone as prescribed by the Vessel Bridge-to-Bridge Radiotelephone Act (85 Stat. 164; 33 U.S.C. 1201 et seq.), is not obliged to sound the whistle signals prescribed by this rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.

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§ 2072. Violations of Inland Navigational Rules

(a) LIABILITY OF OPERATOR FOR CIVIL PENALTY.—Whoever operates a vessel in violation of this Act, or of any regulation issued thereunder, or in violation of a certificate of alternative compliance issued under Rule 1 is liable to a civil penalty of not more than \$ 5,000 for each violation.

(b) LIABILITY OF VESSEL FOR CIVIL PENALTY; SEIZURE OF VESSEL.—Every vessel subject to this Act, other than a public vessel being used for noncommercial purposes, that is operated in violation of this Act, or of any regulation issued thereunder, or in violation of a certificate of alternative compliance issued under Rule 1 is liable to a civil penalty of not more than \$5,000 for each violation, for which penalty the vessel may be seized and proceeded against in the district court of the United States of any district within which the vessel may be found.

(c) ASSESSMENT OF CIVIL PENALTY BY SECRETARY; COLLECTION.—The Secretary may assess any civil penalty authorized by this section. No such penalty may be assessed until the person charged, or the owner of the vessel charged, as appropriate, shall have been

given notice of the violation involved and an opportunity for a hearing. For good cause shown, the Secretary may remit, mitigate, or compromise any penalty assessed. Upon the failure of the person charged, or the owner of the vessel charged, to pay an assessed penalty, as it may have been mitigated or compromised, the Secretary may request the Attorney General to commence an action in the appropriate district court of the United States for collection of the penalty as assessed, without regard to the amount involved, together with such other relief as may be appropriate.

(d) **AUTHORITY TO WITHHOLD OR REVOKE CLEARANCES.**—The Secretary of the Treasury shall withhold or revoke, at the request of the Secretary, the clearance, required by section 4197 of the Revised Statutes of the United States (46 U.S.C. 91), the owner or operator of which is subject to any of the penalties in this section. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.

§ 2073. Rules of the Road Advisory Council

(a) **ESTABLISHMENT; MEMBERSHIP; COUNCIL PANELS; PUBLICATION IN FEDERAL REGISTER.**—*The Secretary shall establish a Navigation Safety Advisory Council (hereinafter referred to as the Council) not exceeding 21 members. To assure balanced representation, members shall be chosen, insofar as practical, from the following groups: (1) recognized experts and leaders in organizations having an active interest in the Rules of the Road and vessel and port safety, (2) representatives of owners and operators of vessels, professional mariners, recreational boaters, and the recreational boating industry, (3) individuals with an interest in maritime law, and (4) Federal and State officials with responsibility for vessel and port safety. Additional persons may be appointed to panels of the Council to assist the Council in the performance of its functions. The Secretary shall, not less often than once a year, publish notice in the Federal Register for solicitation of nominations for membership on the council.*

(b) **FUNCTIONS AND PURPOSE OF COUNCIL; MEETINGS.**—The Council shall advise, consult with, and make recommendations to the Secretary on matters relating to the prevention of collisions, rammings, and groundings, including the Inland Rules of the Road, the International Rules of the Road, navigation regulations and equipment, routing measures, marine information, diving safety, and aids to navigation systems. Any advice or recommendation made by the Council to the Secretary shall reflect the independent judgment of the Council on the matter concerned. The Council shall meet at the call of the Secretary, but in any event not less than twice during each calendar year. All proceedings of the Council shall be public, and a record of the proceedings shall be made available for public inspection.

(c) **EXECUTIVE SECRETARY; STAFF; TRAVEL EXPENSES AND STATUS OF MEMBERS.**—The Secretary shall furnish to the Council an executive secretary and such secretarial, clerical, and other services as are deemed necessary for the conduct of its business. Members of the Council, while away from their home or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States

Code. Payments under this section shall not render members of the Council officers or employees of the United States for any purpose.

(d) TERMINATION OF COUNCIL.—Unless extended by subsequent Act of Congress, the Council shall terminate on [September 30, 1995.] *September 30, 2000.*

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CHAPTER 40. OIL POLLUTION

PRINCE WILLIAM SOUND PROVISIONS

§2731. Oil Spill Recovery Institute

(a) ESTABLISHMENT OF INSTITUTE.—The Secretary of Commerce shall provide for the establishment of a Prince William Sound Oil Spill Recovery Institute (hereinafter in this section referred to as the “Institute”) [to be administered by the Secretary of Commerce] through the Prince William Sound Science and Technology Institute [and located] *located* in Cordova, Alaska.

(b) FUNCTIONS.—The Institute shall conduct research and carry out educational and demonstration projects designed to—

(1) identify and develop the best available techniques, equipment, and materials for dealing with oil spills in the arctic and subarctic marine environment; and

(2) complement Federal and State damage assessment efforts and determine, document, assess, and understand the long-range effects of [the *Exxon Valdez* oil spill] *Arctic or Subarctic oil spills* on the natural resources of Prince William Sound and its adjacent waters (as generally depicted on the map entitled “*Exxon Valdez* oil spill dated March 1990”), and the environment, the economy, and the lifestyle and well-being of the people who are dependent on them, except that the Institute shall not conduct studies or make recommendations on any matter which is not directly related to [the *Exxon Valdez* oil spill] *Arctic or Subarctic oil spills* or the effects thereof.

(c) ADVISORY BOARD.—

(1) IN GENERAL.—The policies of the Institute shall be determined by an advisory board, composed of [18] *14* members appointed as follows:

(A) One representative appointed by each of the Commissioners of Fish and [Game, Environmental Conservation, Natural Resources, and Commerce and Economic Development] *Game and Economic Development* of the State of Alaska, all of whom shall be State employees.

[(B) One representative appointed by each of—

[(i) the Secretaries of Commerce, the Interior, Agriculture, Transportation, and the Navy; and

[(ii) the Administrator of the Environmental Protection Agency; all of whom shall be Federal employees.

[(C) 4 representatives appointed by the Secretary of Commerce from among residents of communities in Alaska that were affected by the *Exxon Valdez* oil spill who are knowledgeable about fisheries, other local industries, the marine environment, wildlife, public health, safety, or education. At least 2 of the representatives shall be appointed

from among residents of communities located in Prince William Sound. The Secretary shall appoint residents to serve terms of 2 years each, from a list of 8 qualified individuals to be submitted by the Governor of the State of Alaska based on recommendations made by the governing body of each affected community. Each affected community may submit the names of 2 qualified individuals for the Governor's consideration. No more than 5 of the 8 qualified persons recommended by the Governor shall be members of the same political party.

[(D)] 3 Alaska Natives who represent Native entities affected by the *Exxon Valdez* oil spill, at least one of whom represents an entity located in Prince William Sound, to serve terms of 2 years each from a list of 6 qualified individuals submitted by the Alaska Federation of Natives.]

(B) One representative appointed by each of the Secretaries of Commerce and Transportation, who shall be Federal employees

(C) Two representatives from the fishing industry appointed by the Governor of the State of Alaska from among residents of communities in Alaska that were affected by the Exxon Valdez oil spill, who shall serve terms of 2 years each. Interested organizations from within the fishing industry may submit the names of qualified individuals for consideration by the Governor.

(D) Two Alaska Natives who represent Native entities affected by the Exxon Valdez oil spill, at least one of whom represents an entity located in Prince William sound, appointed by the Governor of Alaska from a list of 4 qualified individuals submitted by the Alaska Federal of Natives, who shall serve terms of 2 years each.

(E) Two representatives from the oil and gas industry to be appointed by the Governor of the State of Alaska who shall serve terms of 2 years each. Interested organizations from within the oil and gas industry may submit the names of qualified individuals for consideration by the Governor.

(F) Two at-large representatives from among residents of communities in Alaska that were affected by the "Exxon Valdez" oil spill who are knowledgeable about the marine environment and wildlife within Prince William Sound, and who shall serve terms of 2 years each, appointed by the remaining members of the Advisory Board. Interested parties may submit the names of qualified individuals for consideration by the Advisory Board.

[(E)] *(G) One nonvoting representative of the Institute of Marine Science.*

[(F)] *(H) One nonvoting representative appointed by the Prince William Sound Science and Technology Institute.*

(2) CHAIRMAN.—The representative of the Secretary of Commerce shall serve as Chairman of the Advisory Board.

(3) POLICIES.—Policies determined by the Advisory Board under this subsection shall include policies for the conduct and support, through contracts and grants awarded on a nationally

competitive basis, of research, projects, and studies to be supported by the Institute in accordance with the purposes of this section.

(4) *EVALUATION.*—*The Advisory Board will request a scientific review of the research program every five years by the National Academy of Sciences which will perform the review as part of its responsibilities under Section 7001(b)(2).*

(d) SCIENTIFIC AND TECHNICAL COMMITTEE.—

(1) IN GENERAL.—The Advisory Board shall establish a scientific and technical committee, composed of specialists in matters relating to oil spill containment and cleanup technology, arctic and subarctic marine ecology, and the living resources and socioeconomics of Prince William Sound and its adjacent waters, from the University of Alaska, the Institute of Marine Science, the Prince William Sound Science and Technology Institute, and elsewhere in the academic community.

(2) FUNCTIONS.—The Scientific and Technical Committee shall provide such advice to the Advisory Board as the Advisory Board shall request, including recommendations regarding the conduct and support of research, projects, and studies in accordance with the purposes of this section. The Advisory Board shall not request, and the Committee shall not provide, any advice which is not directly related to [the *Exxon Valdez* oil spill] *Arctic or Subarctic oil spills* or the effects thereof.

(e) DIRECTOR.—The Institute shall be administered by a Director appointed by the [Secretary of Commerce] *Advisory Board*. The Prince William Sound Science and Technology Institute, [the Advisory Board,] and the Scientific and Technical Committee may each submit independent recommendations for the [Secretary's] *Advisory Board's* consideration for appointment as Director. The Director may hire such staff and incur such expenses on behalf of the Institute as are authorized by the Advisory Board.

(f) *EVALUATION.*—The Secretary of Commerce may conduct an ongoing evaluation of the activities of the Institute to ensure that funds received by the Institute are used in a manner consistent with this section.

(g) *AUDIT.*—The Comptroller General of the United States, and any of his or her duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of the Institute and its administering agency that are pertinent to the funds received and expended by the Institute and its administering agency.

(h) *STATUS OF EMPLOYEES.*—Employees of the Institute shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

(i) *TERMINATION.*—The *authorization in section 5006(b) providing funding for the Institute* shall terminate 10 years after the date of the enactment of [this Act.] *the Coast Guard Authorization Act of 1995.*

(j) *USE OF FUNDS.*—All funds authorized for the Institute shall be provided through the National Oceanic and Atmospheric Administration. No funds made available to carry out this section may be used to initiate litigation. No funds made available to carry out this section may be used for the acquisition of real property (including

buildings) or construction of any building. No more than 20 percent of funds made available to carry out this section may be used to lease necessary facilities and to administer the Institute. *The Advisory Board may compensate its Federal representatives for their reasonable travel costs.* None of the funds authorized by this section shall be used for any purpose other than the functions specified in subsection (b).

(k) RESEARCH.—The Institute shall publish and make available to any person upon request the results of all research, educational, and demonstration projects conducted by the Institute. The Administrator shall provide a copy of all research, educational, and demonstration projects conducted by the Institute to the National Oceanic and Atmospheric Administration.

(l) DEFINITIONS.—In this section, the term “Prince William Sound and its adjacent waters” means such sound and waters as generally depicted on the map entitled “*Exxon Valdez* oil spill dated March 1990”.

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§ 2736. Funding

[(a) SECTION 5001.—Amounts in the Fund shall be available, subject to appropriations, and shall remain available until expended, to carryout section 5001 as follows:

[(1) \$5,000,000 shall be available for the first fiscal year beginning after the date of enactment of this Act.

[(2) \$2,000,000 shall be available for each of the 9 fiscal years following the fiscal year described in paragraph (1).]

[(b)] (a) SECTIONS [5003] 5001, 5003, and 5004.—Amounts in the Fund shall be available, without further appropriations and without fiscal year limitation, to carry out section 5001 in the amount as determined in subsection (b) of this section to carry out sections 5003 and 5004, in an amount not to exceed \$5,000,000.

(b) USE OF INTEREST ONLY.—The amount of funding to be made available annually to carry out section 5001 shall be the interest produced by the Fund’s investment of the \$22,500,000 remaining funding authorized for the Prince William Sound Oil Spill Recovery Institute and currently deposited in the Fund and invested by the Secretary of the Treasury in income producing securities along with other funds comprising the Fund.

(c) USE FOR SECTION 1012.—Beginning with the eleventh year following the date of enactment of the Coast Guard Authorization Act of 1995, the funding authorized for the Prince William Sound Oil Spill Recovery Institute and deposited in the Fund shall thereafter be made available for purposes of section 1012 in Alaska.

* * * * *

§ 2752. Annual appropriations

(a) REQUIRED.—Except as provided in subsection (b), amounts in the Fund shall be available only as provided in annual appropriation Acts.

(b) EXCEPTIONS.—Subsection (a) shall not apply to sections 1006(f), 1012(a)(4), or [5006(b),] 5006 and shall not apply to an amount not to exceed \$ 50,000,000 in any fiscal year which the

President may make available from the Fund to carry out section 311(c) of the Federal Water Pollution Control Act, as amended by this Act, and to initiate the assessment of natural resources damages required under section 1006. Sums to which this subsection applies shall remain available until expended.

* * * * *

§ 2761. Oil Pollution Research and Development Program

(a) INTERAGENCY COORDINATING COMMITTEE ON OIL POLLUTION RESEARCH.—

(1) ESTABLISHMENT.—There is established an Interagency Coordinating Committee on Oil Pollution Research (hereinafter in this section referred to as the “Interagency Committee”).

(2) PURPOSES.—The Interagency Committee shall coordinate a comprehensive program of oil pollution research, technology development, and demonstration among the Federal agencies, in cooperation and coordination with industry, universities, research institutions, State governments, and other nations, as appropriate, and shall foster cost-effective research mechanisms, including the joint funding of research.

(3) MEMBERSHIP.—The Interagency Committee shall include representatives from the Department of Commerce (including the National Oceanic and Atmospheric Administration and the National Institute of Standards and Technology), the Department of Energy, the Department of the Interior (including the Minerals Management Service and the United States Fish and Wildlife Service), the Department of Transportation (including the United States Coast Guard, the Maritime Administration, and the Research and Special Projects Administration), the Department of Defense (including the Army Corps of Engineers and the Navy), the Environmental Protection Agency, the National Aeronautics and Space Administration, and the United States Fire Administration in the Federal Emergency Management Agency, as well as such other Federal agencies as the President may designate. A representative of the Department of Transportation shall serve as Chairman.

(b) OIL POLLUTION RESEARCH AND TECHNOLOGY PLAN.—

(1) IMPLEMENTATION PLAN.—Within 180 days after the date of enactment of this Act, the Interagency Committee shall submit to Congress a plan for the implementation of the oil pollution research, development, and demonstration program established pursuant to subsection (c). The research plan shall—

(A) identify agency roles and responsibilities;

(B) assess the current status of knowledge on oil pollution prevention, response, and mitigation technologies and effects of oil pollution on the environment;

(C) identify significant oil pollution research gaps including an assessment of major technological deficiencies in responses to past oil discharges;

(D) establish research priorities and goals for oil pollution technology development related to prevention, response, mitigation, and environmental effects;

(E) estimate the resources needed to conduct the oil pollution research and development program established pursuant to subsection (c), and timetables for completing research tasks; and

(F) identify, in consultation with the States, regional oil pollution research needs and priorities for a coordinated, multidisciplinary program of research at the regional level.

(2) ADVICE AND GUIDANCE.—The Chairman, through the Department of Transportation, shall contract with the National Academy of Sciences to—

(A) provide advice and guidance in the preparation and development of the research plan; and

(B) assess the adequacy of the plan as submitted, and submit a report to Congress on the conclusions of such assessment.

The National Institute of Standards and Technology shall provide the Interagency Committee with advice and guidance on issues relating to quality assurance and standards measurements relating to its activities under this section.

(c) OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM.—

(1) ESTABLISHMENT.—The Interagency Committee shall coordinate the establishment, by the agencies represented on the Interagency Committee, of a program for conducting oil pollution research and development, as provided in this subsection.

(2) INNOVATIVE OIL POLLUTION TECHNOLOGY.—The program established under this subsection shall provide for research, development, and demonstration of new or improved technologies which are effective in preventing or mitigating oil discharges and which protect the environment, including—

(A) development of improved designs for vessels and facilities, and improved operational practices;

(B) research, development, and demonstration of improved technologies to measure the ullage of a vessel tank, prevent discharges from tank vents, prevent discharges during lightering and bunkering operations, contain discharges on the deck of a vessel, prevent discharges through the use of vacuums in tanks, and otherwise contain discharges of oil from vessels and facilities;

(C) research, development, and demonstration of new or improved systems of mechanical, chemical, biological, and other methods (including the use of dispersants, solvents, and bioremediation) for the recovery, removal, and disposal of oil, including evaluation of the environmental effects of the use of such systems;

(D) research and training, in consultation with the National Response Team, to improve industry's and Government's ability to quickly and effectively remove an oil discharge, including the long-term use, as appropriate, of the National Spill Control School in Corpus Christi, [Texas;] *Texas, and the Center for Marine Training and Safety in Galveston, Texas;*

(E) research to improve information systems for decision-making, including the use of data from coastal map-

ping, baseline data, and other data related to the environmental effects of oil discharges, and cleanup technologies;

(F) development of technologies and methods to protect public health and safety from oil discharges, including the population directly exposed to an oil discharge;

(G) development of technologies, methods, and standards for protecting removal personnel, including training, adequate supervision, protective equipment, maximum exposure limits, and decontamination procedures;

(H) research and development of methods to restore and rehabilitate natural resources damaged by oil discharges;

(I) research to evaluate the relative effectiveness and environmental impacts of bioremediation technologies; and

(J) the demonstration of a satellite-based, dependent surveillance vessel traffic system in Narragansett Bay to evaluate the utility of such system in reducing the risk of oil discharges from vessel collisions and groundings in confined waters.

(3) OIL POLLUTION TECHNOLOGY EVALUATION.—The program established under this subsection shall provide for oil pollution prevention and mitigation technology evaluation including—

(A) the evaluation and testing of technologies developed independently of the research and development program established under this subsection;

(B) the establishment, where appropriate, of standards and testing protocols traceable to national standards to measure the performance of oil pollution prevention or mitigation technologies; and

(C) the use, where appropriate, of controlled field testing to evaluate real-world application of oil discharge prevention or mitigation technologies.

(4) OIL POLLUTION EFFECTS RESEARCH.—

(A) The Committee shall establish a research program to monitor and evaluate the environmental effects of oil discharges. Such program shall include the following elements:

(i) The development of improved models and capabilities for predicting the environmental fate, transport, and effects of oil discharges.

(ii) The development of methods, including economic methods, to assess damages to natural resources resulting from oil discharges.

(iii) The identification of types of ecologically sensitive areas at particular risk to oil discharges and the preparation of scientific monitoring and evaluation plans, one for each of several types of ecological conditions, to be implemented in the event of major oil discharges in such areas.

(iv) The collection of environmental baseline data in ecologically sensitive areas at particular risk to oil discharges where such data are insufficient.

(B) The Department of Commerce in consultation with the Environmental Protection Agency shall monitor and

scientifically evaluate the long-term environmental effects of oil discharges if—

- (i) the amount of oil discharged exceeds 250,000 gallons;
- (ii) the oil discharge has occurred on or after January 1, 1989; and
- (iii) the Interagency Committee determines that a study of the long-term environmental effects of the discharge would be of significant scientific value, especially for preventing or responding to future oil discharges.

Areas for study may include the following sites where oil discharges have occurred: the New York/New Jersey Harbor area, where oil was discharged by an Exxon underwater pipeline, the T/B *Cibro Savannah*, and the M/V BT *Nautilus*; Narragansett Bay where oil was discharged by the *World Prodigy*; the Houston Ship Channel where oil was discharged by the *Rachel B*; the Delaware River, where oil was discharged by the *Presidente Rivera*, and Huntington Beach, California, where oil was discharged by the *American Trader*.

(C) Research conducted under this paragraph by, or through, the United States Fish and Wildlife Service shall be directed and coordinated by the National Wetland Research Center.

(5) MARINE SIMULATION RESEARCH.—The program established under this subsection shall include research on the greater use and application of geographic and vessel response simulation models, including the development of additional data bases and updating of existing data bases using, among others, the resources of the National Maritime Research Center. It shall include research and vessel simulations for—

- (A) contingency plan evaluation and amendment;
- (B) removal and strike team training;
- (C) tank vessel personnel training; and
- (D) those geographic areas where there is a significant likelihood of a major oil discharge.

(6) DEMONSTRATION PROJECTS.—The United States Coast Guard, in conjunction with other such agencies in the Department of Transportation as the Secretary of Transportation may designate, shall conduct 4 port oil pollution minimization demonstration projects, one each with (A) the Port Authority of New York and New Jersey, (B) the Ports of Los Angeles and Long Beach, California, (C) the Port of New Orleans, Louisiana, and (D) ports on the Great Lakes, for the purpose of developing and demonstrating integrated port oil pollution prevention and cleanup systems which utilize the information and implement the improved practices and technologies developed from the research, development, and demonstration program established in this section. Such systems shall utilize improved technologies and management practices for reducing the risk of oil discharges, including, as appropriate, improved data access, computerized tracking of oil shipments, improved vessel tracking and navigation systems, advanced technology to monitor

pipeline and tank conditions, improved oil spill response capability, improved capability to predict the flow and effects of oil discharges in both the inner and outer harbor areas for the purposes of making infrastructure decisions, and such other activities necessary to achieve the purposes of this section.

(7) SIMULATED ENVIRONMENTAL TESTING.—Agencies represented on the Interagency Committee shall ensure the long-term use and operation of the Oil and Hazardous Materials Simulated Environmental Test Tank [OHMSETT] Research Center in New Jersey for oil pollution technology testing and evaluations.

(8) REGIONAL RESEARCH PROGRAM.—

(A) Consistent with the research plan in subsection (b), the Interagency Committee shall coordinate a program of competitive grants to universities or other research institutions, or groups of universities or research institutions, for the purposes of conducting a coordinated research program related to the regional aspects of oil pollution, such as prevention, removal, mitigation, and the effects of discharged oil on regional environments. For the purposes of this paragraph, a region means a Coast Guard district as set out in part 3 of title 33, Code of Federal Regulations (1989).

(B) The Interagency Committee shall coordinate the publication by the agencies represented on the Interagency Committee of a solicitation for grants under this subsection. The application shall be in such form and contain such information as may be required in the published solicitation. The applications shall be reviewed by the Interagency Committee, which shall make recommendations to the appropriate granting agency represented on the Interagency Committee for awarding the grant. The granting agency shall award the grants recommended by the Interagency Committee unless the agency decides not to award the grant due to budgetary or other compelling considerations and publishes its reasons for such a determination in the Federal Register. No grants may be made by any agency from any funds authorized for this paragraph unless such grant award has first been recommended by the Interagency Committee.

(C) Any university or other research institution, or group of universities or research institutions, may apply for a grant for the regional research program established by this paragraph. The applicant must be located in the region, or in a State a part of which is in the region, for which the project is proposed as part of the regional research program. With respect to a group application, the entity or entities which will carry out the substantial portion of the proposed research must be located in the region, or in a State a part of which is in the region, for which the project is proposed as part of the regional research program.

(D) The Interagency Committee shall make recommendations on grants in such a manner as to ensure an appropriate balance within a region among the various as-

pects of oil pollution research, including prevention, removal, mitigation, and the effects of discharged oil on regional environments. In addition, the Interagency Committee shall make recommendations for grants based on the following criteria:

(i) There is available to the applicant for carrying out this paragraph demonstrated research resources.

(ii) The applicant demonstrates the capability of making a significant contribution to regional research needs.

(iii) The projects which the applicant proposes to carry out under the grant are consistent with the research plan under subsection (b)(1)(F) and would further the objectives of the research and development program established in this section.

(E) Grants provided under this paragraph shall be for a period up to 3 years, subject to annual review by the granting agency, and provide not more than 80 percent of the costs of the research activities carried out in connection with the grant.

(F) No funds made available to carry out this subsection may be used for the acquisition of real property (including buildings) or construction of any building.

(G) Nothing in this paragraph is intended to alter or abridge the authority under existing law of any Federal agency to make grants, or enter into contracts or cooperative agreements, using funds other than those authorized in this Act for the purposes of carrying out this paragraph.

(9) FUNDING.—For each of the fiscal years 1991, 1992, 1993, 1994, and 1995, \$6,000,000 of amounts in the Fund shall be available to carry out the regional research program in paragraph (8), such amounts to be available in equal amounts for the regional research program in each region; except that if the agencies represented on the Interagency Committee determine that regional research needs exist which cannot be addressed within such funding limits, such agencies may use their authority under paragraph (10) to make additional grants to meet such needs. For the purposes of this paragraph, the research program carried out by the Prince William Sound Oil Spill Recovery Institute established under section 5001, shall not be eligible to receive grants under this ~~paragraph.~~ *paragraph until the authorization for funding under section 5006(b) expires.*

(10) GRANTS.—In carrying out the research and development program established under this subsection, the agencies represented on the Interagency Committee may enter into contracts and cooperative agreements and make grants to universities, research institutions, and other persons. Such contracts, cooperative agreements, and grants shall address research and technology priorities set forth in the oil pollution research plan under subsection (b).

(11) In carrying out research under this section, the Department of Transportation shall continue to utilize the resources of the Research and Special Programs Administration of the

Department of Transportation, to the maximum extent practicable.

(d) INTERNATIONAL COOPERATION.—In accordance with the research plan submitted under subsection (b), the Interagency Committee shall coordinate and cooperate with other nations and foreign research entities in conducting oil pollution research, development, and demonstration activities, including controlled field tests of oil discharges.

(e) BIENNIAL REPORTS.—The Chairman of the Interagency Committee shall submit to Congress every 2 years on October 30 a report on the activities carried out under this section in the preceding 2 fiscal years, and on activities proposed to be carried out under this section in the current 2 fiscal year period.

(f) FUNDING.—Not to exceed \$22,000,000 of amounts in the Fund shall be available annually to carry out this section except for subsection (c)(8). Of such sums—

(1) funds authorized to be appropriated to carry out the activities under subsection (c)(4) shall not exceed \$ 5,000,000 for fiscal year 1991 or \$3,500,000 for any subsequent fiscal year; and

(2) not less than \$ 3,000,000 shall be available for carrying out the activities in subsection (c)(6) for fiscal years 1992, 1993, 1994, and 1995.

All activities authorized in this section, including subsection (c)(8), are subject to appropriations.

CHAPTER 41. NATIONAL COASTAL MONITORING

§ 2803. Comprehensive Coastal Water Quality Monitoring Program

[(a) AUTHORITY; JOINT IMPLEMENTATION.

[(1) The Administrator and the Under Secretary, in conjunction with other Federal, State, and local authorities, shall jointly develop and implement a program for the long-term collection, assimilation, and analysis of scientific data designed to measure the environmental quality of the Nation's coastal ecosystems pursuant to this section. Monitoring conducted pursuant to this section shall be coordinated with relevant monitoring programs conducted by the Administrator, Under Secretary, and other Federal, State, and local authorities.

[(2) Primary leadership for the monitoring program activities conducted by the Environmental Protection Agency pursuant to this section shall be located at the Environmental Research Laboratory in Narragansett, Rhode Island.

[(b) PROGRAM ELEMENTS.—The Comprehensive Coastal Water Quality Monitoring Program shall include, but not be limited to—

[(1) identification and analysis of the status of environmental quality in the Nation's coastal ecosystems, including but not limited to, assessment of—

[(A) ambient water quality, including contaminant levels in relation to criteria and standards issued pursuant to title III or the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.);

- [(B) benthic environmental quality, including analysis of contaminant levels in sediments in relation to criteria and standards issued pursuant to title III of the Federal Water Pollution Control Act (33 U.S.C. 1311 et seq.); and
 - [(C) health and quality of living resources.
 - [(2) identification of sources of environmental degradation affecting the Nation's coastal ecosystems;
 - [(3) assessment of the impact of governmental programs and management strategies and measures designed to abate or prevent the environmental degradation of the Nation's coastal ecosystems;
 - [(4) assessment of the accumulation of floatables along coastal shorelines;
 - [(5) analysis of expected short-term and long-term trends in the environmental quality of the Nation's coastal ecosystems; and
 - [(6) the development and implementation of intensive coastal water quality monitoring programs in accordance with subsection (d).
- [(c) MONITORING GUIDELINES AND PROTOCOLS.
- [(1) GUIDELINES.—Not later than 18 months after the date of the enactment of this title, the Administrator and the Under Secretary shall jointly issue coastal water quality monitoring guidelines to assist in the development and implementation of coastal water quality monitoring programs. The guidelines shall—
 - [(A) provide an appropriate degree of uniformity among the coastal water quality monitoring methods and data while preserving the flexibility of monitoring programs to address specific needs;
 - [(B) establish scientifically valid monitoring methods that will—
 - [(i) provide simplified methods to survey and assess the water quality and ecological health of coastal waters;
 - [(ii) identify and quantify through more intensive efforts the severity of existing or anticipated problems in selected coastal waters;
 - [(iii) identify and quantify sources of pollution that cause or contribute to those problems, including point and nonpoint sources; and
 - [(iv) evaluate over time the effectiveness of efforts to reduce or eliminate pollution from those sources;
 - [(C) provide for data compatibility to enable data to be efficiently stored and shared by various users; and
 - [(D) identify appropriate physical, chemical, and biological indicators of the health and quality of coastal ecosystems.
 - [(2) TECHNICAL PROTOCOLS.—Guidelines issued under paragraph (1) shall include protocols for—
 - [(A) designing statistically valid coastal water quality monitoring networks and monitoring surveys, including assessment of the accumulation of floatables;

[(B) sampling and analysis, including appropriate physical and chemical parameters, living resource parameters, and sediment analysis techniques; and

[(C) quality control, quality assessment, and data consistency and management.

[(3) PERIODIC REVIEW.—The Administrator and the Under Secretary shall periodically review the guidelines and protocols issued under this subsection to evaluate their effectiveness, the degree to which they continue to answer program objectives and provide an appropriate degree of uniformity while taking local conditions into account, and any need to modify or supplement them with new guidelines and protocols, as needed.

[(4) DISCHARGE PERMIT DATA.—The Administrator or a State permitting authority shall ensure that compliance monitoring conducted pursuant to section 402(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1342(a)(2)) for permits for discharges to coastal waters is consistent with the guidelines issued under this subsection. Any modifications of discharge permits necessary to implement this subsection shall be deemed to be minor modifications of such permit. Nothing in this subsection requires dischargers to conduct monitoring other than compliance monitoring pursuant to permits under section 402(a)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1342(a)(2)).

[(d) INTENSIVE COASTAL WATER QUALITY MONITORING PROGRAMS.—

[(1) IN GENERAL.—The Comprehensive Coastal Water Quality Monitoring Program established pursuant to this section shall include intensive coastal water quality monitoring programs developed under this subsection.

[(2) DESIGNATION OF INTENSIVE MONITORING AREAS.—Not later than 24 months after the date of enactment of this title and periodically thereafter, the Administrator and the Under Secretary shall, based on recommendations by the National Research Council, jointly designate coastal areas to be intensively monitored.

[(3) IDENTIFICATION OF SUITABLE COASTAL AREAS.—

[(A) The Administrator and the Under Secretary shall contract with the National Research Council to conduct a study to identify coastal areas suitable for the establishment of intensive coastal monitoring programs. In identifying these coastal areas, the National Research Council shall consider areas that—

[(i) are representatives of coastal ecosystems throughout the United States;

[(ii) will provide information to assess the status and trends of coastal water quality nation-wide; and

[(iii) would benefit from intensive water quality monitoring because of local management needs.

[(B) In making recommendations under this paragraph, the National Research Council shall consult with Regional Research Boards established pursuant to title IV of this Act.

[(C) The National Research Council shall, within 18 months of the date of enactment of this title, submit a report to the Administrator and the Under Secretary listing areas suitable for intensive monitoring.

[(D) The Administrator and the Under Secretary, in conjunction with other Federal, State, and local authorities, shall develop and implement multi-year programs of intensive monitoring for Massachusetts and Cape Cod Bays, the Gulf of Maine, the Chesapeake Bay, the Hudson-Raritan Estuary, and each area jointly designated by the Administrator and the Under Secretary pursuant to paragraph (2).

[(4) INTENSIVE COASTAL WATER QUALITY MONITORING PROGRAMS.—Each intensive coastal water quality monitoring program developed pursuant to this subsection shall—

[(A) identify water quality conditions and problems and provide information to assist in improving coastal water quality;

[(B) clearly state the goals and objectives of the monitoring program and their relationship to the water quality objectives or coastal waters covered by the program;

[(C) identify the water quality and biological parameters of the monitoring program and their relationship to these goals and objectives;

[(D) describe the types of monitoring networks, surveys and other activities to be used to achieve these goals and objectives, using where appropriate the guidelines issued under subsection (c);

[(E) survey existing Federal, State, and local coastal monitoring activities and private compliance monitoring activities in or on the coastal waters covered by the program, describe the relationship of the program to those other monitoring activities, and integrate them, as appropriate, into the intensive monitoring program;

[(F) describe the data management and quality control components of the program;

[(G) specify the implementation requirements for the program, including—

[(i) the lead Federal, State, or regional authority that will administer the program;

[(ii) the public and private parties that will implement the program;

[(iii) a detailed schedule for program implementation;

[(iv) all Federal and State responsibilities for implementing the program; and

[(v) the changes in Federal, State, and local monitoring programs necessary to implement the program;

[(H) estimate the costs to Federal and State governments, and other participants, of implementing the monitoring program; and

[(I) describe the methods to assess periodically the success of the monitoring program in meeting its goals and objectives, and the manner in which the program may be modified from time-to-time.

[(5) CRITERIA FOR MONITORING MASSACHUSETTS AND CAPE COD BAYS.—In addition to the criteria listed in paragraph (4), the intensive monitoring program for Massachusetts and Cape Cod Bays shall establish baseline data on environmental phenomena (such as quantity of bacteria and quality of indigenous species, and swimmability) and determine the ecological impacts resulting from major point source discharges.

[(6) MEMORANDUM OF UNDERSTANDING.—Prior to implementing any intensive coastal water quality monitoring program under this subsection, the Administrator and the Under Secretary shall enter into a Memorandum of Understanding to implement the intensive coastal water quality monitoring programs and may extend the memorandum of Understanding to include other appropriate Federal agencies. The Memorandum of Understanding shall identify the monitoring and reporting responsibilities of each agency and shall encourage the coordination of monitoring activities.

[(7) IMPLEMENTATION.—

[(A) The Administrator, the Under Secretary, and the Governor of each State having waters subject to an intensive coastal water quality monitoring program developed pursuant to this subsection shall ensure compliance with that program.

[(B) The Administrator and the Under Secretary are authorized to enter into cooperative agreements to provide financial assistance to non-Federal agencies and institutions to support implementation of intensive monitoring programs under this subsection. Federal financial assistance may only be provided on the condition that not less than fifty percent of the costs of the monitoring to be conducted by a non-Federal agency or institution is provided from non-Federal funds.

[(e) COMPREHENSIVE IMPLEMENTATION STRATEGY.—

[(1) IN GENERAL.—Within 1 year after the date of enactment of this title, the Administrator and the Under Secretary shall jointly submit to Congress a Comprehensive Implementation Strategy identifying the current and planned activities to implement the Comprehensive Coastal Monitoring Program pursuant to this section.

[(2) CONSULTATION.—The Administrator and the Under Secretary shall consult with the National Academy of Sciences, the Director of the United States Fish and Wildlife Service, the Director of the Minerals Management Service, the Commandant of the Coast Guard, the Secretary of the Navy, the Secretary of Agriculture, the heads of any other relevant Federal or regional agencies, and the Governors of coastal States in developing the Strategy.

[(3) PUBLIC COMMENT.—Not less than 3 months before submitting the Strategy to Congress, the Administrator and the Under Secretary shall jointly publish a draft version of the Strategy in the Federal Register and shall solicit public comments regarding the Strategy.

[(4) MEMORANDUM OF UNDERSTANDING.—Within 1 year after submission of the Strategy under paragraph (1), the Adminis-

trator and the Under Secretary shall enter into a Memorandum of Understanding with appropriate Federal agencies necessary to effect the coordination of Federal coastal monitoring programs. The Memorandum of Understanding shall identify the monitoring and reporting responsibilities of each agency and shall encourage the coordination of monitoring activities where possible.】

SEC. 2203. COORDINATION.

(a) ESTABLISHMENT OF MARINE DEBRIS COORDINATING COMMITTEE.—The Secretary of Commerce shall establish a Marine Debris Coordinating Committee.

(b) MEMBERSHIP.—The Committee shall include a senior official from—

- (1) the National Oceanic and Atmospheric Administration, who shall serve as the Chairperson of the Committee;
- (2) the Environmental Protection Agency;
- (3) the United States Coast Guard;
- (4) the United States Navy; and
- (5) such other Federal agencies that have an interest in ocean issues or water pollution prevention and control as the Secretary of Commerce determines appropriate.

(c) MEETINGS.—The Committee shall meet at least twice a year to provide a forum to ensure the coordination of national and international research, monitoring, education, and regulatory actions addressing the persistent marine debris problem.

(d) MONITORING.—The Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration, in cooperation with the Administrator of the Environmental Protection Agency, shall utilize the marine debris data derived under title V of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 2801 et seq.) to assist—

- (1) the Committee in ensuring coordination of research, monitoring, education and regulatory actions; and
- (2) the United States Coast Guard in assessing the effectiveness of this Act and the Act to Prevent Pollution from Ships in ensuring compliance under section 2201.

TITLE 42. THE PUBLIC HEALTH AND WELFARE

CHAPTER 82. SOLID WASTE DISPOSAL

§6981. Research, demonstrations, training, and other activities

(a) GENERAL AUTHORITY.—The Administrator, alone or after consultation with the Administrator of the Federal Energy Administration, the Administrator of the Energy Research and Development Administration, or the Chairman of the Federal Power Commission, shall conduct, and encourage, cooperate with, and render financial and other assistance to appropriate public (whether Federal, State, interstate, or local) authorities, agencies, and institutions, private agencies and institutions, and individuals in the con-

duct of, and promote the coordination of, research, investigations, experiments, training, demonstrations, surveys, public education programs, and studies relating to—

(1) any adverse health and welfare effects of the release into the environment of material present in solid waste, and methods to eliminate such effects;

(2) the operation and financing of solid waste management programs;

(3) the planning, implementation, and operation of resource recovery and resource conservation systems and hazardous waste management systems, including the marketing of recovered resources;

(4) the production of usable forms of recovered resources, including fuel, from solid waste;

(5) the reduction of the amount of such waste and unsalvageable waste materials;

(6) the development and application of new and improved methods of collecting and disposing of solid waste and processing and recovering materials and energy from solid wastes;

(7) the identification of solid waste components and potential materials and energy recoverable from such waste components;

(8) small scale and low technology solid waste management systems, including but not limited to, resource recovery source separation systems;

(9) methods to improve the performance characteristics of resources recovered from solid waste and the relationship of such performance characteristics to available and potentially available markets for such resources;

(10) improvements in land disposal practices for solid waste (including sludge) which may reduce the adverse environmental effects of such disposal and other aspects of solid waste disposal on land, including means for reducing the harmful environmental effects of earlier and existing landfills, means for restoring areas damaged by such earlier or existing landfills, means for rendering landfills safe for purposes of construction and other uses, and techniques of recovering materials and energy from landfills;

(11) methods for the sound disposal of, or recovery of resources, including energy, from, sludge (including sludge from pollution control and treatment facilities, coal slurry pipelines, and other sources);

(12) methods of hazardous waste management, including methods of rendering such waste environmentally safe; and

(13) any adverse effects on air quality (particularly with regard to the emission of heavy metals) which result from solid waste which is burned (either alone or in conjunction with other substances) for purposes of treatment, disposal or energy recovery.

(b) MANAGEMENT PROGRAM.—

(1)(A) In carrying out his functions pursuant to this Act, and any other Federal legislation respecting solid waste or discarded material research, development, and demonstrations, the Administrator shall establish a management program or system to insure the coordination of all such activities and to

facilitate and accelerate the process of development of sound new technology (or other discoveries) from the research phase, through development, and into the demonstration phase.

(B) The Administrator shall (i) assist, on the basis of any research projects which are developed with assistance under this Act or without Federal assistance, the construction of pilot plant facilities for the purpose of investigating or testing the technological feasibility of any promising new fuel, energy, or resource recovery or resource conservation method or technology; and (ii) demonstrate each such method and technology that appears justified by an evaluation at such pilot plant stage or at a pilot plant stage developed without Federal assistance. Each such demonstration shall incorporate new or innovative technical advances or shall apply such advances to different circumstances and conditions, for the purpose of evaluating design concepts or to test the performance, efficiency, and economic feasibility of a particular method or technology under actual operating conditions. Each such demonstration shall be so planned and designed that, if successful, it can be expanded or utilized directly as a full-scale operational fuel, energy, or resource recovery or resource conservation facility.

(2) Any energy-related research, development, or demonstration project for the conversion including bioconversion, of solid waste carried out by the Environmental Protection Agency or by the Energy Research and Development Administration or any other Act shall be administered in accordance with the May 7, 1976, Interagency Agreement between the Environmental Protection Agency and the Energy Research and Development Administration on the Development of Energy from Solid Wastes and specifically, that in accordance with this agreement, (A) for those energy-related projects of mutual interest, planning will be conducted jointly by the Environmental Protection Agency and the Energy Research and Development Administration, following which project responsibility will be assigned to one agency; (B) energy-related portions of projects for recovery of synthetic fuels or other forms of energy from solid waste shall be the responsibility of the Energy Research and Development Administration; (C) the Environmental Protection Agency shall retain responsibility for the environmental, economic, and institutional aspects of solid waste projects and for assurance that such projects are consistent with any applicable suggested guidelines published pursuant to section 1008, and any applicable State or regional solid waste management plan; and (D) any activities undertaken under provisions of sections 8002 and 8003 as related to energy; as related to energy or synthetic fuels recovery from waste; or as related to energy conservation shall be accomplished through coordination and consultation with the Energy Research and Development Administration.

(c) AUTHORITIES.—

(1) In carrying out subsection (a) of this section respecting solid waste research, studies, development, and demonstration, except as otherwise specifically provided in section 8004(d), the Administrator may make grants to or enter into contracts (in-

cluding contracts for construction) with, public agencies and authorities or private persons.

(2) Contracts for research, development, or demonstrations or for both (including contracts for construction) shall be made in accordance with and subject to the limitations provided with respect to research contracts of the military departments in title 10, United States Code, section 2353, except that the determination, approval, and certification required thereby shall be made by the Administrator.

(3) Any invention made or conceived in the course of, or under, any contract under this Act shall be subject to section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 to the same extent and in the same manner as inventions made or conceived in the course of contracts under such Act, except that in applying such section, the Environmental Protection Agency shall be substituted for the Energy Research and Development Administration and the words "solid waste" shall be substituted for the word "energy" where appropriate.

(4) For carrying out the purpose of this Act the Administrator may detail personnel of the Environmental Protection Agency to agencies eligible for assistance under this section.

Plastic pollution public education program. Act Dec. 29, 1987, P.L. 100-220, Title II, Subtitle B, §2204, 101 Stat. 1466, effective as provided by §2002 of such Act, which appears as 33 USCS 1901 note, provides:

(a) OUTREACH PROGRAM.—

(1) IN GENERAL.—Not later than April 1, 1988, the Administrator of the National Oceanic and Atmospheric Administration and the Administrator of the Environmental Protection Agency, in consultation with the Secretary of Transportation, shall jointly commence and thereafter conduct [for a period of at least 3 years,] a public outreach program to educate the public (including recreational boaters, fishermen, and other users of the marine environment) regarding—

(A) the harmful effects of plastic pollution;

(B) the need to reduce such pollution;

(C) the need to recycle plastic materials; [and]

(D) the need to reduce the quantity of plastic debris in the marine [environment.] *environment; and*

(E) the requirements under this Act and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.) with respect to ships and ports, and the authority of citizens to report violations of this Act and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.).

[(2) AUTHORIZED ACTIVITIES.—A public outreach program under paragraph (1) may include—

[(A) workshops with interested groups;

[(B) public service announcements;

[(C) distribution of leaflets and posters; and

[(D) any other means appropriate to educating the public.]

(2) AUTHORIZED ACTIVITIES.—

(A) *PUBLIC OUTREACH PROGRAM.*—A public outreach program under paragraph (1) may include—

- (i) developing and implementing a voluntary boaters' pledge program;
- (ii) workshops with interested groups;
- (iii) public service announcements;
- (iv) distribution of leaflets and posters; and
- (v) any other means appropriate to educating the public.

(B) *GRANTS AND COOPERATIVE AGREEMENTS.*—To carry out this section, the Secretary of the department in which the Coast Guard is operating, the Secretary of Commerce, and the Administrator of the Environmental Protection Agency are authorized to award grants, enter into cooperative agreements with appropriate officials of other Federal agencies and agencies of States and political subdivisions of States and with public and private entities, and provide other financial assistance to eligible recipients.

(C) *CONSULTATION.*—In developing outreach initiatives for groups that are subject to the requirements of this title and the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Secretary of the department in which the Coast Guard is operating, in consultation with the Secretary of Commerce, acting through the Administrator of the National Oceanic and Atmospheric Administration, and the Administrator of the Environmental Protection Agency, shall consult with—

- (i) the heads of State agencies responsible for implementing State boating laws; and
- (ii) the heads of other enforcement agencies that regulate boaters or commercial fishermen.

(b) *CITIZEN POLLUTION PATROLS.*—The Secretary of Commerce, along with the Administrator of the Environmental Protection Agency and the Secretary of the Department in which the Coast Guard is operating, shall conduct a program to encourage the formation of volunteer groups, to be designated as "Citizen Pollution Patrols", to assist in monitoring, reporting, cleanup, and prevention of ocean and shoreline pollution.

TITLE 46. SHIPPING

CHAPTER 21. GENERAL

§2101. General definitions

In this subtitle—

- (1) "associated equipment"
 - (A) means—
 - (i) a system, accessory, component, or appurtenance of a recreational vessel; or
 - (ii) a marine safety article intended for use on board a recreational vessel; but
 - (B) does not include radio equipment.
- (2) "barge" means a non-self-propelled vessel.

(3) “Boundary Line” means a line established under section 2(b) of the Act of February 19, 1895 (33 U.S.C. 151).

(3a) “citizen of the United States” means a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or an individual citizen of the Trust Territory of the Pacific Islands who is exclusively domiciled in the Northern Mariana Islands within the meaning of section 1005(e) of the Covenant to establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (48 U.S.C. 1681 note).

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

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

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

(6) “consular officer” means an officer or employee of the United States Government designated under regulations to grant visas.

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

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

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

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

(10) “documented vessel” means a vessel for which a certificate of documentation has been issued under chapter 121 of this title.

(10a) “Exclusive Economic Zone” means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983.

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

(11a) “fishing vessel” means a vessel that commercially engages in the catching, taking, or harvesting of fish or an activity that can reasonably be expected to result in the catching, taking, or harvesting of fish.

(11b) “fish processing vessel” means a vessel that commercially prepares fish or fish products other than by gutting, decapitating, gilling, skinning, shucking, icing, freezing, or brine chilling.

(11c) “fish tender vessel” means a vessel that commercially supplies, stores, refrigerates, or transports fish, fish products, or materials directly related to fishing or the preparation of fish to or from a fishing, fish processing, or fish tender vessel or a fish processing facility.

(12) “foreign vessel” means a vessel of foreign registry or operated under the authority of a country except the United States.

(13) “freight vessel” means a motor vessel of more than 15 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* that carries freight for hire, except an oceanographic research vessel or an offshore supply vessel.

(13a) “Great Lakes barge” means a non-self-propelled vessel of at least 3,500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* operating on the Great Lakes.

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

(A) flammable or combustible;

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

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

(14a) “major conversion” means a conversion of a vessel that—

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

(B) changes the type of the vessel;

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

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

(15) “marine environment” means—

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

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

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

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

(15a) “mobile offshore drilling unit” means a vessel capable of engaging in drilling operations for the exploration or exploitation of subsea resources.

(16) “motor vessel” means a vessel propelled by machinery other than steam.

(17) “nautical school vessel” means a vessel operated by or in connection with a nautical school or an educational institution under section 13 of the Coast Guard Authorization Act of 1986.

(17a) “numbered vessel” means a vessel for which a number has been issued under chapter 123 of this title.

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

(19) “offshore supply vessel” means a motor vessel of more than 15 gross tons but less than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* that regularly carries goods, supplies, individuals in addition to the crew, or equipment in support of exploration, exploitation, or production of offshore mineral or energy resources.

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

(20a) “oil spill response vessel” means a vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material.

[(20a)] (20b) “overall in length” means—

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

(i) 96 percent of the length on a waterline at 85 percent of the least molded depth measured from the top of the keel (or on a vessel designed with a rake of keel, on a waterline parallel to the designed waterline); or

(ii) the length from the fore side of the stem to the axis of the rudder stock on that waterline; and

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

(21) “passenger”—

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

(i) the owner or an individual representative of the owner or, in the case of a vessel under charter, an individual charterer or individual representative of the charterer;

(ii) the master; or

(iii) a member of the crew engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for on board services;

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

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

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

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

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

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

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

(ii) a managing operator;

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

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

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

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

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

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

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

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

(21a) “passenger for hire” means a passenger for whom consideration is contributed as a condition of carriage on the vessel, whether directly or indirectly flowing to the owner, charterer, operator, agent, or any other person having an interest in the vessel.

(22) “passenger vessel” means a vessel of at least 100 gross tons as measured under section 14502 of title 46, *United States Code*, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title—

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

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

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

(23) “product carrier” means a tanker engaged in the trade of carrying oil except crude oil.

(24) “public vessel” means a vessel that—

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

- (B) is not engaged in commercial service.
- (25) “recreational vessel” means a vessel—
- (A) being manufactured or operated primarily for pleasure; or
 - (B) leased, rented, or chartered to another for the latter’s pleasure.
- (26) “recreational vessel manufacturer” means a person engaged in the manufacturing, construction, assembly, or importation of recreational vessels, components, or associated equipment.
- (27) “sailing instruction” means teaching, research, and practical experience in operating vessels propelled primarily by sail and may include—
- (A) any subject related to that operation and to the sea, including seamanship, navigation, oceanography, other nautical and marine sciences, and maritime history and literature; and
 - (B) only when in conjunction with a subject referred to in subclause (A) of this clause, instruction in mathematics and language arts skills to sailing school students having learning disabilities.
- (28) “sailing school instructor” means an individual who is on board a sailing school vessel to provide sailing instruction, but does not include an operator or crewmember who is among those required to be on board the vessel to meet a requirement established under part F of this subtitle.
- (29) “sailing school student” means an individual who is on board a sailing school vessel to receive sailing instruction.
- (30) “sailing school vessel” means a vessel—
- (A) that is less than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title;*
 - (B) carrying more than 6 individuals who are sailing school instructors or sailing school students;
 - (C) principally equipped for propulsion by sail, even if the vessel has an auxiliary means of propulsion; and
 - (D) owned or demise chartered, and operated by an organization described in section 501(c)(3) of the Internal Revenue Code of 1954 (26 U.S.C. 501(c)(3)) and exempt from tax under section 501(a) of that Code, or by a State or political subdivision of a State, during times that the vessel is operated by the organization, State, or political subdivision only for sailing instruction.
- (31) “scientific personnel” means individuals on board an oceanographic research vessel only to engage in scientific research, or to instruct or receive instruction in oceanography or limnology.
- (32) “seagoing barge” means a non-self-propelled vessel of at least 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary*

under section 14104 of that title making voyages beyond the Boundary Line.

(33) “seagoing motor vessel” means a motor vessel of at least 300 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title making voyages beyond the Boundary Line.*

(34) “Secretary”, except in part H, means the head of the department in which the Coast Guard is operating.

(35) “small passenger vessel” means a vessel of less than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title—*

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

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

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

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

(36) “State” means a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

(37) “steam vessel” means a vessel propelled in whole or in part by steam, except a recreational vessel of not more than 40 feet in length.

(37a) “submersible vessel” means a vessel that is capable of operating below the surface of the water.

(38) “tanker” means a self-propelled tank vessel constructed or adapted primarily to carry oil or hazardous material in bulk in the cargo spaces.

(39) “tank vessel” means a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue, and that—

(A) is a vessel of the United States;

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

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

(40) “towing vessel” means a commercial vessel engaged in or intending to engage in the service of pulling, pushing, or hauling along side, or any combination of pulling, pushing, or hauling along side.

(41) “undocumented” means not having and not required to have a document issued under chapter 121 of this title.

(42) “uninspected passenger vessel” means an uninspected vessel—

(A) of at least 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title—*

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

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

(B) of less than 100 gross tons—

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

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

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

(44) "United States", when used in a geographic sense, means the States of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

(45) "vessel" has the same meaning given that term in section 3 of title 1.

(46) "vessel of the United States" means a vessel documented or numbered under the laws of the United States or titled under the law of a State.

(47) "vessel of war" means a vessel—

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

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

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

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

* * * * *

§2110. Fees

(a)(1) Except as otherwise provided in this title, the Secretary shall establish a fee or charge for a service or thing of value provided by the Secretary under this subtitle, in accordance with section 9701 of title 31.

(2) The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination of a non-self-propelled tank vessel under part B of this title that is more than \$500 annually. *The Secretary may not establish a fee or charge under paragraph (1) for inspection or examination of a small passenger vessel under this title that is more than \$300 annually for such vessels under 65 feet in length, or more than \$600 annually for such vessels 65 feet in length and greater. The Secretary may not establish a fee or*

charge under paragraph (1) for inspection or examination under this title for any publicly-owned ferry.

(3) The Secretary may, by regulation, adjust a fee or charge collected under this subsection to accommodate changes in the cost of providing a specific service or thing of value, but the adjusted fee or charge may not exceed the total cost of providing the service or thing of value for which the fee or charge is collected, including the cost of collecting the fee or charge.

(4) The Secretary may not collect a fee or charge under this subsection that is in conflict with the international obligations of the United States.

(5) The Secretary may not collect a fee or charge under this subsection for any search or rescue service.

(b)(1) The Secretary shall establish a fee or charge as provided in paragraph (2) of this subsection, and collect it annually in fiscal years 1993 and 1994, from the owner or operator of each recreational vessel to which paragraph (2) of this subsection applies.

(2) The fee or charge established under paragraph (1) of this subsection is as follows:

(A) in fiscal year 1993—

(i) for vessels of more than 21 feet in length but less than 27 feet, not more than \$35;

(ii) for vessels of at least 27 feet in length but less than 40 feet, not more than \$50; and

(iii) for vessels of at least 40 feet in length, not more than \$100.

(B) in fiscal year 1994—

(i) for vessels of at least 37 feet in length but less than 40 feet, not more than \$50; and

(ii) for vessels of at least 40 feet in length, not more than \$100.

(3) The fee or charge established under this subsection applies only to vessels operated on the navigable waters of the United States where the Coast Guard has a presence.

(4) The fee or charge established under this subsection does not apply to a—

(A) public vessel; or

(B) vessel deemed to be a public vessel under section 827 of title 14.

(5) The Secretary shall provide to each person who pays a fee or charge under this subsection a separate document on which appears, in readily discernible print, only the following statement: "The fees for which this document was provided was established under the Omnibus Budget Reconciliation Act of 1990. Persons paying this fee can expect no increase in the quantity, quality, or variety of services the person receives from the Coast Guard as a result of that payment."

(c) In addition to the collection of fees and charges established under subsections (a) and (b), the Secretary may recover appropriate collection 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. A private en-

terprise or business selected 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.

(2) A Federal agency shall account for the agency's costs of collecting the fee or charge under this subsection as a reimbursable expense, and the costs shall be credited to the account from which expended.

(e) A person that violates this section by failing to pay a fee or charge established under this section is liable to the United States Government for a civil penalty of not more than \$5,000 for each violation.

(f) When requested by the Secretary, the Secretary of the Treasury shall deny the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91) to a vessel for which a fee or charge established under this section has not been paid until the fee or charge is paid or until a bond is posted for the payment.

(g) The Secretary may exempt a person from paying a fee or charge established under this section if the Secretary determines that it is in the public interest to do so.

(h) Fees and charges collected by the Secretary under this section shall be deposited in the general fund of the Treasury as offsetting receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities.

(i) The collection of a fee or charge under this section does not alter or expand the functions, powers, responsibilities, or liability of the United States under any law for the performance of services or the provision of a thing of value for which a fee or charge is collected under this section.

(j) The Secretary may not establish or collect a fee or charge for the inspection under part B of this subtitle of training vessels operated by state maritime academies.

* * * * *

§2113. Authority to exempt certain vessels

If the Secretary decides that the application of a provision of part B, C, F, or G of this subtitle is not necessary in performing the mission of the vessel engaged in excursions or an oceanographic research vessel, or not necessary for the safe operation of certain vessels carrying passengers, the Secretary by regulation may—

(1) for a vessel, issue a special permit specifying the conditions of operation and equipment;

(2) exempt an oceanographic research vessel from that provision under conditions the Secretary may specify;

(3) establish different operating and equipment requirements for vessels defined in section 2101(42)(A) of this title;

(4) establish different structural fire protection, manning, operating, and equipment requirements for vessels of at least 100 gross tons but less than 300 gross tons *as measured under sec-*

tion 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title carrying not more than 150 passengers on domestic voyages if the owner of the vessel—

(A) makes application for inspection to the Coast Guard within 6 months of the date of enactment of the Passenger Vessel Safety Act of 1993; and

(B) provides satisfactory documentation that the vessel was chartered at least once within the previous 12 months prior to the date of enactment of that Act; and

(5) establish different structural fire protection, manning, operating, and equipment requirements for former public vessels of the United States of at least 100 gross tons but less than 500 gross tons, *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title carrying not more than 150 passengers on domestic voyages, if the owner of the vessel—*

(A) makes application for inspection to the Coast Guard within 6 months of the date of enactment of the Passenger Vessel Safety Act of 1993; and

(B) provides satisfactory documentation that the vessel was chartered at least once within the previous 12 months prior to the date of enactment of that Act.

* * * * *

§2115. Civil penalty to enforce alcohol and dangerous drug testing

Any person who fails to implement or conduct, or who otherwise fails to comply with the requirements prescribed by the Secretary for, chemical testing for dangerous drugs or for evidence of alcohol use, as prescribed under this subtitle or a regulation prescribed by the Secretary to carry out the provisions of this subtitle, is liable to the United States Government for a civil penalty of not more than \$1,000 for each violation. Each day of a continuing violation shall constitute a separate violation.

* * * * *

§3103. Use of reports, documents, and records

The Secretary may rely, as evidence of compliance with this subtitle, on—

(1) reports, documents, and records of other persons who have been determined by the Secretary to be reliable; and

(2) other methods the Secretary has determined to be reliable.”.

CHAPTER 32. MANAGEMENT OF VESSELS

- Sec.
- 3201. Definitions.
- 3202. Application.
- 3203. Safety management system.

3204. Implementation of safety management system.
3205. Certification.

§ 3201. Definitions

In this chapter—

- (1) “International Safety Management Code” has the same meaning given that term in chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974;
- (2) “responsible person” means—
 - (A) the owner of a vessel to which this chapter applies;
 - or
 - (B) any other person that has—
 - (i) assumed the responsibility for operation of a vessel to which this chapter applies from the owner; and
 - (ii) agreed to assume with respect to the vessel responsibility for complying with all the requirements of this chapter and the regulations prescribed under this chapter.
- (3) “vessel engaged on a foreign voyage” means a vessel to which this chapter applies—
 - (A) arriving at a place under the jurisdiction of the United States from a place in a foreign country;
 - (B) making a voyage between places outside the United States; or
 - (C) departing from a place under the jurisdiction of the United States for a place in a foreign country.

§ 3202. Application

(a) **MANDATORY APPLICATION.**—This chapter applies to the following vessels engaged on a foreign voyage:

- (1) Beginning July 1, 1998—
 - (A) a vessel transporting more than 12 passengers described in section 2101(21)(A) of this title; and
 - (B) a tanker, bulk freight vessel, or high-speed freight vessel, of at least 500 gross tons.
- (2) Beginning July 1, 2002, a freight vessel and a self-propelled mobile offshore drilling unit of at least 500 gross tons.

(b) **VOLUNTARY APPLICATION.**—This chapter applies to a vessel not described in subsection (a) of this section if the owner of the vessel requests the Secretary to apply this chapter to the vessel.

(c) **EXCEPTION.**—Except as provided in subsection (b) of this section, this chapter does not apply to—

- (1) a barge;
- (2) a recreational vessel not engaged in commercial service;
- (3) a fishing vessel;
- (4) a vessel operating on the Great Lakes or its tributary and connecting waters; or
- (5) a public vessel.

§ 3203. Safety management system

(a) **IN GENERAL.**—The Secretary shall prescribe regulations which establish a safety management system for responsible persons and vessels to which this chapter applies, including—

- (1) a safety and environmental protection policy;

(2) instructions and procedures to ensure safe operation of those vessels and protection of the environment in compliance with international and United States law;

(3) defined levels of authority and lines of communications between, and among, personnel on shore and on the vessel;

(4) procedures for reporting accidents and nonconformities with this chapter;

(5) procedures for preparing for and responding to emergency situations; and

(6) procedures for internal audits and management reviews of the system.

(b) *COMPLIANCE WITH CODE.*—Regulations prescribed under this section shall be consistent with the International Safety Management Code with respect to vessels engaged on a foreign voyage.

§ 3204. Implementation of safety management system

(a) *SAFETY MANAGEMENT PLAN.*—Each responsible person shall establish and submit to the Secretary for approval a safety management plan describing how that person and vessels of the person to which this chapter applies will comply with the regulations prescribed under section 3203(a) of this title.

(b) *APPROVAL.*—Upon receipt of a safety management plan submitted under subsection (a), the Secretary shall review the plan and approve it if the Secretary determines that it is consistent with and will assist in implementing the safety management system established under section 3203.

(c) *PROHIBITION ON VESSEL OPERATION.*—A vessel to which this chapter applies under section 3202(a) may not be operated without having on board a Safety Management Certificate and a copy of a Document of Compliance issued for the vessel under section 3205 of this title.

§ 3205. Certification

(a) *ISSUANCE OF CERTIFICATE AND DOCUMENT.*—After verifying that the responsible person for a vessel to which this chapter applies and the vessel comply with the applicable requirements under this chapter, the Secretary shall issue for the vessel, on request of the responsible person, a Safety Management Certificate and a Document of Compliance.

(b) *MAINTENANCE OF CERTIFICATE AND DOCUMENT.*—A Safety Management Certificate and a Document of Compliance issued for a vessel under this section shall be maintained by the responsible person for the vessel as required by the Secretary.

(c) *VERIFICATION OF COMPLIANCE.*—The Secretary shall—

(1) periodically review whether a responsible person having a safety management plan approved under section 3204(b) and each vessel to which the plan applies is complying with the plan; and

(2) revoke the Secretary's approval of the plan and each Safety Management Certificate and Document of Compliance issued to the person for a vessel to which the plan applies, if the Secretary determines that the person or a vessel to which the plan applies has not complied with the plan.

(d) *ENFORCEMENT.*—At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 U.S.C. App. 91) of a vessel that is subject to this chapter under section 3202(a) of this title or to the International Safety Management Code, if the vessel does not have on board a Safety Management Certificate and a copy of a Document of Compliance for the vessel. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.

CHAPTER 33. INSPECTION GENERALLY

§ 3301. Vessels subject to inspection

The following categories of vessels are subject to inspection under this part:

- (1) freight vessels.
- (2) nautical school vessels.
- (3) offshore supply vessels.
- (4) passenger vessels.
- (5) sailing school vessels.
- (6) seagoing barges.
- (7) seagoing motor vessels.
- (8) small passenger vessels.
- (9) steam vessels.
- (10) tank vessels.
- (11) fish processing vessels.
- (12) fish tender vessels.
- (13) Great Lakes barges.
- (14) oil spill response vessels.

§ 3302. Exemptions

(a) A vessel is not excluded from one category only because the vessel is—

- (1) included in another category of section 3301 of this title;

or

- (2) excluded by this section from another category of section 3301 of this title.

(b) A fishing vessel, including a vessel chartered part-time as a fish tender vessel, is exempt from section 3301(1), (7), (11), and (12) of this title.

(c)(1) A fish processing vessel of not more than 5,000 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title is exempt from section 3301(1), (6), (7), (11), and (12) of this title.

(2) A fish tender vessel of not more than 500 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title is exempt from section 3301(1), (6), (7), (11), and (12) of this title.

(3) A fishing, fish processing, or fish tender vessel of not more than 500 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section

14104 of that title is exempt from section 3301 (1), (6), and (7) of this title if—

(A) when transporting cargo (*including fishery-related products*) to or from a place in Alaska—

(i) that place does not receive weekly common carrier service by water from a place in the United States; or

(ii) the cargo is of a type not accepted by that common carrier service; or

(B) in the case of a fish tender vessel, the vessel is not engaged in the Aleutian trade.

(4) A fish tender vessel is exempt from section 3301 (1), (6), and (7) of this title when engaged in the Aleutian trade if the vessel—

(A) is not more than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*;

(B) has an incline test performed by a marine surveyor; and

(C) has written stability instructions posted on board the vessel.

(d)(1) A motor vessel of less than 150 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*, constructed before August 23, 1958, is not subject to inspection under section 3301(1) of this title if the vessel is owned or demise chartered to a cooperative or association that only transports cargo owned by at least one of its members on a nonprofit basis between places within the waters of—

(A) southeastern Alaska shoreward of the Boundary Line; or

(B) southeastern Alaska shoreward of the Boundary Line and—

(i) Prince Rupert, British Columbia; or

(ii) waters of Washington shoreward of the Boundary Line, via sheltered waters, as defined in article I of the treaty dated December 9, 1933, between the United States and Canada defining certain waters as sheltered waters.

(2) The transportation authorized under this subsection is limited to and from places not receiving annual weekly transportation service from any part of the United States by an established water common carrier. However, the limitation does not apply to transporting cargo of a character not accepted for transportation by that carrier.

(e) A vessel laid up, dismantled, or out of commission is exempt from inspection.

(f) Section 3301 (4) and (8) of this title does not apply to an oceanographic research vessel because it is carrying scientific personnel.

(g)(1) Except when compliance with major structural or major equipment requirements is necessary to remove an especially hazardous condition, an offshore supply vessel is not subject to regulations or standards for those requirements if the vessel—

(A) was operating as an offshore supply vessel before January 2, 1979; or

(B) was contracted for before January 2, 1979, and entered into service as an offshore supply vessel before October 6, 1980.

(2) After December 31, 1988, this subsection does not apply to an offshore supply vessel that is at least 20 years of age.

(h) An offshore supply vessel operating on January 1, 1979, under a certificate of inspection issued by the Secretary, is subject to an inspection standard or requirement only if the standard or requirement could have been prescribed for the vessel under authority existing under law on October 5, 1980.

(i)(1) The Secretary may issue a permit exempting a vessel from any part of the requirements of this part for vessels transporting cargo, including bulk fuel, from one place in Alaska to another place in Alaska only if the vessel—

(A) is not more than 300 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title;*

(B) is in a condition that does not present an immediate threat to the safety of life or the environment; and

(C) was operating in the waters off Alaska as of June 1, 1976, or the vessel is a replacement for a vessel that was operating in the waters off Alaska as of June 1, 1976, if the vessel being replaced is no longer in service.

(2) Except in a situation declared to be an emergency by the Secretary, a vessel operating under a permit may not transport cargo to or from a place if the cargo could be transported by another commercial vessel that is reasonably available and that does not require exemptions to operate legally or if the cargo could be readily transported by overland routes.

(3) A permit may be issued for a specific voyage or for not more than one year. The permit may impose specific requirements about the amount or type of cargo to be carried, manning, the areas or specific routes over which the vessel may operate, or other similar matters. The duration of the permit and restrictions contained in the permit shall be at the sole discretion of the Secretary.

(4) A designated Coast Guard official who has reason to believe that a vessel issued a permit is in a condition or is operated in a manner that creates an immediate threat to the safety of life or the environment or is operated in a manner that is inconsistent with the terms of the permit, may direct the master or individual in charge to take immediate and reasonable steps to safeguard life and the environment, including directing the vessel to a port or other refuge.

(5) If a vessel issued a permit creates an immediate threat to the safety of life or the environment, or is operated in a manner inconsistent with the terms of the permit or the requirements of paragraph (2) of this subsection, the permit may be revoked. The owner, charterer, managing operator, agent, master, or individual in charge of a vessel issued a permit, that willfully permits the vessel to be operated, or operates, the vessel in a manner inconsistent with the terms of the permit, is liable to the United States Government for a civil penalty of not more than \$1,000.

(j) Notwithstanding another provision of this chapter, the Secretary is not required to inspect or prescribe regulations for a nautical school vessel of not more than 15 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*—

(1) when used in connection with a course of instruction dealing with any aspect of maritime education or study; and

(2) operated by—

(A) the United States Merchant Marine Academy; or

(B) a State maritime academy assisted under section 1304 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c).

(k) Only the boiler, engine, and other operating machinery of a steam vessel that is a recreational vessel of not more than 65 feet overall in length are subject to inspection under section 3301(9) of this title.

(l)(1) The Secretary may issue a permit exempting the following vessels from the requirements of this part for passenger vessels so long as the vessels are owned by nonprofit organizations and operated as nonprofit memorials to merchant mariners:

(A) The steamship John W. Brown (United States official number 242209), owned by Project Liberty Ship Baltimore, Incorporated, located in Baltimore, Maryland.

(B) The steamship Lane Victory (United States official number 248094), owned by the United States Merchant Marine Veterans of World War II, located in San Pedro, California.

(C) The steamship Jeremiah O'Brien (United States official number 243622), owned by the United States Maritime Administration.

(2) The Secretary may issue a permit for a specific voyage or for not more than one year. The Secretary may impose specific requirements about the number of passengers to be carried, manning, the areas or specific routes over which the vessel may operate, or other similar matters.

(3) A designated Coast Guard official who has reason to believe that a vessel operating under this subsection is in a condition or is operated in a manner that creates an immediate threat to life or the environment or is operated in a manner that is inconsistent with this section, may direct the master or individual in charge to take immediate and reasonable steps to safeguard life and the environment, including directing the vessel to a port or other refuge.

(m) A seagoing barge is not subject to inspection under section 3301(6) of this title if the vessel is unmanned and does not carry—

(1) a hazardous material as cargo; or

(2) a flammable or combustible liquid, including oil, in bulk.

§ 3303. Reciprocity for foreign vessels

[(a) Except as provided in chapter 37 of this title, a] A foreign vessel of a country having inspection laws and standards similar to those of the United States and that has an unexpired certificate of inspection issued by proper authority of its respective country, is subject to an inspection to ensure that the condition of the vessel is as stated in its current certificate of inspection. A foreign country

is considered to have inspection laws and standards similar to those of the United States when it is a party to an International Convention for Safety of Life at Sea to which the United States Government is currently a party. A foreign certificate of inspection may be accepted as evidence of lawful inspection only when presented by a vessel of a country that has by its laws accorded to vessels of the United States visiting that country the same privileges accorded to vessels of that country visiting the United States.

[(b) The Secretary shall collect and pay to the Treasury the same fees for the inspection of foreign vessels carrying passengers from the United States that a foreign country charges vessels of the United States trading to the ports of that country. The Secretary may waive at any time the collection of the fees on notice of the proper authorities of any country concerned that the collection of fees for the inspection of vessels of the United States has been discontinued.]

* * * * *

§ 3306. Regulations

(a) To carry out this part and to secure the safety of individuals and property on board vessels subject to inspection, the Secretary shall prescribe necessary regulations to ensure the proper execution of, and to carry out, this part in the most effective manner for—

- (1) the design, construction, alteration, repair, and operation of those vessels, including superstructures, hulls, fittings, equipment, appliances, propulsion machinery, auxiliary machinery, boilers, unfired pressure vessels, piping, electric installations, and accommodations for passengers and crew, sailing school instructors, and sailing school students;
- (2) lifesaving equipment and its use;
- (3) firefighting equipment, its use, and precautionary measures to guard against fire;
- (4) inspections and tests related to [clauses (1)–(3)] paragraphs (1), (2), and (3) of this subsection; and
- (5) the use of vessel stores and other supplies of a dangerous nature.

[(b) Equipment subject to regulation under this section may not be used on any vessel without prior approval as prescribed by regulation.]

(b)(1) Equipment and material subject to regulation under this section may not be used on any vessel without prior approval of the Secretary.

(2) Except with respect to use on a public vessel, the Secretary may treat an approval of equipment or materials by a foreign government as approval by the Secretary for purposes of paragraph (1) if the Secretary determines that—

(A) the design standards and testing procedures used by that government meet the requirements of the International Convention for the Safety of Life at Sea, 1974;

(B) the approval of the equipment or material by the foreign government will secure the safety of individuals and property on board vessels subject to inspection; and

(C) for lifesaving equipment, the foreign government—

(i) has given equivalent treatment to approvals of lifesaving equipment by the Secretary; and

(ii) otherwise ensures that lifesaving equipment approved by the Secretary may be used on vessels that are documented and subject to inspection under the laws of that country.”.

(c) In prescribing regulations for sailing school vessels, the Secretary shall consult with representatives of the private sector having experience in the operation of vessels likely to be certified as sailing school vessels. The regulations shall—

(1) reflect the specialized nature of sailing school vessel operations, and the character, design, and construction of vessels operating as sailing school vessels; and

(2) include requirements for notice to sailing school instructors and sailing school students about the specialized nature of sailing school vessels and applicable safety regulations.

(d) In prescribing regulations for nautical school vessels operated by the United States Merchant Marine Academy or by a State maritime academy (as defined in section 1302(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295a(3)), the Secretary shall consider the function, purpose, and operation of the vessels, their routes, and the number of individuals who may be carried on the vessels.

(e) When the Secretary finds it in the public interest, the Secretary may suspend or grant exemptions from the requirements of a regulation prescribed under this section related to lifesaving and firefighting equipment, muster lists, ground tackle and hawsers, and bilge systems.

(f) In prescribing regulations for offshore supply vessels, the Secretary shall consider the characteristics, methods of operation, and the nature of the service of offshore supply vessels.

(g) In prescribing regulations for fish processing or fish tender vessels, the Secretary shall consult with representatives of the private sector having experience in the operation of these vessels. The regulations shall reflect the specialized nature and economics of fish processing or fish tender vessel operations and the character, design, and construction of fish processing or fish tender vessels.

(h) The Secretary shall establish appropriate structural fire protection, manning, operating, and equipment requirements for vessels of at least 100 gross tons but less than 300 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* carrying not more than 150 passengers on domestic voyages, which meet the eligibility criteria of section 2113(4) of this title.

(i) The Secretary shall establish appropriate structural fire protection, manning, operating, and equipment requirements for former public vessels of the United States of at least 100 gross tons but less than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* carrying not more than 150 pas-

sengers on domestic voyages, which meet the eligibility criteria of section 2113(5) of this title.

§ 3307. Frequency of inspection

Each vessel subject to inspection under this part shall undergo an initial inspection for certification before being put into service. After being put into service—

(1) each passenger ~~[vessel and nautical school vessel] vessel, nautical school vessel, and small passenger vessel allowed to carry more than 12 passengers on a foreign voyage~~ shall be inspected at least once a year; and

~~[(2) each small passenger vessel, freight vessel or offshore supply vessel of less than 100 gross tons, and sailing school vessel shall be inspected at least once every 3 years; and]~~

~~[(3) (2) any other vessel shall be inspected at least once every [2 years.] 5 years.]~~

§ 3308. Examinations

In addition to inspections required by section 3307 of this title, the Secretary shall examine *or have examined*—

(1) each vessel subject to inspection at proper times to ensure compliance with law and regulations; and

(2) crewmember accommodations on each vessel subject to inspection at least once a month or when the vessel enters United States ports to ensure that the accommodations are—

(A) of the size required by law and regulations;

(B) properly ventilated and in a clean and sanitary condition; and

(C) equipped with proper plumbing and mechanical appliances required by law and regulations, and the appliances are in good working condition.

§ 3309. Certificate of inspection

(a) When an inspection under section 3307 of this title has been made and a vessel has been found to be in compliance with the requirements of law and regulations, a certificate of inspection, in a form prescribed by the Secretary, shall be issued to the vessel.

(b) The Secretary may issue a temporary certificate of inspection in place of a regular certificate of inspection issued under subsection (a) of this section.

(c) At least 30 days (but not more than 60 days) before the current certificate of inspection issued to a vessel under subsection (a) of this section expires, the owner, charterer, managing operator, agent, master, or individual in charge of the vessel shall submit to the Secretary in writing a notice that the vessel—

(1) will be required to be inspected; or

(2) will not be operated so as to require an inspection.

* * * * *

§ 3316. United States classification societies

~~[(a) In carrying out this part, the Secretary may rely on reports, documents, and certificates issued by the American Bureau of Ship-~~

ping or a similar United States classification society, or an agent of the Bureau or society.】

【(b)】 *(a)* Each department, agency, and instrumentality of the United States Government shall recognize the Bureau as its agent in classifying vessels owned by the Government and in matters related to classification, as long as the Bureau is maintained as an organization having no capital stock and paying no dividends. The Secretary and the Secretary of Transportation each shall appoint one representative (except when the Secretary is the Secretary of Transportation, in which case the Secretary shall appoint both representatives) who shall represent the Government on the executive committee of the Bureau. The Bureau shall agree that the representatives shall be accepted by it as active members of the committee. The representatives shall serve without compensation, except for necessary traveling expenses.

【(c)(1) To the maximum extent practicable, the Secretary may delegate to the Bureau or a similar United States classification society, or an agent of the Bureau or society, the inspection or examination, in the United States or in a foreign country, of a vessel documented or to be documented as a vessel of the United States. The Bureau, society, or agent may issue the certificate of inspection required by this part and other certificates essential to documentation.】

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

(A) review and approve plans required for issuing a certificate of inspection required by this part;

(B) conduct inspections and examinations; and

(C) issue a certificate of inspection required by this part and other related documents.

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

(A) to the extent that the government of the foreign country in which the society is headquartered delegates authority and provides access to the American Bureau of Shipping to inspect, certify, and provide related services to vessels documented in that country; and

(B) if the foreign classification society has offices and maintains records in the United States.

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

(A) shall maintain in the United States complete files of all information derived from or necessarily connected with the inspection or examination for at least 2 years after the vessel ceases to be certified; and

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

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

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

[(d) The Secretary also may make an agreement with or use the Bureau or a similar United States classification society, or an agent of the Bureau or society, for reviewing and approving plans required for issuing a certificate of inspection.]

* * * * *

§ 3318. Penalties

(a) Except as otherwise provided in this part, the owner, charterer, managing operator, agent, master, or individual in charge of a vessel operated in violation of this part or a regulation prescribed under this part, and a person violating a regulation that applies to a small passenger vessel, freight vessel of less than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*, or sailing school vessel, are liable to the United States Government for a civil penalty of not more than \$5,000. The vessel also is liable in rem for the penalty.

(b) A person that knowingly manufactures, sells, offers for sale, or possesses with intent to sell, any equipment subject to this part, and the equipment is so defective as to be insufficient to accomplish the purpose for which it is intended, commits a class D felony.

(c) A person that employs a means or device whereby a boiler may be subjected to a pressure greater than allowed by the terms of the vessel's certificate of inspection commits a class D felony.

(d) A person that deranges or hinders the operation of any machinery or device employed on a vessel to denote the state of steam or water in any boiler or to give warning of approaching danger, or permits the water level of any boiler when in operation of a vessel to fall below its prescribed low-water line, commits a class D felony.

(e) A person that alters, defaces, obliterates, removes, or destroys any plans or specifications required by and approved under a regulation prescribed under section 3306 of this title, with intent to deceive or impede any official of the United States in carrying out that official's duties, commits a class A misdemeanor.

(f) A person commits a class D felony if the person—

(1) forges or counterfeits with intent to make it appear genuine any mark or stamp prescribed for material to be tested and approved under section 3306 of this title or a regulation prescribed under section 3306;

(2) knowingly uses, affixes, or causes to be used or affixed, any such forged or counterfeited mark or stamp to or on material of any description;

(3) with fraudulent intent, possesses any such mark, stamp, or other device knowing it to be forged or counterfeited; or

(4) with fraudulent intent, marks or causes to be marked with the trademark or name of another, material required to be tested and approved under section 3306 of this title or a regulation prescribed under section 3306.

(g) A person is liable to the Government for a civil penalty of not more than \$5,000, if the person—

- (1) interferes with the inspection of a nautical school vessel;
- (2) violates a regulation prescribed for a nautical school vessel;
- (3) is an owner of a nautical school vessel operated in violation of this part; or
- (4) is an officer or member of the board of directors of a school, organization, association, partnership, or corporation owning a nautical school vessel operated in violation of a regulation prescribed for a nautical school vessel.

(h) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel that fails to give the notice required by section 3304(b) of this title is liable to the government for a civil penalty of not more than \$1,000. The vessel also is liable in rem for the penalty.

(i) A person violating section 3309(c) of this title is liable to the Government for a civil penalty of not more than \$1,000.

(j)(1) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel required to be inspected under this chapter operating the vessel without the certificate of inspection is liable to the Government for a civil penalty of not more than \$10,000 for each day during which the violation occurs, except when the violation involves operation of a vessel of less than 1,600 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*, the penalty is not more than \$2,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

(2) A person is not liable for a penalty under this subsection if—

- (A) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has notified the Secretary under section 3309(c) of this title;
- (B) the owner, charterer, managing operator, agent, master, or individual in charge of the vessel has complied with all other directions and requirements for obtaining an inspection under this part; and
- (C) the Secretary believes that unforeseen circumstances exist so that it is not feasible to conduct a scheduled inspection before the expiration of the certificate of inspection.

(k) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel failing to comply with a direction issued by the Secretary under section 3311(b) of this title is liable to the Government for a civil penalty of not more than \$10,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

(l) A person committing an act described by subsections (b)–(f) of this section is liable to the Government for a civil penalty of not more than \$5,000. If the violation involves the operation of a vessel, the vessel also is liable in rem for the penalty.

* * * * *

CHAPTER 37. CARRIAGE OF LIQUID BULK DANGEROUS CARGOES

§ 3702. Application

(a) Subject to subsections (b)–(e) of this section, this chapter applies to a tank vessel.

(b) This chapter does not apply to a documented vessel that would be subject to this chapter only because of the transfer of fuel from the fuel supply tanks of the vessel to offshore drilling or production facilities in the oil industry if the vessel is—

(1) not more than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*;

(2) not a tanker; and

(3) in the service of oil exploitation.

(c) This chapter does not apply to a fishing or fish tender vessel of not more than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* when engaged only in the fishing industry.

(d) This chapter does not apply to a fish processing vessel of not more than 5,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*. However, the vessel is subject to regulation by the Secretary when carrying flammable or combustible liquid cargo in bulk.

(e) This chapter does not apply to a foreign vessel on innocent passage on the navigable waters of the United States.

(f) *This chapter does not apply to an oil spill response vessel if—*

(1) *the vessel is used only in response-related activities; or*

(2) *the vessel is—*

(A) *not more than 500 gross tons;*

(B) *designated in its certificate of inspection as an oil spill response vessel; and*

(C) *engaged in response-related activities.*

* * * * *

§ 3703a. Tank vessel construction standards

(a) Except as otherwise provided in this section, a vessel to which this chapter applies shall be equipped with a double hull—

(1) if it is constructed or adapted to carry, or carries, oil in bulk as cargo or cargo residue; and

(2) when operating on the waters subject to the jurisdiction of the United States, including the Exclusive Economic Zone.

(b) This section does not apply to—

(1) a vessel used only to respond to a discharge of oil or a hazardous substance;

(2) a vessel of less than 5,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as pre-*

scribed by the Secretary under section 14104 of that title equipped with a double containment system determined by the Secretary to be as effective as a double hull for the prevention of a discharge of oil; or

(3) before January 1, 2015—

(A) a vessel unloading oil in bulk at a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.); or

(B) a delivering vessel that is offloading in lightering activities—

(i) within a lightering zone established under section 3715(b)(5) of this title; and

(ii) more than 60 miles from the baseline from which the territorial sea of the United States is measured.

(c)(1) In this subsection, the age of a vessel is determined from the later of the date on which the vessel—

(A) is delivered after original construction;

(B) is delivered after completion of a major conversion; or

(C) had its appraised salvage value determined by the Coast Guard and is qualified for documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14).

(2) A vessel of less than 5,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* for which a building contract or contract for major conversion was placed before June 30, 1990, and that is delivered under that contract before January 1, 1994, and a vessel of less than 5,000 gross tons that had its appraised salvage value determined by the Coast Guard before June 30, 1990, and that qualifies for documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14) before January 1, 1994, may not operate in the navigable waters or the Exclusive Economic Zone of the United States after January 1, 2015, unless the vessel is equipped with a double hull or with a double containment system determined by the Secretary to be as effective as a double hull for the prevention of a discharge of oil.

(3) A vessel for which a building contract or contract for major conversion was placed before June 30, 1990, and that is delivered under that contract before January 1, 1994, and a vessel that had its appraised salvage value determined by the Coast Guard before June 30, 1990, and that qualifies for documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14) before January 1, 1994, may not operate in the navigable waters or Exclusive Economic Zone of the United States unless equipped with a double hull—

(A) in the case of a vessel of at least 5,000 gross tons but less than 15,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*—

(i) after January 1, 1995, if the vessel is 40 years old or older and has a single hull, or is 45 years old or older and has a double bottom or double sides;

- (ii) after January 1, 1996, if the vessel is 39 years old or older and has a single hull, or is 44 years old or older and has a double bottom or double sides;
 - (iii) after January 1, 1997, if the vessel is 38 years old or older and has a single hull, or is 43 years old or older and has a double bottom or double sides;
 - (iv) after January 1, 1998, if the vessel is 37 years old or older and has a single hull, or is 42 years old or older and has a double bottom or double sides;
 - (v) after January 1, 1999, if the vessel is 36 years old or older and has a single hull, or is 41 years old or older and has a double bottom or double sides;
 - (vi) after January 1, 2000, if the vessel is 35 years old or older and has a single hull, or is 40 years old or older and has a double bottom or double sides; and
 - (vii) after January 1, 2005, if the vessel is 25 years old or older and has a single hull, or is 30 years old or older and has a double bottom or double sides;
- (B) in the case of a vessel of at least 15,000 gross tons but less than 30,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*—
- (i) after January 1, 1995, if the vessel is 40 years old or older and has a single hull, or is 45 years old or older and has a double bottom or double sides;
 - (ii) after January 1, 1996, if the vessel is 38 years old or older and has a single hull, or is 43 years old or older and has a double bottom or double sides;
 - (iii) after January 1, 1997, if the vessel is 36 years old or older and has a single hull, or is 41 years old or older and has a double bottom or double sides;
 - (iv) after January 1, 1998, if the vessel is 34 years old or older and has a single hull, or is 39 years old or older and has a double bottom or double sides;
 - (v) after January 1, 1999, if the vessel is 32 years old or older and has a single hull, or 37 years old or older and has a double bottom or double sides;
 - (vi) after January 1, 2000, if the vessel is 30 years old or older and has a single hull, or is 35 years old or older and has a double bottom or double sides;
 - (vii) after January 1, 2001, if the vessel is 29 years old or older and has a single hull, or is 34 years old or older and has a double bottom or double sides;
 - (viii) after January 1, 2002, if the vessel is 28 years old or older and has a single hull, or is 33 years old or older and has a double bottom or double sides;
 - (ix) after January 1, 2003, if the vessel is 27 years old or older and has a single hull, or is 32 years old or older and has a double bottom or double sides;
 - (x) after January 1, 2004, if the vessel is 26 years old or older and has a single hull, or is 31 years old or older and has a double bottom or double sides; and

- (xi) after January 1, 2005, if the vessel is 25 years old or older and has a single hull, or is 30 years old or older and has a double bottom or double sides; and
- (C) in the case of a vessel of at least 30,000 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title—
 - (i) after January 1, 1995, if the vessel is 28 years old or older and has a single hull, or 33 years old or older and has a double bottom or double sides;
 - (ii) after January 1, 1996, if the vessel is 27 years old or older and has a single hull, or is 32 years old or older and has a double bottom or double sides;
 - (iii) after January 1, 1997, if the vessel is 26 years old or older and has a single hull, or is 31 years old or older and has a double bottom or double sides;
 - (iv) after January 1, 1998, if the vessel is 25 years old or older and has a single hull, or is 30 years old or older and has a double bottom or double sides;
 - (v) after January 1, 1999, if the vessel is 24 years old or older and has a single hull, or 29 years old or older and has a double bottom or double sides; and
 - (vi) after January 1, 2000, if the vessel is 23 years old or older and has a single hull, or is 28 years old or older and has a double bottom or double sides.
- (4) Except as provided in subsection (b) of this section—
 - (A) a vessel that has a single hull may not operate after January 1, 2010; and
 - (B) a vessel that has a double bottom or double sides may not operate after January 1, 2015.

* * * * *

§ 3707. Tanker minimum standards

- (a) A new tanker of at least 10,000 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title shall be equipped with—
 - (1) 2 remote steering gear control systems operable separately from the navigating bridge;
 - (2) the main steering gear control in the steering gear compartment;
 - (3) means of communications and rudder angle indicators on the navigating bridge, a remote steering gear control station, and the steering gear compartment;
 - (4) at least 2 identical and adequate power units for the main steering gear;
 - (5) an alternative and adequate power supply, either from an emergency source of electrical power or from another independent source of power located in the steering gear compartment; and
 - (6) means of automatic starting and stopping of power units with attendant alarms at all steering stations.

(b) An existing tanker of at least 10,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* shall be equipped with—

- (1) 2 remote steering gear control systems operable separately from the navigating bridge;
- (2) the main steering gear control in the steering gear compartment; and
- (3) means of communications and rudder angle indicators on the navigating bridge, a remote steering gear control station, and the steering gear compartment.

§ 3708. Self-propelled tank vessel minimum standards

A self-propelled tank vessel of at least 10,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* shall be equipped with—

- (1) a dual radar system with short-range and long-range capabilities, each with true-north features;
- (2) an electronic relative motion analyzer that is at least functionally equivalent to equipment complying with specifications established by the Secretary of Transportation;
- (3) an electronic position-fixing device;
- (4) adequate communications equipment;
- (5) a sonic depth finder;
- (6) a gyrocompass; and
- (7) up-to-date charts.

* * * * *

§ 3710. Evidence of compliance by vessels of the United States

(a) A vessel of the United States to which this chapter applies that has on board oil or hazardous material in bulk as cargo or cargo residue must have a certificate of inspection issued under this part, endorsed to indicate that the vessel complies with regulations prescribed under this chapter.

(b) Each certificate endorsed under this section is valid for not more than **[24 months]** *5 years* and may be renewed as specified by the Secretary. In appropriate circumstances, the Secretary may issue a temporary certificate valid for not more than 30 days. A certificate shall be suspended or revoked if the Secretary finds that the vessel does not comply with the conditions under which the certificate was issued.

* * * * *

CHAPTER 43. RECREATIONAL VESSELS

§ 4307. Prohibited acts

- (a) A person may not—
 - (1) manufacture, construct, assemble, sell or offer for sale, introduce or deliver for introduction into interstate commerce, or

import into the United States, a recreational vessel, associated equipment, or component of the vessel or equipment unless—

(A)(i) it conforms with this chapter or a regulation prescribed under this chapter; and

(ii) it does not contain a defect which has been identified, in any communication to such person by the Secretary or the manufacturer of that vessel, equipment or component, as creating a substantial risk of personal injury to the public; or

(B) it is intended only for export and is so labeled, tagged, or marked on the recreational vessel or equipment, including any markings on the outside of the container in which it is to be exported;

(2) affix, attach, or display a seal, document, label, plate, insignia, or other device indicating or suggesting compliance with standards of the United States Government on, in, or in connection with, a recreational vessel or item of associated equipment that is false or misleading; **[or]**

(3) fail to provide a notification as required by this chapter or fail to exercise reasonable diligence in carrying out the notification and reporting requirements of this **[chapter.]** *chapter;*
or

(4) operate a recreational vessel under 26 feet in length unless each individual 6 years of age or youner wears a Coast Guard approved personal flotation device when the individual is on a open deck of the vessel.

(b) A person may not operate a vessel in violation of this chapter or a regulation prescribed under this chapter.

(c) Subsection (a)(4) shall not be construed to limit the authority of a State to establish requirements relating to the wearing of personal flotation devices on recreational vessels that are more stringent than the requirements of that subsection.

* * * * *

§ 4311. Penalties and injunctions

(a) A person willfully operating a recreational vessel in violation of this chapter or a regulation prescribed under this chapter shall be fined not more than \$5,000, imprisoned for not more than one year, or both.

(b) A person violating section 4307(a)(1) of this title is liable to the United States Government for a civil penalty of not more than \$2,000, except that the maximum civil penalty may be not more than \$100,000 for a related series of violations. When a corporation violates section 4307(a)(1), 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 the penalty, 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—

(1) 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

(2) at the time of the order or authorization, the director, officer, or executive employee advised the Secretary in writing of acting under this clause and clause (1) of this subsection.

(c) A person violating any other provision of this chapter or other regulation prescribed under this chapter is liable to the Government for a civil penalty of not more than \$1,000. If the violation involves the operation of a vessel, the vessel also is liable in rem for the penalty.

(d) When a civil penalty of not more than \$200 has been assessed under this chapter, the Secretary may refer the matter of collection of the penalty directly to the United States magistrate of the jurisdiction in which the person liable may be found for collection procedures under supervision of the district court and under an order issued by the court delegating this authority under section 636(b) of title 28.

(e) The district courts of the United States have jurisdiction to restrain a violation of this chapter, or to restrain the sale, offer for sale, introduction or delivery for introduction into interstate commerce, or importation into the United States, of a recreational vessel or associated equipment that the court decides does not conform to safety standards of the Government. A civil action under this subsection shall be brought by filing a petition by the Attorney General for the Government. When practicable, the Secretary shall give notice to a person against whom an action for injunctive relief is contemplated and provide the person with an opportunity to present views and, except for a knowing and willful violation, shall provide the person with a reasonable opportunity to achieve compliance. The failure to give notice and provide the opportunity does not preclude the granting of appropriate relief by the district court.

(f) A person is not subject to a penalty under this chapter if the person—

(1) establishes that the person did not have reason to know, in exercising reasonable care, that a recreational vessel or associated equipment does not conform with the applicable safety standards of the Government or that the person, was not advised by the Secretary or the manufacturer of that vessel, equipment or component that the vessel, equipment or component contains a defect which creates a substantial risk of personal injury to the public; or

(2) holds a certificate issued by the manufacturer of that recreational vessel or associated equipment to the effect that the recreational vessel or associated equipment conforms to all applicable recreational vessel safety standards of the Government, unless the person knows or reasonably should have known that the recreational vessel or associated equipment does not so conform.

(g) Compliance with this chapter or standards, regulations, or orders prescribed under this chapter does not relieve a person from liability at common law or under State law.

(h) *Notwithstanding any other provision of this section, in the case of a person violating section 4307(a)(4) of this title—*

- (1) the maximum penalty assessable under subsection (a) is a fine of \$100 with no imprisonment; and
 (2) the maximum civil penalty assessable under subsection (c) is \$100.

* * * * *

CHAPTER 45. UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

§ 4502. Safety standards

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

- (1) readily accessible fire extinguishers capable of promptly and effectively extinguishing a flammable or combustible liquid fuel fire;
- (2) at least one readily accessible life preserver or other life-saving device for each individual on board;
- (3) an efficient flame arrestor, backfire trap, or other similar device on the carburetors of each inboard engine which uses gasoline as fuel;
- (4) the means to properly and efficiently ventilate enclosed spaces, including engine and fuel tank compartments, so as to remove explosive or flammable gases;
- (5) visual distress signals;
- (6) a buoyant apparatus, if the vessel is of a type required by regulations prescribed by the Secretary to be equipped with that apparatus;
- (7) alerting and locating equipment, including emergency position indicating radio beacons, on vessels that operate on the high seas or beyond three nautical miles from the coastline of the Great Lakes; and
- (8) a placard as required by regulations prescribed under section 10603(b) of this title.

(b)(1) In addition to the requirements of subsection (a) of this section, the Secretary shall prescribe regulations requiring the installation, maintenance, and use of the equipment in paragraph (2) of this subsection for documented vessels to which this chapter applies that—

- (A) operate beyond the Boundary Line;
 - (B) operate with more than 16 individuals on board; or
 - (C) in the case of a fish tender vessel, engage in the Aleutian trade.
- (2) The equipment to be required is as follows:
- (A) alerting and locating equipment, including emergency position indicating radio beacons;
 - (B) lifeboats or liferafts sufficient to accommodate all individuals onboard;
 - (C) at least one readily accessible immersion suit for each individual on board that vessel when operating on the waters described in section 3102 of this title;
 - (D) radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;
 - (E) navigation equipment, including compasses, radar reflectors, nautical charts, and anchors;

- (F) first aid equipment, including medicine chests; and
- (G) other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment.
- (c)(1) In addition to the requirements described in subsections (a) and (b) of this section, the Secretary may prescribe regulations establishing the standards in paragraph (2) of this subsection for vessels to which this chapter applies that—
 - (A)(i) were built after December 31, 1988, or undergo a major conversion completed after that date; and
 - (ii) operate with more than 16 individuals on board; or
 - (B) in the case of a fish tender vessel, engage in the Aleutian trade.
- (2) The standards shall be minimum safety standards, including standards relating to—
 - (A) navigation equipment, including radars and fathometers;
 - (B) lifesaving equipment, immersion suits, signaling devices, bilge pumps, bilge alarms, life rails, and grab rails;
 - (C) fire protection and firefighting equipment, including fire alarms and portable and semiportable fire extinguishing equipment;
 - (D) use and installation of insulation material;
 - (E) storage methods for flammable or combustible material; and
 - (F) fuel, ventilation, and electrical systems.
- (d)(1) The Secretary shall prescribe regulations for the operating stability of a vessel to which this chapter applies—
 - (A) that was built after December 31, 1989; or
 - (B) the physical characteristics of which are substantially altered after December 31, 1989, in a manner that affects the vessel's operating stability.
- (2) The Secretary may accept, as evidence of compliance with this subsection, a certification of compliance issued by the person providing insurance for the vessel or by another qualified person approved by the Secretary.
- (e) In prescribing regulations under this chapter, the Secretary—
 - (1) shall consider the specialized nature and economics of the operations and the character, design, and construction of the vessel; and
 - (2) may not require the alteration of a vessel or associated equipment that was constructed or manufactured before the effective date of the regulation.
- (f) To ensure compliance with the requirements of this chapter, at least once every 2 years the Secretary shall examine—
 - (1) a fish processing vessel; and
 - (2) a fish tender vessel engaged in the Aleutian trade.

* * * * *

§ 4508. Commercial Fishing Industry Vessel Advisory Committee

- (a) The Secretary shall establish a Commercial Fishing Industry Vessel Advisory Committee. The Committee—

(1) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to the safe operation of vessels to which this chapter applies, including navigation safety, safety equipment and procedures, marine insurance, vessel design, construction, maintenance and operation, and personnel qualifications and training;

(2) may review proposed regulations under this chapter;

(3) may make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary; and

(4) shall meet at the call of the Secretary, who shall call such a meeting at least once during each calendar year.

(b)(1) The Committee shall consist of seventeen members with particular expertise, knowledge, and experience regarding the commercial fishing industry as follows:

(A) ten members from the commercial fishing industry who—

(i) reflect a regional and representational balance; and

(ii) have experience in the operation of vessels to which this chapter applies or as a crew member or processing line worker on an uninspected fish processing vessel;

(B) three members from the general public, including, whenever possible, an independent expert or consultant in maritime safety and a member of a national organization composed of persons representing owners of vessels to which this chapter applies and persons representing the marine insurance industry;

(C) one member representing each of—

(i) naval architects or marine surveyors;

(ii) manufacturers of equipment for vessels to which this chapter applies;

(iii) education or training professionals related to fishing vessel, fish processing vessel, or fish tender vessel safety or personnel qualifications; and

(iv) underwriters that insure vessels to which this chapter applies.

(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee, and, after timely notice is published, appoint the members of the Committee. An individual may be appointed to a term as a member of the Committee more than once. The Secretary may not seek or use information concerning the political affiliation of individuals in making appointments to the Committee.

(3)(A) A member of the Committee shall serve a term of three years.

(B) If a vacancy occurs in the membership of the Committee, the Secretary shall appoint a member to fill the remainder of the vacated term.

(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

(5) The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the

Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to vessels to which this chapter applies which are under the jurisdiction of their respective agencies. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 App. U.S.C.).

(c)(1) The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to the safe operation of vessels to which this chapter applies.

(2) The Secretary shall consider the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding the safe operation of vessels to which this chapter applies.

(d)(1) A member of the Committee who is not an officer or employee of the United States or a member of the Armed Forces, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive—

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

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

(2) Payments under this section do not render a member of the Committee an officer or employee of the United States or a member of the Armed Forces for any purpose.

(3) A member of the Committee who is an officer or employee of the United States or a member of the Armed Forces may not receive additional pay based on the member's service to the Committee.

(4) The provisions of this section relating to an officer or employee of the United States or a member of the Armed Forces do not apply to a member of a reserve component of the Armed Forces unless that member is in an active status.

(e)(1) The Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) applies to the Committee, except that the Committee terminates on [September 30, 1994.] *September 30, 2000.*

(2) Two years prior to the termination date referred to in paragraph (1) of this subsection, the Committee shall submit to Congress its recommendation regarding whether the Committee should be renewed and continued beyond the termination date.

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CHAPTER 47. ABANDONMENT OF BARGES

§ 4701. Definitions

In this chapter—

(1) "abandon" means to moor, strand, wreck, sink, or leave a barge of more than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* unattended for longer than forty-five days.

(2) “barge removal contractor” means a person that enters into a contract with the United States to remove an abandoned barge under this chapter.

(3) “navigable waters of the United States” means waters of the United States, including the territorial sea.

(4) “removal” or “remove” means relocation, sale, scrapping, or other method of disposal.

* * * * *

CHAPTER 51. LOAD LINES

§ 5102. Application

(a) Except as provided in subsection (b) of this section, this chapter applies to the following:

(1) a vessel of the United States.

(2) a vessel on the navigable waters of the United States.

(3) a vessel—

(A) owned by a citizen of the United States or a corporation established by or under the laws of the United States or a State; and

(B) not registered in a foreign country.

(4) a public vessel of the United States.

(5) a vessel otherwise subject to the jurisdiction of the United States.

(b) This chapter does not apply to the following:

(1) a vessel of war.

(2) a recreational vessel when operated only for pleasure.

(3) a fishing vessel.

(4) a fish processing vessel of not more than 5,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title that—*

(A)(i) was constructed as a fish processing vessel before August 16, 1974; or

(ii) was converted for use as a fish processing vessel before January 1, 1983; and

(B) is not on a foreign voyage.

(5) a fish tender vessel of not more than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title that—*

(A)(i) was constructed, under construction, or under contract to be constructed as a fish tender vessel before January 1, 1980; or

(ii) was converted for use as a fish tender vessel before January 1, 1983; and

(B)(i) is not on a foreign voyage; or

(ii) engaged in the Aleutian trade (except a vessel in that trade assigned a load line at any time before June 1, 1992).

(6) a vessel of the United States on a domestic voyage that does not cross the Boundary Line, except a voyage on the Great Lakes.

(7) a vessel of less than 24 meters (79 feet) overall in length.

(8) a public vessel of the United States on a domestic voyage.

(9) a vessel excluded from the application of this chapter by an international agreement to which the United States Government is a party.

(10) an existing vessel of not more than 150 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title that is on a domestic voyage.

(11) a small passenger vessel on a domestic voyage.

(12) a vessel of the working fleet of the Panama Canal Commission not on a foreign voyage.

(c) On application by the owner and after a survey under section 5105 of this title, the Secretary may assign load lines for a vessel excluded from the application of this chapter undersubsection (b) of this section. A vessel assigned load lines under this subsection is subject to this chapter until the surrender of its load line certificate and the removal of its load line marks.

(d) This chapter does not affect an international agreement to which the Government is a party that is not in conflict with the International Convention on Load Lines currently in force for the United States.

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CHAPTER 61. REPORTING MARINE CASUALTIES

§6103. Penalty

(a) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel failing to report a casualty as required under section 6101 of this title or a regulation prescribed under section 6101 is liable to the United States Government for a civil penalty of **[\$1,000.]** *not more than \$25,000.*

* * * * *

(b) A person failing to comply with section 6104 of this title or a regulation prescribed under that section is liable to the Government for a civil penalty of not more than \$5,000.

CHAPTER 71. LICENSES AND CERTIFICATES OF REGISTRY

§7101. Issuing and classifying licenses and certificates of registry

(a) Licenses and certificates of registry are established for individuals who are required to hold licenses or certificates under this subtitle.

(b) Under regulations prescribed by the Secretary, the Secretary—

(1) issues the licenses and certificates of registry; and

(2) may classify the licenses and certificates of registry as provided in subsections (c) and (f) of this section, based on—

(A) the tonnage, means of propulsion, and horsepower of machine-propelled vessels;

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

(C) other reasonable standards.

(c) The Secretary may issue licenses in the following classes to applicants found qualified as to age, character, habits of life, experience, professional qualifications, and physical fitness:

(1) masters, mates, and engineers.

(2) pilots.

(3) operators.

(4) radio officers.

(d) In classifying individuals under subsection (c)(1) of this section, the Secretary shall establish, when possible, suitable career patterns and service and other qualifying requirements appropriate to the particular service or industry in which the individuals are engaged.

(e) An individual may be issued a license under subsection (c)(2) of this section only if the applicant—

(1) is at least 21 years of age;

(2) is of sound health and has no physical limitations that would hinder or prevent the performance of a pilot's duties;

(3) has a thorough physical examination each year while holding the license, except that this requirement does not apply to an individual who will serve as a pilot only on a vessel of less than 1,600 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*;

(4) demonstrates, to the satisfaction of the Secretary, that the applicant has the requisite general knowledge and skill to hold the license;

(5) demonstrates proficiency in the use of electronic aids to navigation;

(6) maintains adequate knowledge of the waters to be navigated and knowledge of regulations for the prevention of collisions in those waters;

(7) has sufficient experience, as decided by the Secretary, to evidence ability to handle any vessel of the type and size which the applicant may be authorized to pilot; and

(8) meets any other requirement the Secretary considers reasonable and necessary.

(f) The Secretary may issue certificates of registry in the following classes to applicants found qualified as to character, knowledge, skill, and experience:

(1) pursers.

(2) medical doctors.

(3) professional nurses.

(g) The Secretary may not issue a license or certificate of registry under this section unless an individual applying for the license or certificate makes available to the Secretary, under section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401 note), any information contained in the National Driver Register related

to an offense described in section 205(a)(3) (A) or (B) of that Act committed by the individual.

(h) The Secretary may review the criminal record of an individual who applies for a license or certificate of registry under this section.

(i) The Secretary shall require the testing of an individual who applies for issuance or renewal of a license or certificate of registry under this chapter for use of a dangerous drug in violation of law or Federal regulation.

* * * * *

CHAPTER 73. MERCHANT MARINERS' DOCUMENTS

§ 7308. Able seamen—limited

The required service for the endorsement of able seaman—limited, qualified for limited service on a vessel on any waters, is at least 18 months' service on deck on board vessels of at least 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* operating on the oceans or navigable waters of the United States (including the Great Lakes).

* * * * *

§ 7310. Able seamen—offshore supply vessels

For service on a vessel of less than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* engaged in support of exploration, exploitation, or production of offshore mineral or energy resources, an individual may be rated as able seaman—offshore supply vessels if the individual has at least 6 months' service on deck on board vessels operating on the oceans or the navigable waters of the United States (including the Great Lakes).

* * * * *

§ 7312. Scale of employment

(a) Individuals qualified as able seamen—unlimited under section 7307 of this title may constitute all of the able seamen required on a vessel.

(b) Individuals qualified as able seamen—limited under section 7308 of this title may constitute all of the able seamen required on a vessel of less than 1,600 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* or on a vessel operating on the Great Lakes and the Saint Lawrence River as far east as Sept Iles. Individuals qualified as able seamen—limited may constitute not more than 50 percent of the number of able seamen required on board other vessels.

(c) Individuals qualified as able seamen—special under section 7309 of this title may constitute—

(1) all of the able seamen required on a vessel of not more than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* or on a seagoing barge or towing vessel; and

(2) not more than 50 percent of the number of able seamen required on board other vessels.

(d) Individuals qualified as able seamen—offshore supply vessels under section 7310 of this title may constitute all of the able seamen required on board a vessel of less than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* engaged in support of exploration, exploitation, or production of offshore mineral or energy resources.

(e) When the service of able seamen—limited or able seamen—special is authorized for only a part of the required number of able seamen on board a vessel, the combined percentage of those individuals so qualified may not be greater than 50 percent of the required number.

(f) Individuals qualified as able seamen—fishing industry under section 7311a of this title may constitute—

(1) all of the able seamen required on a fish processing vessel entered into service before January 1, 1988, and of more than 1,600 gross tons but not more than 5,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*; and

(2) all of the able seamen required on a fish processing vessel entered into service after December 31, 1987, and having more than 16 individuals on board primarily employed in the preparation of fish or fish products but of not more than 5,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*.

§ 7313. General requirements for members of engine departments

(a) Classes of endorsement as qualified members of the engine department on vessels of at least 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* (except vessels operating on rivers or lakes (except the Great Lakes)) may be prescribed by regulation.

(b) The ratings of wiper and coal passer are entry ratings and are not ratings as qualified members of the engine department.

(c) An applicant for an endorsement as qualified member of the engine department must provide satisfactory proof that the applicant—

(1) has the service required by section 7314 of this title;

- (2) is qualified professionally as demonstrated by an applicable examination; and
- (3) is qualified as to sight, hearing, and physical condition to perform the member's duties.

* * * * *

§ 7506. Convention tonnage for licenses, certificates, and documents

Notwithstanding any provision of section 14302(c) or 14305 of this title, the Secretary may—

- (1) *evaluate the service of an individual who is applying for a license, a certificate of registry, or a merchant mariner's document by using the tonnage as measured under chapter 143 of this title for the vessels on which that service was acquired, and*
- (2) *issue the license, certificate, or document based on that service.*

* * * * *

CHAPTER 81. GENERAL

§ 8101. Complement of inspected vessels

(a) The certificate of inspection issued to a vessel under part B of this subtitle shall state the complement of licensed individuals and crew (including lifeboatmen) considered by the Secretary to be necessary for safe operation. A manning requirement imposed on—

- (1) a sailing school vessel shall consider the participation of sailing school instructors and sailing school students in the operation of that vessel;
- (2) a mobile offshore drilling unit shall consider the specialized nature of the unit; and
- (3) a tank vessel shall consider the navigation, cargo handling, and maintenance functions of that vessel for protection of life, property, and the environment.

(b) The Secretary may modify the complement, by endorsement on the certificate, for reasons of changed conditions or employment.

(c) A requirement made under this section by an authorized official may be appealed to the Secretary under prescribed regulations.

(d) A vessel to which this section applies may not be operated without having in its service the complement required in the certificate of inspection.

(e) When a vessel is deprived of the service of a member of its complement without the consent, fault, or collusion of the owner, charterer, managing operator, agent, master, or individual in charge of the vessel, the master shall engage, if obtainable, a number of members equal to the number of those of whose services the master has been deprived. The replacements must be of the same or a higher grade or rating than those whose places they fill. If the master finds the vessel is sufficiently manned for the voyage, and replacements are not available to fill all the vacancies, the vessel may proceed on its voyage. Within 12 hours after the vessel arrives at its destination, the master shall report in writing to the Secretary the cause of each deficiency in the complement. A master

failing to make the report is liable to the United States Government for a civil penalty of \$1,000 for each deficiency.

(f) The owner, charterer, or managing operator of a vessel not manned as required by this section is liable to the Government for a civil penalty of \$10,000.

(g) A person may not employ an individual as, and an individual may not serve as, a master, mate, engineer, radio officer, or pilot of a vessel to which this part applies or which is subject to inspection under chapter 33 of this title if the individual is not licensed by the Secretary. A person (including an individual) violating this subsection is liable to the Government for a civil penalty of not more than \$10,000. Each day of a continuing violation is a separate offense.

(h) The owner, charterer, or managing operator of a freight vessel of less than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*, a small passenger vessel, or a sailing school vessel not manned as required by this section is liable to the Government for a civil penalty of \$1,000. The vessel also is liable in rem for the penalty.

(i) When the 2 next most senior licensed officers on a vessel reasonably believe that the master or individual in charge of the vessel is under the influence of alcohol or a dangerous drug and is incapable of commanding the vessel, the next most senior master, mate, or operator licensed under section 7101(c)(1) or (3) of this title shall—

- (1) temporarily relieve the master or individual in charge;
- (2) temporarily take command of the vessel;
- (3) in the case of a vessel required to have a log under chapter 113 of this title, immediately enter the details of the incident in the log; and
- (4) report those details to the Secretary—
 - (A) by the most expeditious means available; and
 - (B) in written form transmitted within 12 hours after the vessel arrives at its next port.

§ 8102. Watchmen

(a) The owner, charterer, or managing operator of a vessel carrying passengers during the nighttime shall keep a suitable number of watchmen in the vicinity of the cabins or staterooms and on each deck to guard against and give alarm in case of a fire or other danger. An owner, charterer, or managing operator failing to provide watchmen required by this section is liable to the United States Government for a civil penalty of \$1,000.

(b) The owner, charterer, managing operator, agent, master, or individual in charge of a fish processing vessel of more than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* shall keep a suitable number of watchmen trained in fire-fighting on board when hotwork is being done to guard against and give alarm in case of a fire.

§ 8103. Citizenship and Naval Reserve requirements

(a) Only a citizen of the United States may serve as master, chief engineer, radio officer, or officer in charge of a deck watch or engineering watch on a documented vessel.

(b)(1) Except as otherwise provided in this section, on a documented vessel—

(A) each unlicensed seaman must be a citizen of the United States or an alien lawfully admitted to the United States for permanent residence; and

(B) not more than 25 percent of the total number of unlicensed seamen on the vessel may be aliens lawfully admitted to the United States for permanent residence.

(2) Paragraph (1) of this subsection does not apply to—

(A) a yacht;

(B) a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)); and

(C) a fishing vessel fishing outside of the exclusive economic zone.

(3) The Secretary may waive a citizenship requirement under this section, other than a requirement that applies to the master of a documented vessel, with respect to—

(A) an offshore supply vessel or other similarly engaged vessel of less than 1,600 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* that operates from a foreign port;

(B) a mobile offshore drilling unit or other vessel engaged in support of exploration, exploitation, or production of offshore mineral energy resources operating beyond the water above the outer Continental Shelf (as that term is defined in section 2(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1331(a)); and

(C) any other vessel if the Secretary determines, after an investigation, that qualified seamen who are citizens of the United States are not available.

(c) On each departure of a vessel (except a passenger vessel) for which a construction or operating differential subsidy has been granted, all of the seamen of the vessel must be citizens of the United States.

(d)(1) On each departure of a passenger vessel for which a construction or operating differential subsidy has been granted, at least 90 percent of the entire complement (including licensed individuals) must be citizens of the United States.

(2) An individual not required by this subsection to be a citizen of the United States may be engaged only if the individual has a declaration of intention to become a citizen of the United States or other evidence of admission to the United States for permanent residence. An alien may be employed only in the steward's department of the passenger vessel.

(e) If a documented vessel is deprived for any reason of the services of an individual (except the master and the radio officer) when

on a foreign voyage and a vacancy consequently occurs, until the vessel's return to a port at which in the most expeditious manner a replacement who is a citizen of the United States can be obtained, an individual not a citizen of the United States may serve in—

(1) the vacancy; or

(2) a vacancy resulting from the promotion of another individual to fill the original vacancy.

(f) A person employing an individual in violation of this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of \$500 for each individual so employed.

(g) A deck or engineer officer employed on a vessel on which an operating differential subsidy is paid, or employed on a vessel (except a vessel of the Coast Guard or Saint Lawrence Seaway Development Corporation) owned or operated by the Department of Transportation or by a corporation organized or controlled by the Department, if eligible, shall be a member of the Naval Reserve.

(h) The President may—

(1) suspend any part of this section during a proclaimed national emergency; and

(2) when the needs of commerce require, suspend as far and for a period the President considers desirable, subsection (a) of this section for crews of vessels of the United States documented for foreign trade.

(i)(1) Except as provided in paragraph (3) of this subsection, each unlicensed seaman on a fishing, fish processing, or fish tender vessel that is engaged in the fisheries in the navigable waters of the United States or the exclusive economic zone must be—

(A) a citizen of the United States;

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

(C) any other alien allowed to be employed under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) Not more than 25 percent of the unlicensed seamen on a vessel subject to paragraph (1) of this subsection may be aliens referred to in clause (C) of that paragraph.

(3) This subsection does not apply to a fishing vessel fishing exclusively for highly migratory species (as that term is defined in section 3 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802)).

§ 8104. Watches

(a) An owner, charterer, managing operator, master, individual in charge, or other person having authority may permit an officer to take charge of the deck watch on a vessel when leaving or immediately after leaving port only if the officer has been off duty for at least 6 hours within the 12 hours immediately before the time of leaving.

(b) On an oceangoing or coastwise vessel of not more than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* (except a fishing, fish processing, or fish tender vessel),

a licensed individual may not be required to work more than 9 of 24 hours when in port, including the date of arrival, or more than 12 of 24 hours at sea, except in an emergency when life or property are endangered.

(c) On a towing vessel (except a towing vessel operated only for fishing, fish processing, fish tender, or engaged in salvage operations) operating on the Great Lakes, harbors of the Great Lakes, and connecting or tributary waters between Gary, Indiana, Duluth, Minnesota, Niagara Falls, New York, and Ogdensburg, New York, a licensed individual or seaman in the deck or engine department may not be required **[or permitted]** to work more than 8 hours in one day *or permitted to work more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period*, except in an emergency when life or property are endangered.

(d) On a merchant vessel of more than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* (except a vessel only operating on rivers, harbors, lakes (except the Great Lakes), bays, sounds, bayous, and canals, a fishing, fish tender, or whaling vessel, a fish processing vessel of not more than 5,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*, yacht, or vessel engaged in salvage operations), the licensed individuals, sailors, coal passers, firemen, oilers, and water tenders shall be divided, when at sea, into at least 3 watches, and shall be kept on duty successively to perform ordinary work incident to the operation and management of the vessel. The requirement of this subsection applies to radio officers only when at least 3 radio officers are employed. A licensed individual or seaman in the deck or engine department may not be required to work more than 8 hours in one day.

(e) On a vessel designated by **[subsections (c) and (d)] subsection (d)** of this section—

(1) a seaman may not be—

(A) engaged to work alternately in the deck and engine departments; or

(B) required to work in the engine department if engaged for deck department duty or required to work in the deck department if engaged for engine department duty;

(2) a seaman may not be required to do unnecessary work on Sundays, New Year's Day, July 4th, Labor Day, Thanksgiving Day, or Christmas Day, when the vessel is in a safe harbor, but this clause does not prevent dispatch of a vessel on a voyage; and

(3) when the vessel is in a safe harbor, 8 hours (including anchor watch) is a day's work.

(f) Subsections (d) and (e) of this section do not limit the authority of the master or other officer or the obedience of the seamen when, in the judgment of the master or other officer, any part of the crew is needed for—

(1) maneuvering, shifting the berth of, mooring, or unmooring, the vessel;

(2) performing work necessary for the safety of the vessel, or the vessel's passengers, crew, or cargo;

(3) saving life on board another vessel in jeopardy; or

(4) performing fire, lifeboat, or other drills in port or at sea.

(g) On a towing vessel [(except a vessel to which subsection (c) of this section applies)], an offshore supply vessel, or a barge to which this section applies, that is engaged on a voyage of less than 600 miles, the licensed individuals and crewmembers (except the coal passers, firemen, oilers, and water tenders) may be divided, when at sea, into at least 2 watches.

(h) On a vessel to which section 8904 of this title applies, an individual licensed to operate a towing vessel may not work for more than 12 hours in a consecutive 24-hour period except in an emergency.

(i) A person violating subsection (a) or (b) of this section is liable to the United States Government for a civil penalty of \$10,000.

(j) The owner, charterer, or managing operator of a vessel on which a violation of subsection (c), (d), (e), or (h) of this section occurs is liable to the Government for a civil penalty of \$10,000. The seaman is entitled to discharge from the vessel and receipt of wages earned.

(k) On a fish processing vessel subject to inspection under part B of this subtitle, the licensed individuals and deck crew shall be divided, when at sea, into at least 3 watches.

(l) Except as provided in subsection (k) of this section, on a fish processing vessel, the licensed individuals and deck crew shall be divided, when at sea, into at least 2 watches if the vessel—

(1) entered into service before January 1, 1988, and is more than 1,600 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*; or

(2) entered into service after December 31, 1987, and has more than 16 individuals on board primarily employed in the preparation of fish or fish products.

(m) This section does not apply to a fish processing vessel—

(1) entered into service before January 1, 1988, and not more than 1,600 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*; or

(2) entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products.

(n) On a tanker, a licensed individual or seaman may not be permitted to work more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period, except in an emergency or a drill. In this subsection, "work" includes any administrative duties associated with the vessel whether performed on board the vessel or onshore.

(o)(1) Except as provided in paragraph (2) of this subsection, on a fish tender vessel of not more than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by*

the Secretary under section 14104 of that title engaged in the Aleutian trade, the licensed individuals and crewmembers shall be divided, when at sea, into at least 3 watches.

(2) *On a fish tender vessel of not more than 500 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title engaged in the Aleutian trade, the licensed individuals and crewmembers shall be divided, when at sea, into at least 2 watches, if the vessel—*

(A) *before September 8, 1990, operated in that trade; or*

(B) (i) *before September 8, 1990, was purchased to be used in that trade; and*

(ii) *before June 1, 1992, entered into service in that trade.*

[(p) *On a vessel used only to respond to a discharge of oil or a hazardous substance, the licensed individuals and crewmembers may be divided into at least two watches when the vessel is engaged in an operation less than 12 hours in duration.*]

(p) *The Secretary may prescribe the watchstanding and work hours requirements for an oil spill response vessel.*

* * * * *

CHAPTER 83. MASTERS AND OFFICERS

§ 8301. Minimum number of licensed individuals

(a) *Except as provided in chapter 89 of this title and except for a vessel operating only on rivers, harbors, lakes (except the Great Lakes), bays, sounds, bayous, and canals, a vessel subject to inspection under chapter 33 of this title shall engage a minimum of licensed individuals as follows:*

(1) *Each of those vessels propelled by machinery or carrying passengers shall have a licensed master.*

(2) *A vessel of at least 1,000 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title and propelled by machinery shall have 3 licensed mates, except—*

(A) *in the case of a vessel other than a mobile offshore drilling unit, if on a voyage of less than 400 miles from port of departure to port of final destination, the vessel shall have 2 licensed mates; and*

(B) *in the case of a mobile offshore drilling unit, the vessel shall have licensed individuals as provided by regulations prescribed by the Secretary under section 8101 of this title.*

(3) *A vessel of at least 200 gross tons but less than 1,000 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title and propelled by machinery shall have 2 licensed mates.*

(4) *A vessel of at least 100 gross tons but less than 200 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of*

that title as prescribed by the Secretary under section 14104 of that title and propelled by machinery shall have one licensed mate. However, if the vessel is on a voyage of more than 24 hours, it shall have 2 licensed mates.

(5) A freight vessel or a passenger vessel of at least 300 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* and propelled by machinery shall have a licensed engineer.

(b)(1) An offshore supply vessel on a voyage of less than 600 miles shall have a licensed mate. However, if the vessel is on a voyage of at least 600 miles, the vessel shall have 2 licensed mates. An offshore supply vessel of more than 200 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* may not be operated without a licensed engineer.

(2) *A person that knowingly alters lifesaving, fire safety, or any other equipment subject to this part, so that the equipment altered is so defective as to be insufficient to accomplish the purpose for which it is intended, commits a call D felony.*

(c) Subsection (a) of this section does not apply to a fishing or whaling vessel, a mobile drilling unit when on location, or a yacht.

(d) The Secretary may—

(1) suspend any part of this chapter during a national emergency proclaimed by the President; and

(2) increase the number of licensed individuals on a vessel to which this chapter applies if, in the Secretary's judgment, the vessel is not sufficiently manned for safe operation.

[(e) A vessel used only to respond to a discharge of oil or a hazardous substance shall have—

[(1) two licensed mates when the vessel is engaged in an operation over 12 hours in duration;

[(2) one licensed mate when the vessel is engaged in an operation less than 12 hours in duration; and

[(3) if the vessel is more than 200 gross tons, a licensed engineer when the vessel is operating.]

(e) *The Secretary may prescribe the minimum number of licensed individuals for an oil spill response vessel.*

* * * * *

§ 8304. Implementing the Officers' Competency Certificates Convention, 1936

(a) In this section, "high seas" means waters seaward of the Boundary Line.

(b) The Officers' Competency Certificates Convention, 1936 (International Labor Organization Draft Convention Numbered 53, on the minimum requirement of professional capacity for masters and officers on board merchant vessels), as ratified by the President on September 1, 1938, with understandings appended, and this section apply to a documented vessel operating on the high seas except—

- (1) a public vessel;
- (2) a wooden vessel of primitive build, such as a dhow or junk;
- (3) a barge; and
- (4) a vessel of less than 200 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title.*

(c) A person may not engage or employ an individual to serve as, and an individual may not serve as, a master, mate, or engineer on a vessel to which this section applies, if the individual does not have a license issued under section 7101 of this title authorizing service in the capacity in which the individual is to be engaged or employed.

(d) A person (including an individual) violating this section is liable to the United States Government for a civil penalty of \$ 100.

(e) A license issued to an individual to whom this section applies is a certificate of competency.

(f) A designated official may detain a vessel to which this section applies (by written order served on the owner, charterer, managing operator, agent, master, or individual in charge of the vessel) when there is reason to believe that the vessel is about to proceed from a port of the United States to the high seas in violation of this section or a provision of the convention described in subsection (b) of this section. The vessel may be detained until the vessel complies with this section. Clearance may not be granted to a vessel ordered detained under this section.

(g) A foreign vessel to which the convention described in subsection (b) of this section applies, on the navigable waters of the United States, is subject to detention under subsection (f) of this section, and to an examination that may be necessary to decide if there is compliance with the convention.

(h) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel detained under subsection (f) or (g) of this section may appeal the order within 5 days as provided by regulation.

(i) An officer or employee of the Customs Service may be designated to enforce this section.

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CHAPTER 87. UNLICENSED PERSONNEL

§ 8701. Merchant mariners' documents required

(a) This section applies to a merchant vessel of at least 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*—

- (1) a vessel operating only on rivers and lakes (except the Great Lakes);
- (2) a barge (except a seagoing barge or a barge to which chapter 37 of this title applies);
- (3) a fishing, or fish tender, or whaling vessel or yacht;

(4) a sailing school vessel with respect to sailing school instructors and sailing school students;

(5) an oceanographic research vessel with respect to scientific personnel;

(6) a fish processing vessel entered into service before January 1, 1988, and not more than 1,600 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* or entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products;

(7) a fish processing vessel (except a vessel to which clause (6) of this subsection applied) with respect to individuals on board primarily employed in the preparation of fish or fish products or in a support position not related to navigation; **[and]**

(8) a mobile off shore drilling unit with respect to individuals, other than crew members required by the certificate of inspection, engaged on board the unit for the sole purpose of carrying out the industrial business or function of the **[unit.]; and**

(9) *the Secretary may prescribe the individuals required to hold a merchant mariner's document serving onboard an oil spill response vessel.*

(b) A person may not engage or employ an individual, and an individual may not serve, on board a vessel to which this section applies if the individual does not have a merchant mariner's document issued to the individual under section 7302 of this title. Except for an individual required to be licensed or registered under this part, the document must authorize service in the capacity for which the holder of the document is engaged or employed.

(c) On a vessel to which section 10306 or 10503 of this title does not apply, an individual required by this section to hold a merchant mariner's document must exhibit it to the master of the vessel before the individual may be employed.

(d) A person (including an individual) violating this section is liable to the United States Government for a civil penalty of \$500.

§ 8702. Certain crew requirements

(a) This section applies to a vessel of at least 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* except—

(1) a vessel operating only on rivers and lakes (except the Great Lakes);

(2) a barge (except a seagoing barge or a barge to which chapter 37 of this title applies);

(3) a fishing, fish tender, or whaling vessel (except a fish tender vessel engaged in the Aleutian trade) or yacht;

(4) a sailing school vessel with respect to sailing school instructors and sailing school students;

(5) an oceanographic research vessel with respect to scientific personnel;

(6) a fish processing vessel entered into service before January 1, 1988, and not more than 1,600 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* or entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products; and

(7) a fish processing vessel (except a vessel to which clause (6) of this subsection applies) with respect to individuals on board primarily employed in the preparation of fish or fish products or in a support position not related to navigation.

(b) a vessel may operate only if at least—

(1) 75 percent of the crew in each department on board is able to understand any order spoken by the officers, and

(2) 65 percent of the deck crew (excluding licensed individuals) have merchant mariners' documents endorsed for a rating of at least able seaman, except that this percentage may be reduced to 50 percent—

(i) on a vessel permitted under section 8104 of this title to maintain a 2-watch system; or

(ii) on a fish tender vessel engaged in the Aleutian trade.

(c) An able seaman is not required on a towing vessel operating on bays and sounds connected directly with the seas.

(d) An individual having a rating of less than able seaman may not be permitted at the wheel in ports, harbors, and other waters subject to congested vessel traffic, or under conditions of reduced visibility, adverse weather, or other hazardous circumstances.

(e) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel operated in violation of this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of \$10,000.

* * * * *

CHAPTER 89. SMALL VESSEL MANNING

§ 8901. Freight vessels

A freight vessel of less than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* shall be operated by an individual licensed by the Secretary to operate that type of vessel in the particular geographic area, under prescribed regulations.

* * * * *

§ 8905. Exemptions

(a) Section 8903 of this title applies to a recreational vessel operated in dealer demonstrations only if the Secretary decides that the application of section 8903 is necessary for recreational vessel safety under section 4302(d) of this title.

(b) Section 8904 of this title does not apply to a vessel of less than 200 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section*

14302 of that title as prescribed by the Secretary under section 14104 of that title engaged in the offshore mineral and oil industry if the vessel has offshore mineral and oil industry sites or equipment as its ultimate destination or place of departure.

(c) Section 8904 of this title does not apply to an oil spill response vessel while engaged in oil spill response or training activities.

§ 8906. Penalty

An owner, charterer, managing operator, agent, master, or individual in charge of a vessel operated in violation of this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of **[\$1,000.]** *not more than \$25,000.* The vessel also is liable in rem for the penalty.

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CHAPTER 93. GREAT LAKES PILOTAGE

§ 9302. Great Lakes pilots required

(a)(1) Except as provided in **[subsections (d) and (e)]** *subsections (d), (e), and (f)* of this section, each vessel of the United States operating on register and each foreign vessel shall engage a United States or Canadian registered pilot for the route being navigated who shall—

(A) in waters of the Great Lakes designated by the President, direct the navigation of the vessel subject to the customary authority of the master; and

(B) in waters of the Great Lakes not designated by the President, be on board and available to direct the navigation of the vessel at the discretion of and subject to the customary authority of the master.

(2) The President shall make water designations under this subsection with regard to the public interest, the effective use of navigable waters, marine safety, and the foreign relations of the United States.

(b) A member of the complement of a vessel of the United States operating on register or of a vessel of Canada may serve as the pilot required on waters not designated by the President if the member is licensed under section 7101 of this title, or under equivalent provisions of Canadian law, to direct the navigation of the vessel on the waters being navigated.

(c) The authority extended under subsections (a) and (b) of this section to a Canadian registered pilot or other Canadian licensed officer to serve on certain vessels in United States waters of the Great Lakes shall continue as long as Canada extends reciprocity to United States registered pilots and other individuals licensed by the United States for pilotage service in Canadian waters of the Great Lakes.

(d) A vessel may be operated on the United States waters of the Great Lakes without a United States or Canadian registered pilot when—

(1) the Secretary notifies the master that a registered pilot is not available; or

(2) the vessel or its cargo is in distress or jeopardy.

(e) A Canadian vessel regularly operating on the Great Lakes or between ports on the Great Lakes and the Saint Lawrence River, with only an occasional voyage to ports in the maritime provinces of Canada in the Canadian coastal trade, is exempt from [subsections (a) and (b)] *subsection (a)* of this section as long as Canada permits enrolled vessels of the United States to be operated on Canadian waters of the Great Lakes under the direction of individuals licensed under section 7101 of this title.

(f) A United States vessel operating between ports on the Great Lakes or between ports on the Great Lakes and the St. Lawrence River carrying no cargo obtained from a foreign port outside of the Great Lakes or carrying no cargo bound for a foreign port outside of the Great Lakes, is exempt from the requirements of subsection (a) of this section.

§ 9303. United States registered pilot service

(a) The Secretary shall prescribe by regulation standards of competency to be met by each applicant for registration under this chapter. An applicant must—

(1) have a license as master, mate, or pilot issued under section 7101 of this title;

(2) have acquired at least 24 months licensed service or equivalent experience on vessels or integrated towing vessels and tows of at least 4,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*, operating on the Great Lakes or oceans, with a minimum of 6 months of that service or experience having been on the Great Lakes; and

(3) agree that, if appointed as a United States registered pilot, the applicant will be available for service when required.

(b) The Secretary shall issue to each registered pilot under this chapter a certificate of registration describing the areas within which the pilot may serve. The pilot shall carry the certificate when in the service of a vessel.

(c) The Secretary shall prescribe by regulation the duration of validity of registration.

(d) The Secretary may prescribe by regulation the conditions for service by United States registered pilots, including availability for service.

(e) Subject to sections 551–559 of title 5, the Secretary may suspend or revoke a certificate of registration issued under this section if the holder fails to comply with a regulation prescribed under this chapter. Suspension or revocation of the holder's license under chapter 77 of this title includes the holder's certificate of registration.

(f) The Secretary shall prescribe by regulation rates and charges for pilotage services, giving consideration to the public interest and the costs of providing the services.

* * * * *

CHAPTER 101. GENERAL

§ 10101. Definitions

In this part—

- (1) “master” means the individual having command of a vessel.
- (2) “owner” means the person to whom the vessel belongs.
- (3) “seaman” means an individual (except scientific personnel, a sailing school instructor, or a sailing school student) engaged or employed in any capacity on board a vessel.
- (4) “fishing vessel” includes—
 - (A) a fish tender vessel; or
 - (B) a fish processing vessel entered into service before January 1, 1988, and not more than 1,600 gross tons as measured under section 14502 of title 46, *United States Code*, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title or entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products.

* * * * *

CHAPTER 103. FOREIGN AND INTERCOASTAL VOYAGES

§ 10301. Application

- (a) Except as otherwise specifically provided, this chapter applies to a vessel of the United States—
 - (1) on a voyage between a port in the United States and a port in a foreign country (except a port in Canada, Mexico, or the West Indies); or
 - (2) of at least 75 gross tons as measured under section 14502 of title 46, *United States Code*, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title on a voyage between a port of the United States on the Atlantic Ocean and a port of the United States on the Pacific Ocean.
- (b) This chapter does not apply to a vessel on which the seamen are entitled by custom or agreement to share in the profit or result of a voyage.
- (c) Unless otherwise provided, this chapter does not apply to a foreign vessel.

* * * * *

CHAPTER 105. COASTWISE VOYAGES

§ 10501. Application

- (a) Except for a vessel to which chapter 103 of this title applies, this chapter applies to a vessel of at least 50 gross tons as measured under section 14502 of title 46, *United States Code*, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title on a voy-

age between a port in one State and a port in another State (except an adjoining State).

(b) This chapter does not apply to a vessel on which the seamen are entitled by custom or agreement to share in the profit or result of a voyage.

(c) Unless otherwise provided, this chapter does not apply to a foreign vessel.

CHAPTER 106. FISHING VOYAGES

§ 10601. Fishing agreements

(a) Before proceeding on a voyage, the master or individual in charge of a fishing vessel, fish processing vessel, or fish tender vessel shall make a fishing agreement in writing with each seaman employed on board if the vessel is—

(1) at least 20 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*; and

(2) on a voyage from a port in the United States.

(b) The agreement shall be signed also by the owner of the vessel.

(c) The agreement shall—

(1) state the period of effectiveness of the agreement;

(2) include the terms of any wage, share, or other compensation arrangement peculiar to the fishery in which the vessel will be engaged during the period of the agreement; and

(3) include other agreed terms.

* * * * *

CHAPTER 111. PROTECTION AND RELIEF

§ 11101. Accommodations for seamen

(a) On a merchant vessel of the United States the construction of which began after March 4, 1915 (except a yacht, pilot vessel, or vessel of less than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*)—

(1) each place appropriated to the crew of the vessel shall have a space of at least 120 cubic feet and at least 16 square feet, measured on the floor or deck of that place, for each seaman or apprentice lodged in the vessel;

(2) each seaman shall have a separate berth and not more than one berth shall be placed one above another;

(3) the place or berth shall be securely constructed, properly lighted, drained, heated, and ventilated, properly protected from weather and sea, and, as far as practicable, properly shut off and protected from the effluvium of cargo or bilge water; and

(4) crew space shall be kept free from goods or stores that are not the personal property of the crew occupying the place in use during the voyage.

(b) In addition to the requirements of subsection (a) of this section, a merchant vessel of the United States that in the ordinary course of trade makes a voyage of more than 3 days' duration between ports and carries a crew of at least 12 seamen shall have a hospital compartment, suitably separated from other spaces. The compartment shall have at least one bunk for each 12 seamen constituting the crew (but not more than 6 bunks may be required).

(c) A steam vessel of the United States operating on the Mississippi River or its tributaries shall provide, under the direction and approval of the Secretary, an appropriate place for the crew that shall conform to the requirements of this section, as far as they apply to the steam vessel, by providing a properly heated sleeping room in the engineroom of the steam vessel properly protected from the cold, wind, and rain by means of suitable awnings or screens on either side of the guards or sides and forward, reaching from the boiler deck to the lower or main deck.

(d) A merchant vessel of the United States, the construction of which began after March 4, 1915, having more than 10 seamen on deck, shall have at least one lighted, clean, and properly heated and ventilated washing place. There shall be provided at least one washing outfit for each 2 seamen of the watch. A separate washing place shall be provided for the fireroom and engineroom seamen, if their number is more than 10, that shall be large enough to accommodate at least one-sixth of them at the same time, and have a hot and cold water supply and a sufficient number of washbasins, sinks, and shower baths.

(e) Forecastsles shall be fumigated at intervals provided by regulations prescribed by the Secretary of Health and Human Services, with the approval of the Secretary, and shall have at least 2 exits, one of which may be used in emergencies.

(f) The owner, charterer, managing operator, agent, master, or licensed individual of a vessel not complying with this section is liable to the United States Government for a civil penalty of at least \$50 but not more than \$500.

§ 11102. Medicine chests

(a) A vessel of the United States on a voyage from a port in the United States to a foreign port (except to a Canadian port), and a vessel of the United States of at least 75 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* on a voyage between a port of the United States on the Atlantic Ocean and Pacific Ocean, shall be provided with a medicine chest.

(b) The owner and master of a vessel not equipped as required by subsection (a) of this section or a regulation prescribed under subsection (a) are liable to the United States Government for a civil penalty of \$ 500. If the offense was due to the fault of the owner, a master penalized under this section has the right to recover the penalty and costs from the owner.

* * * * *

CHAPTER 113. OFFICIAL LOGBOOKS

§ 11301. Logbook and entry requirements

(a) Except a vessel on a voyage from a port in the United States to a port in Canada, a vessel of the United States shall have an official logbook if the vessel is—

(1) on a voyage from a port in the United States to a foreign port; or

(2) of at least 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* and is on a voyage between a port of the United States on the Atlantic Ocean and on the Pacific Ocean.

(b) The master of the vessel shall make or have made in the official logbook the following entries:

(1) each legal conviction of a seaman of the vessel and the punishment inflicted.

(2) each offense committed by a seaman of the vessel for which it is intended to prosecute or to enforce under a forfeiture, together with statements about reading the entry and the reply made to the charge as required by section 11502 of this title.

(3) each offense for which punishment is inflicted on board and the punishment inflicted.

(4) a statement of the conduct, character, and qualifications of each seaman of the vessel or a statement that the master declines to give an opinion about that conduct, character, and qualifications.

(5) each illness of or injury to a seaman of the vessel, the nature of the illness or injury, and the medical treatment.

(6) each death on board, with the cause of death, and if a seaman, the information required by section 10702 of this title.

(7) each birth on board, with the sex of the infant and name of the parents.

(8) each marriage on board, with the names and ages of the parties.

(9) the name of each seaman who ceases to be a crewmember (except by death), with the place, time, manner, and the cause why the seaman ceased to be a crewmember.

(10) the wages due to a seaman who dies during the voyage and the gross amount of all deductions to be made from the wages.

(11) the sale of the property of a seaman who dies during the voyage, including a statement of each article sold and the amount received for the property.

(12) when a marine casualty occurs, a statement about the casualty and the circumstances under which it occurred, made immediately after the casualty when practicable to do so.

* * * * *

CHAPTER 121. DOCUMENTATION OF VESSELS

§ 12101. Definitions and related terms in other laws

(a) In this chapter—

(1) “fisheries” includes processing, storing, transporting (except in foreign commerce), planting, cultivating, catching, taking, or harvesting fish, shellfish, marine animals, pearls, shells, or marine vegetation in the navigable waters of the United States or in the exclusive economic zone.

(2) “rebuilt” has the same meaning as in the second proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883).

(b) When used in a law, regulation, document, ruling, or other official act referring to the documentation of a vessel—

(1) “certificate of registry”, “register”, and “registry” mean a registry endorsement as provided in section 12105 of this title.

(2) “license”, “enrollment and license”, “license for the coastwise (or coasting) trade”, and “enrollment and license for the coastwise (or coasting) trade” mean a coastwise endorsement as provided in section 12106 of this title.

[(3) “enrollment and license to engage in the foreign and coastwise (or coasting) trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea” means a Great Lakes endorsement as provided in section 12107 of this title.]

(4) “yacht” means a recreational vessel even if not documented.

(5) [Redesignated]

(6) [Deleted]

* * * * *

§ 12106. Coastwise endorsements

(a) A certificate of documentation may be endorsed with a coastwise endorsement for a vessel that—

(1) is eligible for documentation;

(2)(A) was built in the United States; or

(B) if not built in the United States, was captured in war by citizens of the United States and lawfully condemned as prize, was adjudged to be forfeited for a breach of the laws of the United States, or qualified for documentation under section 4136 of the Revised Statutes (46 App. U.S.C. 14); and

(3) otherwise qualifies under laws of the United States to be employed in the coastwise trade.

(b) Subject to the laws of the United States regulating the coastwise trade, only a vessel for which a certificate of documentation with a coastwise endorsement is issued may be employed in the coastwise trade.

(c) A coastwise endorsement to engage in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands may be issued for a vessel that—

(1) is less than two hundred gross tons *as measured under section 14502 of title 46, United States Code, or an alternate*

tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title;

(2) was not built in the United States;

(3) is eligible for documentation; and

(4) otherwise qualifies under the laws of the United States to be employed in the coastwise trade.

(d)(1) A vessel may be issued a certificate of documentation with a coastwise endorsement if—

(A) the vessel is owned by a not-for-profit oil spill response cooperative or by members of such a cooperative who dedicate the vessel to use by the cooperative;

(B) the vessel is at least 50 percent owned by persons or entities described in section 12102(a) of this title;

(C) the vessel otherwise qualifies under section 12106 to be employed in the coastwise trade; and

(D) use of the vessel is restricted to—

(i) the deployment of equipment, supplies, and personnel to recover, contain, or transport oil discharged into the navigable waters of the United States, or within the Exclusive Economic Zone, or

(ii) for training exercises to prepare to respond to such a discharge.

(2) For purposes of the first proviso of section 27 of the Merchant Marine Act, 1920, section 2 of the Shipping Act of 1916, and section 12102(a) of this title, a vessel meeting the criteria of this subsection shall be considered to be owned exclusively by citizens of the United States.

(e)(1) A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—

(A) the vessel is eligible for documentation under section 12102;

(B) the person that owns the vessel, a parent entity of that person, or a subsidiary of a parent entity of that person, is engaged in leasing;

(C) the vessel is under a demise charter to a person qualifying as a citizen of the United States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916;

(D) the demise charter is for—

(i) a period of at least 3 years; or

(ii) a shorter period as may be prescribed by the Secretary; and

(E) the vessel is otherwise qualified under this section to be employed in the coastwise trade.

(2) Upon default by a bareboat charterer of a demise charter required under paragraph (1)(D), the coastwise endorsement of the vessel may, in the sole discretion of the Secretary, be continued after the termination for default of the demise charter for a period not to exceed 6 months on terms and conditions as the Secretary may prescribe.

(3) For purposes of section 2 of the Shipping Act, 1916, and section 12102(a) of this title, a vessel meeting the criteria of subsection is deemed to be owned exclusively by citizens of the United States.

§ 12107. Great Lakes endorsements

[(a) A certificate of documentation may be endorsed with a Great Lakes endorsement for a vessel that—

[(1) is eligible for documentation;

[(2)(A) was built in the United States; or

[(B) if not built in the United States, was captured in war by citizens of the United States and lawfully condemned as prize, was adjudged to be forfeited for a breach of the laws of the United States, or qualified for documentation under section 4136 of the Revised Statutes (46 App. U.S.C. 14); and

[(3) otherwise qualifies under the laws of the United States to be employed in the coastwise trade.

[(b) Subject to the laws of the United States regulating trade with Canada, only a vessel for which a certificate of documentation with a Great Lakes endorsement is issued may be employed on the Great Lakes and their tributary and connecting waters in trade with Canada.]

§ 12108. Fishery endorsements

(a) A certificate of documentation may be endorsed with a fishery endorsement for a vessel that—

(1) is eligible for documentation;

(2)(A) was built in the United States; or

(B) if not built in the United States, was captured in war by citizens of the United States and lawfully condemned as prize, was adjudged to be forfeited for a breach of the laws of the United States, or qualified for documentation under section 4136 of the Revised Statutes (46 App. U.S.C. 14);

(3) if rebuilt, was rebuilt in the United States; and

(4) otherwise qualifies under the laws of the United States to be employed in the fisheries.

(b) Subject to the laws of the United States regulating the fisheries, only a vessel for which a certificate of documentation with a fishery endorsement is issued may be employed in the fisheries.

(c) A fishery endorsement to engage in fishing in the territorial sea and fishery conservation zone adjacent to Guam, American Samoa, and the Northern Mariana Islands may be issued to a vessel that—

(1) is less than two hundred gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title;*

(2) was not built or rebuilt in the United States;

(3) is eligible for documentation; and

(4) otherwise qualifies under the laws of the United States to be employed in the fisheries.

(d) [Repealed]

* * * * *

§ 12110. Limitations on operations authorized by certificates

(a) A vessel may not be employed in a trade except a trade covered by the endorsement issued for that vessel.

(b) A barge qualified to be employed in the coastwise trade may be employed, without being documented, in that trade on rivers, harbors, lakes (except the Great Lakes), canals, and inland waters.

[(c) A vessel and its equipment are liable to seizure by and forfeiture to the United States Government—

[(1) when a vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;

[(2) when a vessel is employed in a trade without an appropriate trade endorsement; or

[(3) when a documented vessel with a recreational endorsement is operated other than for pleasure.]

(c) *A vessel with only a recreational endorsement may not be operated other than for pleasure.*

(d) A documented [vessel] *vessel, other than a vessel with only a recreational endorsement operating within the territorial waters of the United States, may be placed under the command only of a citizen of the United States.*

§ 12111. Surrender and invalidation of certificates of documentation

(a) A certificate of documentation is invalid if the vessel for which it is issued—

(1) no longer meets the requirements of this chapter and regulations prescribed under this chapter applicable to that certificate of documentation; or

(2) is placed under the command of a person not a citizen of the United States *in violation of section 12110(d) of this title.*

(b) An invalid certificate of documentation must be surrendered as provided by regulations prescribed by the Secretary of Transportation.

(c)(1) Notwithstanding subsection (a) of this section, until the certificate of documentation is surrendered with the approval of the Secretary, a documented vessel is deemed to continue to be documented under this chapter for purposes of—

(A) chapter 313 of this title for an instrument filed or recorded before the date of invalidation and an assignment after that date;

(B) sections 9 and 37(b) of the Shipping Act, 1916 (46 U.S.C. App. 808, 835(b));

(C) section 902 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1242); and

(D) any other law of the United States identified by the Secretary by regulation as a law to which the Secretary applies this subsection.

(2) This subsection does not apply when a vessel is forfeited or sold by order of a district court of the United States.

(3) The Secretary may approve the surrender of the certificate of documentation of a documented vessel covered by a mortgage filed or recorded under section 31321 of this title only if the mortgagee consents.

* * * * *

§ 12122. Penalties

(a) A person that violates this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than **[\$500.] \$10,000**. Each day of continuing violation is a separate violation.

[(b) When the owner of a vessel knowingly falsifies or conceals a material fact, or makes a false statement or representation about the documentation of the vessel, that vessel and its equipment are liable to seizure by and forfeiture to the United States Government.]

(b) A vessel and its equipment are liable to seizure by and forfeiture to the United States Government —

(1) when the owner of a vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation about the documentation or when applying for documentation of the vessel;

(2) when a certificate of documentation is knowingly and fraudulently used for a vessel;

(3) when a vessel is operated after its endorsement has been denied or revoked under section 12123 of this title;

(4) when a vessel is employed in a trade without an appropriate trade endorsement;

(5) when a documented vessel with only a recreational endorsement is operated other than for pleasure; or

(6) when a documented vessel, other than a vessel with only a recreational endorsement operating within the territorial waters of the United States, is placed under the command of a person not a citizen of the United States.

[(c) When a certificate of documentation is knowingly and fraudulently used for a vessel, that vessel and its equipment are liable to seizure by and forfeiture to the Government.]

§ 12123. Denial and revocation of endorsements

[(The Secretary of Transportation is authorized to deny the issuance or renewal of a trade or recreational endorsement on a certificate of documentation issued under this chapter and to revoke such endorsement if that vessel's owner has not paid an assessment of a civil penalty after final agency action for a violation of law for which an assessment has been made by the Secretary.)]

* * * * *

CHAPTER 131. RECREATIONAL BOATING SAFETY**§ 13106. Authorization of contract spending**

(a)(1) **[(Subject to paragraph (2), the Secretary may expend in each fiscal year, subject to amounts as are provided in appropriations laws for liquidation of contract authority, an amount equal to ½ of the amount transferred for such fiscal year to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(4)).] Subject to paragraph (2), the Secretary shall expend under contracts with States under this chapter in each fiscal year for State recreational boating safety programs an amount**

equal to the sum of the amount appropriated from the Boat Safety Account for that fiscal year plus the amount transferred to the Secretary under section 4(b)(1) of Act of August 9, 1950 (16 U.S.C. 777c(b)(1)) for that fiscal year. The amount shall be allocated as provided under section 13103 of this title and shall be available for State recreational boating safety programs as provided under the guidelines established under subsection (b) of this section. Amounts authorized to be expended for State recreational boating safety programs shall remain available until expended and are deemed to have been expended only if an amount equal to the total amounts authorized to be expended under this section for the fiscal year in question and all prior fiscal years have been obligated. Amounts previously obligated but released by payment of a final voucher or modification of a program acceptance shall be credited to the balance of unobligated amounts and are immediately available for expenditure.

(2) The Secretary shall use not less than one percent and not more than two percent of the amount appropriated each fiscal year for State recreational boating safety programs under this chapter to pay the costs of investigations, personnel, and activities related to administering those programs.

(b) The Secretary shall establish guidelines prescribing the purposes for which amounts available under this chapter for State recreational boating safety programs may be used. Those purposes shall include—

(1) providing facilities, equipment, and supplies for boating safety education and law enforcement, including purchase, operation, maintenance, and repair;

(2) training personnel in skills related to boating safety and to the enforcement of boating safety laws and regulations;

(3) providing public boating safety education, including educational programs and lectures, to the boating community and the public school system;

(4) acquiring, constructing, or repairing public access sites used primarily by recreational boaters;

(5) conducting boating safety inspections and marine casualty investigations;

(6) establishing and maintaining emergency or search and rescue facilities, and providing emergency or search and rescue assistance;

(7) establishing and maintaining waterway markers and other appropriate aids to navigation; and

(8) providing State recreational vessel numbering and titling programs.

[(c) An amount equal to one-half of the amount transferred for each fiscal year to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(4)) is available to the Secretary for expenditures out of the operating expenses account of the Coast Guard for services provided by the Coast Guard for recreational boating safety, including services provided by the Coast Guard Auxiliary. Expenditures for a fiscal year under this subsection shall not exceed expenditures for the fiscal year under subsection (a). Amounts made available by this subsection shall remain available until expended.]

(c) For expenditure under this chapter for State recreational boating safety programs there are authorized to be appropriated to the Secretary of Transportation from the Boat Safety Account established under section 9504 of the Internal Revenue Code of 1986 (26 U.S.C. 9504) not more than \$35,000,000 each fiscal year.

* * * * *

CHAPTER 141. GENERAL

§ 14104. Measurement to determine application of a law

(a) When the application of a law of the United States to a vessel depends on the vessel's tonnage, the vessel shall be measured under this part.

(b) If a statute allows for an alternate tonnage to be prescribed under this section, the Secretary may prescribe it by regulation. Until an alternate tonnage is prescribed, the statutorily established tonnage shall apply to vessels measured under chapter 143 or chapter 145 of this title.

* * * * *

CHAPTER 313. COMMERCIAL INSTRUMENTS AND MARITIME LIENS

§ 31321. Filing, recording, and discharge

(a)(1) A bill of sale, conveyance, mortgage, assignment, or related instrument, whenever made, that includes any part of a documented vessel or a vessel for which an application for documentation is filed, must be filed with the Secretary of Transportation to be valid, to the extent the vessel is involved, against any person except—

- (A) the grantor, mortgagor, or assignor;*
- (B) the heir or devisee of the grantor, mortgagor, or assignor;*

and

- (C) a person having actual notice of the sale, conveyance, mortgage, assignment, or related instrument.*

(2) Each bill of sale, conveyance, mortgage, assignment, or related instrument that is filed in substantial compliance with this section is valid against any person from the time it is filed with the Secretary.

(3) The parties to an instrument or an application for documentation shall use diligence to ensure that the parts of the instrument or application for which they are responsible are in substantial compliance with the filing and documentation requirements.

(4)(A) A bill of sale, conveyance, mortgage, assignment, or related instrument may be filed electronically under regulations prescribed by the Secretary.

(B) A filing made electronically under subparagraph (A) shall not be effective after the 10-day period beginning on the date of the filing unless the original instrument is provided to the Secretary within that 10-day period.

(b) To be filed, a bill of sale, conveyance, mortgage, assignment, or related instrument must—

- (1) identify the vessel;*

- (2) state the name and address of each party to the instrument;
 - (3) state, if a mortgage, the amount of the direct or contingent obligations (in one or more units of account as agreed to by the parties) that is or may become secured by the mortgage, excluding interest, expenses, and fees;
 - (4) state the interest of the grantor, mortgagor, or assignor in the vessel;
 - (5) state the interest sold, conveyed, mortgaged, or assigned; and
 - (6) be signed and acknowledged.
- (c) If a bill of sale, conveyance, mortgage, assignment, or related document is filed that involves a vessel for which an application for documentation is filed, and the Secretary decides that the vessel cannot be documented by an applicant—
- (1) the Secretary shall send notice of the Secretary's decision, including reasons for the decision, to each interested party to the instrument filed for recording; and
 - (2) 90 days after sending the notice as provided under clause (1) of this subsection, the Secretary—
 - (A) may terminate the filing; and
 - (B) may return the instrument filed without recording it under subsection (e) of this section.
- (d) A person may withdraw an application for documentation of a vessel for which a mortgage has been filed under this section only if the mortgagee consents.
- (e) The Secretary shall—
- (1) record the bills of sale, conveyances, mortgages, assignments, and related instruments of a documented vessel complying with subsection (b) of this section in the order they are filed; and
 - (2) maintain appropriate indexes, for use by the public, of instruments filed or recorded, or both.
- (f) On full and final discharge of the indebtedness under a mortgage recorded under subsection (e)(1) of this section, a mortgagee, on request of the Secretary or mortgagor, shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness in a form prescribed by the Secretary. The Secretary shall record the certificate.
- (g) The mortgage or related instrument of a vessel covered by a preferred mortgage under section 31322(d) of this title, that is later filed under this section at the time an application for documentation is filed, is valid under this section from the time the mortgage or instrument representing financing became a preferred mortgage under section 31322(d).
- (h) On full and final discharge of the indebtedness under a mortgage deemed to be a preferred mortgage under section 31322(d) of this title, a mortgagee, on request of the Secretary, a State, or mortgagor, shall provide the Secretary or the State, as appropriate, with an acknowledged certificate of discharge of the indebtedness in a form prescribed by the Secretary or the State, as applicable. If filed with the Secretary, the Secretary shall enter that information in the vessel identification system under chapter 125 of this title.

§ 31322. Preferred mortgages

(a)(1) A preferred mortgage is a mortgage, whenever made, that—

(A) includes the whole of a vessel;

(B) is filed in substantial compliance with section 31321 of this title;

(C)(i) covers a documented vessel; or

(ii) covers a vessel for which an application for documentation is filed that is in substantial compliance with the requirements of chapter 121 of this title and the regulations prescribed under that chapter; and

(D) has as the mortgagee—

(i) a State;

(ii) the United States Government;

(iii) a federally insured depository institution, unless disapproved by the Secretary;

(iv) an individual who is a citizen of the United States;

(v) a person qualifying as a citizen of the United States under section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802); **[or]**

(vi) a person approved by the Secretary of **[Transportation.]** *Transportation;*

(vii) a person eligible to own a documented vessel under chapter 121 of this title.

(2) Paragraph (1)(D) of this subsection does not apply to—

(A) a documented vessel that has a fisheries endorsement or a recreational endorsement, or both endorsements; or

(B) a vessel for which an application for documentation with a fisheries endorsement or a recreational endorsement, or both endorsements, has been filed.

(b) A preferred mortgage filed or recorded under this chapter may have any rate of interest that the parties to the mortgage agree to.

(c)(1) If a preferred mortgage includes more than one vessel or property that is not a vessel, the mortgage may provide for the separate discharge of each vessel and all property not a vessel by the payment of a part of the mortgage indebtedness.

(2) If a vessel covered by a preferred mortgage that includes more than one vessel or property that is not a vessel is to be sold on the order of a district court in a civil action in rem, and the mortgage does not provide for separate discharge as provided under paragraph (1) of this subsection—

(A) the mortgage constitutes a lien on that vessel in the full amount of the outstanding mortgage indebtedness; and

(B) an allocation of mortgage indebtedness for purposes of separate discharge may not be made among the vessel and other property covered by the mortgage.

(d)(1) A mortgage or instrument granting a security interest perfected under State law covering the whole of a vessel titled in a State is deemed to be a preferred mortgage if—

(A) the Secretary certifies that the State titling system complies with the Secretary's guidelines for a titling system under section 13106(b)(8) of this title; and

(B) information on the vessel covered by the mortgage or instrument is made available to the Secretary under chapter 125 of this title.

(2) This subsection applies to mortgages or instruments covering vessels titled in a State after—

(A) the Secretary's certification under paragraph (1)(A) of this subsection; and

(B) the State begins making information available to the Secretary under chapter 125 of this title.

(3) A preferred mortgage under this subsection continues to be a preferred mortgage if the vessel is no longer titled in the State where the mortgage was made.

(e) If a vessel is already covered by a preferred mortgage when an application for titling or documentation is filed—

(1) the status of the preferred mortgage covering the vessel to be titled in the State is determined by the law of the jurisdiction where the vessel is currently titled or documented; and

(2) the status of the preferred mortgage covering the vessel to be documented under chapter 121 is determined by subsection (a) of this section.

* * * * *

§31328. Limitations on parties serving as trustees of mortgaged vessel interests

(a) Without the approval of the Secretary of Transportation, an instrument or evidence of indebtedness secured by a mortgage of a documented vessel to a trustee may not be issued, assigned, or transferred to, or held in trust for, a person not qualifying as a citizen of the United States under section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802), unless the trustee—

(1) is a State;

(2) is the United States Government;

(3) is a person approved by the Secretary and qualifying as a citizen of the United States under that section 2; [or]

(4) has been approved by the [Secretary.] *Secretary; or*

(5) *is a person eligible to own a documented vessel under chapter 121 of this title.*

(b) The Secretary shall approve a trustee under subsection (a)(3) or (4) of this section if the trustee—

(1) is organized as a corporation, and is doing business, under the laws of the United States or of a State;

(2) is authorized under those laws to exercise corporate trust powers;

(3) is subject to supervision or examination by an official of the United States Government or a State;

(4) has a combined capital and surplus (as stated in its most recent published report of condition) of at least \$3,000,000; and

(5) if the trustee is to be approved under subsection (a)(4) of this section, meets any other requirements prescribed by the Secretary.

(c) If the trustee at any time does not satisfy the qualifications of subsection (b) of this section, the Secretary shall disapprove the trustee.

(d) Except as provided in subsection (a) of this section, a right under a mortgage of a documented vessel may be issued, assigned, or transferred to a person not eligible to be a mortgagee of that vessel under section 31322 of this title only with the approval of the Secretary.

(e) The vessel may be operated by the trustee only with the approval of the Secretary.

(f) The issuance, assignment, or transfer of an instrument or evidence of indebtedness contrary to this section is void.

TITLE 46 APPENDIX. SHIPPING

CHAPTER 3. CLEARANCE AND ENTRY

§111. Vessels in foreign and coasting trade on northern, northeastern, and northwestern frontiers

Documented vessels with a [coastwise, Great Lakes endorsement, departing from or arriving at a port in one district to or from a port in another district, and also touching at intermediate foreign ports,] *registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada,* shall not thereby become liable to the payment of entry and clearance fees or tonnage tax, as if from or to foreign ports.

CHAPTER 4. TONNAGE DUTIES

§123. Vessels in foreign and coasting trade on northern, northeastern, and northwestern frontiers

Documented vessels with a [coastwise, Great Lakes endorsement, departing from or arriving at a port in one district to or from a port in another district, and also touching at intermediate foreign ports,] *registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada,* shall not thereby become liable to the payment of entry and clearance fees or tonnage tax, as if from or to foreign ports.

* * * * *

CHAPTER 12. REGULATION OF VESSELS IN DOMESTIC COMMERCE

§316. Use of foreign vessels in United States ports

(a) TOWING UNITED STATES VESSELS; FINES AND PENALTIES.—It shall be unlawful for any vessel not wholly owned by a person who is a citizen of the United States within the meaning of the laws respecting the documentation of vessels and not having in force a certificate of documentation issued under section 12106 [or 12107] of title 46, United States Code, to tow any vessel other than a vessel in distress, from any port or place in the United States, its Territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same, either directly or by way of a foreign port or place, or to do any part of such towing, or to tow any such vessel, from point to point within

the harbors of such places, or to tow any vessel transporting valueless material or any dredged material, regardless of whether it has commercial value, from a point or place in the United States or a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983, to another point or place in the United States or a point or place on the high seas within that Exclusive Economic Zone. The owner and master of any vessel towing another vessel in violation of the provisions of this section shall each be liable to a fine of not less than \$250 nor more than \$1,000, which fines shall constitute liens upon the offending vessel enforceable through the district court of the United States for any district in which such vessel may be found, and clearance shall not be granted to such vessel until the fines have been paid. The towing vessel shall also be further liable to a penalty of \$50 per ton on the measurement of every vessel towed in violation of this section, which sum may be recovered by way of libel or suit.

(b) "PERSON" DEFINED.—The term "person" as used in subsection (a) of this section, shall be held to include persons, firms, partnerships, associations, organizations, and corporations, doing business or existing under or by the authority of the laws of the United States, or of any State, Territory, district, or other subdivision thereof.

(c) FOREIGN RAILROAD COMPANIES USING FERRIES, TUGBOATS, OR TOWBOATS.—Any foreign railroad company or corporation, whose road enters the United States by means of a ferry, tugboat, or towboat, may own such vessel and operate the same in connection with the water transportation of the passenger, freight, express, baggage, and mail cars used by such road, together with the passengers, freight, express matter, baggage, and mails transported in such cars, without being subject to any other or different restrictions than those imposed by law on any vessel of the United States entering ports of the United States from ports in the same foreign country: Provided, That except as authorized by section 27 of the Merchant Marine Act, 1920, as amended (U.S.C., 1934 edition, Supp. IV, title 46, sec. 883), such ferry, tugboat, or towboat shall not, under penalty of forfeiture, be used in connection with the transportation of any merchandise shipped from any port or place in the United States, its Territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same.

(d) SALVAGING OPERATIONS BY FOREIGN VESSELS.—No foreign vessel shall, under penalty of forfeiture, engage in salvaging operations on the Atlantic or Pacific coast of the United States, in any portion of the Great Lakes or their connecting or tributary waters, including any portion of the Saint Lawrence River through which the international boundary line extends, or in territorial waters of the United States on the Gulf of Mexico, except when authorized by a treaty or in accordance with the provisions of the Act of June 19, 1878, as amended (U.S.C., 1934 edition, title 46, sec. 725): *Provided, however,* That if, on investigation, the Secretary of Commerce is satisfied that no suitable vessel wholly owned by a person who is a citizen of the United States and documented under the laws of the United States or numbered pursuant to the Act of June

7, 1918, as amended (U.S.C., 1934 edition, Supp. IV, title 46, sec. 288), is available in any particular locality he may authorize the use of a foreign vessel or vessels in salvaging operations in that locality and no penalty shall be incurred for such authorized use.

(e) OPERATIONS PERMITTED BY TREATY.—Nothing in this section shall be held or construed to prohibit or restrict any assistance to vessels or salvage operations authorized by article II of the treaty between the United States and Great Britain “concerning reciprocal rights for United States and Canada in the conveyance of prisoners and wrecking and salvage” signed at Washington, May 18, 1908 (35 Stat. 2036), or by the treaty between the United States and Mexico “to facilitate assistance to and salvage of vessels in territorial waters,” signed at Mexico City, June 13, 1935 (49 Stat. 3359).

* * * * *

CHAPTER 23. SHIPPING ACT

§ 808. Registration, enrollment, and licensing of vessels purchased, chartered, or leased; regulations; coastwise trade

(a) [Repealed]

(b) Every vessel purchased, chartered, or leased from the Secretary of Transportation shall, unless otherwise authorized by the Secretary of Transportation, be operated only under such registry or enrollment and license. Such vessels while employed solely as merchant vessels shall be subject to all laws, regulations, and liabilities governing merchant vessels, whether the United States be interested therein as owner, in whole or in part, or hold any mortgage, lien, or other interest therein.

(c) Except as provided in section 611 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1181), and [sections 31322(a)(1)(D)] *sections 12106(e), 31322(a)(1)(D), and 31328* of title 46, United States Code, a person may not, without the approval of the Secretary of Transportation—

(1) sell, mortgage, lease, charter, deliver, or in any manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer, to a person not a citizen of the United States, any interest in or control of a documented vessel (except in a vessel that has been operated only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of title 46, United States Code) or in a vessel that has been operated only for pleasure) owned by a citizen of the United States or the last documentation of which was under the laws of the United States; or

(2) place a documented vessel, or a vessel the last documentation of which was under the laws of the United States, under foreign registry or operate that vessel under the authority of a foreign country.

(d)(1) Any charter, sale, transfer, or mortgage of a vessel, or interest in or control of that vessel, contrary to this section is void.

(2) A person that knowingly charters, sells, transfers, or mortgages a vessel, or interest in or control of that vessel, contrary to

this section shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

(3) A documented vessel may be seized by, and forfeited to, the United States Government if—

(A) the vessel is placed under foreign registry or operated under the authority of a foreign country contrary to this section; or

(B) a person knowingly charters, sells, transfers, or mortgages a vessel, or interest or control in that vessel, contrary to this section.

(4) A person that charters, sells, transfers, or mortgages a vessel, or an interest in or control of a vessel, in violation of this section is liable to the United States Government for a civil penalty of not more than \$10,000 for each violation.

CHAPTER 24. MERCHANT MARINE ACT, 1920

§883-1. Corporation as citizen; fisheries and transportation of merchandise or passengers between points in United States; parent and subsidiary corporations; domestic built vessels; certificate; surrender of documents on change in status

Notwithstanding any other provision of law, a corporation incorporated under the laws of the United States or any State, Territory, District, or possession thereof, shall be deemed to be a citizen of the United States for the purposes of and within the meaning of that term as used in sections 9 and 37 of the Shipping Act, 1916, as amended (46 U.S.C. 808, 835), section 27 of the Merchant Marine Act of 1920, as amended (46 U.S.C. 883), Revised Statutes, section 4370 (46 U.S.C. 316), and the laws relating to the documentation of vessels, if it is established by a certificate filed with the Secretary of the Treasury as hereinafter provided, that—

(a) a majority of the officers and directors of such corporation are citizens of the United States;

(b) not less than 90 per centum of the employees of such corporation are residents of the United States;

(c) such corporation is engaged primarily in a manufacturing or mineral industry in the United States or any Territory, District, or possession thereof;

(d) the aggregate book value of the vessels owned by such corporation does not exceed 10 per centum of the aggregate book value of the assets of such corporation; and

(e) such corporation purchases or produces in the United States, its Territories, or possessions not less than 75 per centum of the raw materials used or sold in its operations

but no vessel owned by any such corporation shall engage in the fisheries or in the transportation of merchandise or passengers for hire between points in the United States, including Territories, Districts, and possessions thereof, embraced within the coastwise laws, except as a service for a parent or subsidiary corporation and except when such vessel is under demise or bareboat charter at prevailing rates for use otherwise than in the domestic noncontiguous trades from any such corporation to a common or contract carrier subject to part 3 of the Interstate Commerce Act, as amended,

which otherwise qualifies as a citizen under section 2 of the Shipping Act, 1916, as amended (46 U.S.C. 802), and which is not connected, directly or indirectly, by way of ownership or control with such corporation.

As used herein (1), the term "parent" means a corporation which controls, directly or indirectly, at least 50 per centum of the voting stock of such corporation, and (2), the term "subsidiary" means a corporation not less than 50 per centum of the voting stock of which is controlled, directly or indirectly, by such corporation or its parent, but no corporation shall be deemed to be a "parent" or "subsidiary" hereunder unless it is incorporated under the laws of the United States, or any State, Territory, District, or possession thereof, and there has been filed with the Secretary of the Treasury a certificate as hereinafter provided.

Vessels built in the United States and owned by a corporation meeting the conditions hereof which are non-self-propelled or which, if self-propelled, are of less than five hundred gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*, shall be entitled to documentation under the laws of the United States, and except as restricted by this section, shall be entitled to engage in the coastwise trade and, together with their owners or masters, shall be entitled to all the other benefits and privileges and shall be subject to the same requirements, penalties, and forfeitures as may be applicable in the case of vessels built in the United States and otherwise documented or exempt from documentation under the laws of the United States.

A corporation seeking hereunder to document a vessel under the laws of the United States or to operate a vessel exempt from documentation under the laws of the United States shall file with the Secretary of the Treasury of the United States a certificate under oath, in such form and at such times as may be prescribed by him, executed by its duly authorized officer or agent, establishing that such corporation complies with the conditions of this section above set forth. A "parent" or "subsidiary" of such corporation shall likewise file with the Secretary of the Treasury a certificate under oath, in such form and at such time as may be prescribed by him, executed by its duly authorized officer or agent, establishing that such "parent" or "subsidiary" complies with the conditions of this section above set forth, before such corporation may transport any merchandise or passengers for such parent or subsidiary. If any material matter of fact alleged in any such certificate which, within the knowledge of the party so swearing is not true, there shall be a forfeiture of the vessel (or the value thereof) documented or operated hereunder in respect to which the oath shall have been made. If any vessel shall transport merchandise for hire in violation of this section, such merchandise shall be forfeited to the United States. If any vessel shall transport passengers for hire in violation of this section, such vessel shall be subject to a penalty of \$200 for each passenger so transported. Any penalty or forfeiture incurred under this section may be remitted or mitigated by the Secretary of the Treasury under the provisions of section 7 of title 46, United States Code.

Any corporation which has filed a certificate with the Secretary of the Treasury as provided for herein shall cease to be qualified under this section if there is any change in its status whereby it no longer meets the conditions above set forth, and any documents theretofore issued to it, pursuant to the provisions of this section, shall be forthwith surrendered by it to the Secretary of the Treasury.

§ 883a. Reports required of United States vessels rebuilt abroad; penalty for failure to report; mitigation of penalty

If any vessel of more than five hundred gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*, documented under the laws of the United States, or last documented under such laws, is rebuilt, and any part of the rebuilding, including the construction of major components of the hull and superstructure of the vessel, is not effected within the United States, its Territories (not including trust territories) or its possessions, a report of the circumstances of such rebuilding shall be made to the Secretary of the Treasury, upon the first arrival of the vessel thereafter at a port within the customs territory of the United States, if rebuilt outside the United States, its Territories (not including trust territories), or its possessions, or, in any other case, upon completion of the rebuilding, in accordance with such regulations as the Secretary may prescribe. If the required report is not made, the vessel, together with its tackle, apparel, equipment, and furniture, shall be forfeited, and the master and owner shall each be liable to a penalty of \$200. Any penalty or forfeiture incurred under this Act may be remitted or mitigated by the Secretary under the provisions of section 5294 of the Revised Statutes of the United States, as amended (U.S.C., 1952 edition, title 46, sec. 7)

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CHAPTER 27. MERCHANT MARINE ACT, 1936

§ 1295a. Definitions

For purposes of this title—

- (1) the term "Secretary" means the Secretary of Transportation;
- (2) the term "Academy" means the United States Merchant Marine Academy located at Kings Point, New York which is maintained under section 1303;
- (3) the term "State maritime academy" means any maritime academy or college which is assisted under section 1304 and which is sponsored by any State or territory of the United States or, in the case of a regional maritime academy or college, sponsored by any group of States or territories of the United States, or both; and
- (4) the term "merchant marine officer" means any person who holds a license issued by the United States Coast Guard which authorizes service—

(A) as a master, mate, or pilot on board any vessel of 1,000 gross tons or more *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* which is documented under the laws of the United States and which operates on the oceans or on the Great Lakes; or

(B) as an engineer officer on board any vessel propelled by machinery of 4,000 horsepower or more which is documented under the laws of the United States.

TITLE 49. TRANSPORTATION

CHAPTER 1. ORGANIZATION

§ 104. Federal Highway Administration

(a) The Federal Highway Administration is an administration in the Department of Transportation.

(b)(1) The head of the Administration is the Administrator who is appointed by the President, by and with the advice and consent of the Senate. The Administrator reports directly to the Secretary of Transportation.

(2) The Administration has a Deputy Federal Highway Administrator who is appointed by the Secretary, with the approval of the President. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

(3) The Administration has an Assistant Federal Highway Administrator appointed in the competitive service by the Secretary, with the approval of the President. The Assistant Administrator is the chief engineer of the Administration. The Assistant Administrator shall carry out duties and powers prescribed by the Administrator.

(c) The Administrator shall carry out—

(1) duties and powers vested in the Secretary by chapter 4 of title 23 for highway safety programs, research, and development related to highway design, construction and maintenance, traffic control devices, identification and surveillance of accident locations, and highway-related aspects of pedestrian safety;

(2) duties and powers related to motor carrier safety vested in the Secretary by chapters 5 and 315 of this title; and

(3) additional duties and powers prescribed by the Secretary.

(d) A duty or power specified by subsection (c)(2) of this section may be transferred to another part of the Department only when specifically provided by law or a reorganization plan submitted under chapter 9 of title 5. A decision of the Administrator in carrying out those duties or powers and involving notice and hearing required by law is administratively final.

(e) *Notwithstanding the provisions of sections 101(d) and 144 of title 23, highway bridges determined to be unreasonable obstructions to navigation under the Truman-Hobbs Act may be funded from amounts set aside from the discretionary bridge program. The*

Secretary shall transfer these allocations and the responsibility for administration of these funds to the United States Coast Guard.

* * * * *

§44106a. Summary revocation of aircraft certificate

(a) The registration of an aircraft shall be immediately revoked upon the failure of the pilot, operator, or person in charge of the aircraft to follow the order of a Federal law enforcement officer to land an aircraft, as provided in section 2237 of title 18, United States Code. The Administrator shall as soon as possible notify the owner of the aircraft that the owner no longer holds United States registration for that aircraft.

(b) The Administrator shall establish procedures for the owner of the aircraft to show cause—

(1) why the registration was not revoked, as a matter of law, by operation of subsection (a); or

(2) why circumstances existed pursuant to which the Administrator should determine that, notwithstanding subsection (a), it would be in the public interest to issue a new certificate of registration to the owner to be effective concurrent with the revocation occasioned by operation of subsection (a).

* * * * *

§44710a. Failure to follow order to land aircraft

(a) The Administrator shall issue an order revoking the airman certificate of any person if the Administrator finds that—

(1) such person, while acting as the pilot, operator, or person in charge of an aircraft, failed to follow the order of a Federal law enforcement officer to land the aircraft as provided in section 2237 of title 18, United States Code, and

(2) such person knew or had reason to know that he had been ordered to land the aircraft.

(b) If the Administrator determines that extenuating circumstances existed, such as safety of flight, which justified a deviation by the airman from the order to land, the provisions of subsection (a) of this section shall not apply.

(c) The provisions of subsections (c) and (d) of section 44710 shall apply to any revocation of the airman certificate of any person for failing to follow the order of a Federal law enforcement officer to land an aircraft.