

COAST GUARD AUTHORIZATION ACT OF 2022

MARCH 29, 2022.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 6865]

The Committee on Transportation and Infrastructure, to whom was referred the bill (H.R. 6865) to authorize appropriations for the Coast Guard, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

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The amendment is as follows:

Strike out all after the enacting clause and insert the following:

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

(a) **SHORT TITLE.**—This Act may be cited as the “Coast Guard Authorization Act of 2022”.

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

Sec. 1. Short title; table of contents.

## TITLE I—AUTHORIZATION

- Sec. 101. Authorization of appropriations.
- Sec. 102. Authorized levels of military strength and training.
- Sec. 103. Shoreside infrastructure and facilities.
- Sec. 104. Availability of amounts for acquisition of additional cutters.

## TITLE II—COAST GUARD

## Subtitle A—Military Personnel Matters

- Sec. 201. Authorized strength.
- Sec. 202. Continuation of officers with certain critical skills on active duty.
- Sec. 203. Number and distribution of officers on active duty promotion list.
- Sec. 204. Coast Guard behavioral health policy.
- Sec. 205. Improving representation of women and of racial and ethnic minorities among Coast Guard active-duty members.

## Subtitle B—Operational Matters

- Sec. 206. Pilot project for enhancing Coast Guard cutter readiness through condition-based maintenance.
- Sec. 207. Unmanned systems strategy.
- Sec. 208. Budgeting of Coast Guard relating to certain operations.
- Sec. 209. Report on San Diego maritime domain awareness.
- Sec. 210. Great Lakes winter shipping.
- Sec. 211. Center of expertise for Great Lakes oil spill search and response.
- Sec. 212. Study on laydown of Coast Guard cutters.

## Subtitle C—Other Matters

- Sec. 213. Responses of Commandant of the Coast Guard to safety recommendations.
- Sec. 214. Conveyance of Coast Guard vessels for public purposes.
- Sec. 215. Acquisition life-cycle cost estimates.
- Sec. 216. National Coast Guard Museum funding plan.
- Sec. 217. Report on Coast Guard explosive ordnance disposal.
- Sec. 218. Pribilof Island transition completion actions.
- Sec. 219. Notification of communication outages.

## TITLE III—MARITIME

## Subtitle A—Shipping

- Sec. 301. Nonoperating individual.
- Sec. 302. Oceanographic research vessels.
- Sec. 303. Atlantic Coast port access routes briefing.

## Subtitle B—Vessel Safety

- Sec. 304. Fishing vessel safety.
- Sec. 305. Requirements for DUKW-type amphibious passenger vessels.
- Sec. 306. Exoneration and limitation of liability for small passengers vessels.
- Sec. 307. Automatic identification system requirements.

## Subtitle C—Shipbuilding Program

- Sec. 308. Loans for retrofitting to qualify as a vessel of the United States.
- Sec. 309. Qualified vessel.
- Sec. 310. Establishing a capital construction fund.

## TITLE IV—MISCELLANEOUS

## Subtitle A—Navigation

- Sec. 401. Restriction on changing salvors.
- Sec. 402. Towing vessel inspection fees.
- Sec. 403. Providing requirements for vessels anchored in established anchorage grounds.
- Sec. 404. Aquatic Nuisance Species Task Force.
- Sec. 405. Limitation on recovery for certain injuries incurred in aquaculture activities.

## Subtitle B—Other Matters

- Sec. 406. Information on type approval certificates.
- Sec. 407. Passenger vessel security and safety requirements.
- Sec. 408. Cargo waiting time reduction.
- Sec. 409. Limited indemnity provisions in standby oil spill response contracts.
- Sec. 410. Port Coordination Council for Point Spencer.
- Sec. 411. Alaska oil spill planning criteria.
- Sec. 412. Nonapplicability.
- Sec. 413. Report on enforcement of coastwise laws.
- Sec. 414. Land conveyance, Sharpe Army Depot, Lathrop, California.
- Sec. 415. Center of Expertise for Marine Environmental Response.
- Sec. 416. Prohibition on entry and operation.
- Sec. 417. St. Lucie River railroad bridge.
- Sec. 418. Assistance related to marine mammals.
- Sec. 419. Manning and crewing requirements for certain vessels, vehicles, and structures.

## TITLE V—SEXUAL ASSAULT AND SEXUAL HARASSMENT PREVENTION AND RESPONSE

- Sec. 501. Definitions.
- Sec. 502. Convicted sex offender as grounds for denial.
- Sec. 503. Sexual harassment or sexual assault as grounds for suspension or revocation.
- Sec. 504. Accommodation; notices.
- Sec. 505. Protection against discrimination.
- Sec. 506. Alcohol prohibition.
- Sec. 507. Surveillance requirements.

Sec. 508. Master key control.  
 Sec. 509. Safety management systems.  
 Sec. 510. Requirement to report sexual assault and harassment.  
 Sec. 511. Civil actions for personal injury or death of seamen.  
 Sec. 512. Administration of sexual assault forensic examination kits.

TITLE VI—TECHNICAL, CONFORMING, AND CLARIFYING AMENDMENTS

Sec. 601. Technical corrections.  
 Sec. 602. Transportation worker identification credential technical amendments.  
 Sec. 603. Reinstatement.

**TITLE I—AUTHORIZATION**

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

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

(1) in the matter preceding paragraph (1) by striking “years 2020 and 2021” and inserting “years 2022 and 2023”;

(2) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking “\$8,151,620,850 for fiscal year 2020” and inserting “\$9,282,360,000 for fiscal year 2022”; and

(ii) by striking “\$8,396,169,475 for fiscal year 2021” and inserting “\$10,210,596,000 for fiscal year 2023”;

(B) in subparagraph (B) by striking “\$17,035,000” and inserting “\$17,723,520”; and

(C) in subparagraph (C) by striking “\$17,376,000” and inserting “\$18,077,990”;

(3) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking “\$2,794,745,000 for fiscal year 2020” and inserting “\$3,312,114,000 for fiscal year 2022”; and

(ii) by striking “\$3,312,114,000 for fiscal year 2021” and inserting “\$3,477,600,000 for fiscal year 2023”; and

(B) in subparagraph (B)—

(i) by striking “\$10,000,000 for fiscal year 2020” and inserting “\$20,400,000 for fiscal year 2022”; and

(ii) by striking “\$20,000,000 for fiscal year 2021” and inserting “\$20,808,000 for fiscal year 2023”;

(4) in paragraph (3)—

(A) by striking “\$13,834,000 for fiscal year 2020” and inserting “\$14,393,220 for fiscal year 2022”; and

(B) by striking “\$14,111,000 for fiscal year 2021” and inserting “\$14,681,084 for fiscal year 2023”; and

(5) in paragraph (4)—

(A) by striking “\$205,107,000 for fiscal year 2020” and inserting “\$213,393,180 for fiscal year 2022”; and

(B) by striking “\$209,209,000 for fiscal year 2021” and inserting “\$217,661,044 for fiscal year 2023”.

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

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

(1) in subsection (a) by striking “fiscal years 2020 and 2021” and inserting “fiscal years 2022 and 2023”; and

(2) in subsection (b) by striking “fiscal years 2020 and 2021” and inserting “fiscal years 2022 and 2023”.

**SEC. 103. SHORESIDE INFRASTRUCTURE AND FACILITIES.**

(a) **IN GENERAL.**—Of the amounts authorized to be appropriated under section 4902(2)(A) of title 14, United States Code, for each of fiscal years 2022 and 2023, up to \$585,000,000 shall be authorized for the Secretary of the department in which the Coast Guard is operating to fund the acquisition, construction, rebuilding, or improvement of Coast Guard shoreside infrastructure and facilities necessary to support Coast Guard operations and readiness.

(b) **BALTIMORE COAST GUARD YARD.**—Of the amounts set aside under subsection (a), up to \$175,000,000 shall be authorized to improve facilities at the Coast Guard Yard in Baltimore, Maryland, including improvements to piers and wharves, dry dock, capital equipment utilities, or dredging necessary to facilitate access to such Yard.

(c) **TRAINING CENTER CAPE MAY.**—Of the amounts set aside under subsection (a), up to \$60,000,000 shall be authorized to fund Phase I, in fiscal year 2022, and

Phase II, in fiscal year 2023, for the recapitalization of the barracks at the United States Coast Guard Training Center Cape May in Cape May, New Jersey.

(d) MITIGATION OF HAZARD RISKS.—In carrying out projects with funds authorized under this section, the Coast Guard shall mitigate, to the greatest extent practicable, natural hazard risks identified in any Shore Infrastructure Vulnerability Assessment for Phase I related to such projects.

(e) FORT WADSWORTH, NEW YORK.—Of the amounts set aside under subsection (a), up to \$1,200,000 shall be authorized to fund a construction project to—

(1) complete repairs to the Station, New York, waterfront, including repairs to the concrete pier; and

(2) replace floating piers Alpha and Bravo, the South Breakwater and Ice Screen, the North Breakwater and Ice Screen, and the seawall.

**SEC. 104. AVAILABILITY OF AMOUNTS FOR ACQUISITION OF ADDITIONAL CUTTERS.**

(a) IN GENERAL.—Of the amounts authorized to be appropriated under—

(1) section 4902(2)(A)(i) of title 14, United States Code, as amended by section 101 of this title, for fiscal year 2022;

(A) \$300,000,000 shall be authorized for the acquisition of a twelfth National Security Cutter; and

(B) \$210,000,000 shall be authorized for the acquisition of 3 Fast Response Cutters; and

(2) section 4902(2)(A)(ii) of title 14, United States Code, as amended by section 101 of this title, for fiscal year 2023;

(A) \$300,000,000 shall be authorized for the acquisition of a twelfth National Security Cutter; and

(B) \$210,000,000 shall be authorized for the acquisition of 3 Fast Response Cutters.

(b) TREATMENT OF ACQUIRED CUTTER.—Any cutter acquired using amounts authorized under subsection (a) shall be in addition to the National Security Cutters and Fast Response Cutters approved under the existing acquisition baseline in the program of record for the National Security Cutter and Fast Response Cutter.

(c) GREAT LAKES ICEBREAKER ACQUISITION.—Of the amounts authorized to be appropriated under section 4902(2)(A)(ii) of title 14, United States Code—

(1) for fiscal year 2022, \$350,000,000 shall be authorized for the acquisition of a Great Lakes icebreaker at least as capable as Coast Guard Cutter *Mackinaw* (WLBB-30); and

(2) for fiscal year 2023, \$20,000,000 shall be authorized for the design and selection of icebreaking cutters for operation in the Great Lakes, the Northeastern United States, and the Arctic, as appropriate, that are at least as capable as the Coast Guard 140-foot icebreaking tugs.

(d) DRUG AND MIGRANT INTERDICTION.—Of the Fast Response Cutters authorized for acquisition under subsection (a), at least 1 shall be used for drug and migrant interdiction in the Caribbean Basin (including the Gulf of Mexico).

## TITLE II—COAST GUARD

### Subtitle A—Military Personnel Matters

**SEC. 201. AUTHORIZED STRENGTH.**

Section 3702 of title 14, United States Code, is amended by adding at the end the following:

“(c) The Secretary may vary the authorized end strength of the Coast Guard Selected Reserves for a fiscal year by a number equal to not more than 3 percent of such end strength upon a determination by the Secretary that varying such authorized end strength is in the national interest.

“(d) The Commandant may increase the authorized end strength of the Coast Guard Selected Reserves by a number equal to not more than 2 percent of such authorized end strength upon a determination by the Commandant that such increase would enhance manning and readiness in essential units or in critical specialties or ratings.”.

**SEC. 202. CONTINUATION OF OFFICERS WITH CERTAIN CRITICAL SKILLS ON ACTIVE DUTY.**

(a) IN GENERAL.—Chapter 21 of title 14, United States Code, is amended by inserting after section 2165 the following:

**“§ 2166. Continuation on active duty; Coast Guard officers with certain critical skills**

“(a) IN GENERAL.—The Commandant may authorize an officer in a grade above grade O-2 to remain on active duty after the date otherwise provided for the retirement of such officer in section 2154 of this title, if the officer possesses a critical skill, or specialty, or is in a career field designated pursuant to subsection (b).

“(b) CRITICAL SKILLS, SPECIALTY, OR CAREER FIELD.—The Commandant shall designate any critical skill, specialty, or career field eligible for continuation on active duty as provided in subsection (a).

“(c) DURATION OF CONTINUATION.—An officer continued on active duty pursuant to this section shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 40 years of active service.

“(d) POLICY.—The Commandant shall carry out this section by prescribing policy which shall specify the criteria to be used in designating any critical skill, specialty, or career field for purposes of subsection (b).”

(b) CLERICAL AMENDMENT.—The analysis for chapter 21 of title 14, United States Code, is amended by inserting after the item relating to section 2165 the following: “2166. Continuation on active duty; Coast Guard officers with certain critical skills.”

**SEC. 203. NUMBER AND DISTRIBUTION OF OFFICERS ON ACTIVE DUTY PROMOTION LIST.**

(a) MAXIMUM NUMBER OF OFFICERS.—Section 2103(a) of title 14, United States Code, is amended to read as follows:

“(a) MAXIMUM TOTAL NUMBER.—

“(1) IN GENERAL.—The total number of Coast Guard commissioned officers on the active duty promotion list, excluding warrant officers, shall not exceed—

“(A) 7,100 in fiscal year 2022;

“(B) 7,200 in fiscal year 2023;

“(C) 7,300 in fiscal year 2024; and

“(D) 7,400 in fiscal year 2025 and each subsequent fiscal year.

“(2) TEMPORARY INCREASE.—Notwithstanding paragraph (1), the Commandant may temporarily increase the total number of commissioned officers permitted under such paragraph by up to 2 percent for no more than 60 days following the date of the commissioning of a Coast Guard Academy class.

“(3) NOTIFICATION.—Not later than 30 days after exceeding the total number of commissioned officers permitted under paragraph (1), and each 30 days thereafter until the total number of commissioned officers no longer exceeds the number of such officers permitted under paragraph (1), the Commandant shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the number of officers on the active duty promotion list on the last day of the preceding 30-day period.”

(b) OFFICERS NOT ON ACTIVE DUTY PROMOTION LIST.—

(1) IN GENERAL.—Chapter 51 of title 14, United States Code, is amended by adding at the end the following:

**“§ 5113. Officers not on active duty promotion list**

“Not later than 60 days after the date on which the President submits to Congress a budget pursuant to section 1105 of title 31, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the number of Coast Guard officers serving at other Federal entities on a reimbursable basis but not on the active duty promotion list.”

(2) CLERICAL AMENDMENT.—The analysis for chapter 51 of title 14, United States Code, is amended by adding at the end the following:

“5113. Officers not on active duty promotion list.”

**SEC. 204. COAST GUARD BEHAVIORAL HEALTH POLICY.**

(a) INTERIM BEHAVIORAL HEALTH POLICY.—Not later than 60 days after the date of enactment of this Act, the Commandant of the Coast Guard shall establish an interim behavioral health policy for members of the Coast Guard equivalent to the policy described in section 5.28 (relating to behavioral health) of Department of Defense Instruction 6130.03, volume 2, “Medical Standards for Military Service: Retention”.

(b) TERMINATION.—The interim policy established under subsection (a) shall remain in effect until the date on which the Commandant issues a permanent behavior health policy for members of the Coast Guard which is, to the extent practicable, equivalent to such section 5.28.

**SEC. 205. IMPROVING REPRESENTATION OF WOMEN AND OF RACIAL AND ETHNIC MINORITIES AMONG COAST GUARD ACTIVE-DUTY MEMBERS.**

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

(1) determine which recommendations in the RAND representation report can practicably be implemented to promote improved representation in the Coast Guard of—

- (A) women; and
- (B) racial and ethnic minorities; and

(2) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the actions the Commandant has taken, or plans to take, to implement such recommendations.

(b) **CURRICULUM AND TRAINING.**—The Commandant shall update, to reflect actions described under subsection (a)(2), the curriculum and training materials used at—

- (1) officer accession points, including the Coast Guard Academy and the Leadership Development Center;
- (2) enlisted member accession at the United States Coast Guard Training Center Cape May in Cape May, New Jersey; and
- (3) the officer, enlisted member, and civilian leadership courses managed by the Leadership Development Center.

(c) **DEFINITION.**—In this section, the term “RAND representation report” means the report titled “Improving the Representation of Women and Racial/Ethnic Minorities Among U.S. Coast Guard Active-Duty Members” issued by the Homeland Security Operational Analysis Center of the RAND Corporation on August 11, 2021.

## **Subtitle B—Operational Matters**

**SEC. 206. PILOT PROJECT FOR ENHANCING COAST GUARD CUTTER READINESS THROUGH CONDITION-BASED MAINTENANCE.**

(a) **IN GENERAL.**—Not later than 2 years after the date of enactment of this Act, the Commandant of the Coast Guard shall conduct a pilot project to enhance cutter readiness and reduce lost patrol days through the deployment of commercially developed condition-based program standards for cutter maintenance, in accordance with the criteria set forth in subsection (b).

(b) **CRITERIA FOR CONDITION-BASED MAINTENANCE EVALUATION.**—In conducting the pilot project under subsection (a), the Commandant shall—

- (1) select at least 1 legacy cutter asset and 1 class of cutters under construction with respect to which the application of the pilot project would enhance readiness;
- (2) use commercially developed condition-based program standards similar to those applicable to privately owned and operated vessels or vessels owned or operated by other Federal agencies (such as those currently operating under the direction of Military Sealift Command);
- (3) create and model a full ship digital twin for the cutters selected under paragraph (1);
- (4) install or modify instrumentation capable of producing full hull, mechanical, and electrical data necessary to analyze cutter operational conditions with active maintenance alerts; and
- (5) deploy artificial intelligence, prognostic-based integrated maintenance planning modeled after standards described in paragraph (2).

(c) **REPORT TO CONGRESS.**—The Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives—

- (1) an interim report not later than 6 months after the date of enactment of this Act on the progress in carrying out the pilot project described in subsection (a); and
- (2) a final report not later than 2 years after the date of enactment of this Act on the results of the pilot project described in subsection (a) that includes—
  - (A) options to integrate commercially developed condition-based program standards for cutter maintenance to Coast Guard cutters; and
  - (B) plans to deploy commercially developed condition-based program standards for cutter maintenance to Coast Guard cutters.

**SEC. 207. UNMANNED SYSTEMS STRATEGY.**

(a) **SUBMISSION TO CONGRESS.**—Not later than 180 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and

the Committee on Commerce, Science, and Transportation of the Senate a detailed description of the strategy of the Coast Guard to implement unmanned systems across mission areas, including—

(1) the steps taken to implement actions recommended in the consensus study report of the National Academies of Sciences, Engineering, and Medicine published on November 12, 2020, titled “Leveraging Unmanned Systems for Coast Guard Missions: A Strategic Imperative”;

(2) the strategic goals and acquisition strategies for proposed uses and procurements of unmanned systems;

(3) a strategy to sustain competition and innovation for procurement of unmanned systems and services for the Coast Guard, including defining opportunities for new and existing technologies; and

(4) an estimate of the timeline, costs, staff resources, technology, or other resources necessary to accomplish the strategy.

(b) PILOT PROJECT.—

(1) AUTONOMOUS CONTROL AND COMPUTER VISION TECHNOLOGY.—The Commandant of the Coast Guard, acting through the Blue Technology Center of Expertise, shall conduct a pilot project to retrofit an existing Coast Guard small boat with—

(A) commercially available autonomous control and computer vision technology; and

(B) such sensors and methods of communication as are necessary to demonstrate the ability of such control and technology to assist in conducting search and rescue, surveillance, and interdiction missions.

(2) COLLECTION OF DATA.—The pilot project under paragraph (1) shall evaluate commercially available products in the field and collect operational data to inform future requirements.

(3) BRIEFING.—Not later than 6 months after completing the pilot project required under paragraph (1), the Commandant shall brief the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the evaluation of the data derived from the project.

**SEC. 208. BUDGETING OF COAST GUARD RELATING TO CERTAIN OPERATIONS.**

(a) IN GENERAL.—Chapter 51 of title 14, United States Code, is further amended by adding at the end the following:

**“§ 5114. Expenses of performing and executing defense readiness mission activities**

“The Commandant of the Coast Guard shall include in the annual budget submission of the President under section 1105(a) of title 31, a dedicated budget line item that adequately represents a calculation of the annual costs and expenditures of performing and executing all defense readiness mission activities, including—

“(1) all expenses related to the Coast Guard’s coordination, training, and execution of defense readiness mission activities in the Coast Guard’s capacity as an Armed Force (as such term is defined in section 101 of title 10) in support of Department of Defense national security operations and activities or for any other military department or defense agency (as such terms are defined in such section);

“(2) costs associated with Coast Guard detachments assigned in support of the Coast Guard’s defense readiness mission; and

“(3) any other expenses, costs, or matters the Commandant determines appropriate or otherwise of interest to Congress.”

(b) CLERICAL AMENDMENT.—The analysis for chapter 51 of title 14, United States Code, is further amended by adding at the end the following:

“5114. Expenses of performing and executing defense readiness mission activities.”

**SEC. 209. REPORT ON SAN DIEGO MARITIME DOMAIN AWARENESS.**

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

(1) an overview of the maritime domain awareness in the area of responsibility of the Coast Guard sector responsible for San Diego, California, including—

(A) the average volume of known maritime traffic that transited the area during fiscal years 2020 through 2022;

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

(C) the number of illicit activity incidents at sea in such area that the sector responded to during fiscal years 2020 through 2022;

(D) an estimate of the volume of traffic engaged in illicit activity at sea in such area and the type and description of any vessels used to carry out illicit activities that such sector responded to during fiscal years 2020 through 2022; and

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

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

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

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

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

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

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

#### SEC. 210. GREAT LAKES WINTER SHIPPING.

(a) GREAT LAKES ICEBREAKING OPERATIONS.—

(1) GOVERNMENT ACCOUNTABILITY OFFICE REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on Coast Guard icebreaking in the Great Lakes.

(B) ELEMENTS.—The report required under subparagraph (A) shall—

(i) evaluate—

(I) the economic impact related to vessel delays or cancellations associated with ice coverage on the Great Lakes;

(II) the impact the standards proposed in paragraph (2) would have on Coast Guard operations in the Great Lakes if such standards were adopted;

(III) the fleet mix of medium icebreakers and icebreaking tugs necessary to meet the standards proposed in paragraph (2); and

(IV) the resources necessary to support the fleet described in subclause (III), including billets for crew and operating costs; and

(ii) make recommendations to the Commandant for improvements to the Great Lakes icebreaking program, including with respect to facilitating shipping and meeting all Coast Guard mission needs.

(2) PROPOSED STANDARDS FOR ICEBREAKING OPERATIONS.—The proposed standards, the impact of the adoption of which is evaluated in subclauses (II) and (III) of paragraph (1)(B)(i), are the following:

(A) Except as provided in subparagraph (B), the ice-covered waterways in the Great Lakes shall be open to navigation not less than 90 percent of the hours that vessels engaged in commercial service and ferries attempt to transit such ice-covered waterways.

(B) In a year in which the Great Lakes are not open to navigation, as described in subparagraph (A), because of ice of a thickness that occurs on average only once every 10 years, ice-covered waterways in the Great Lakes shall be open to navigation at least 70 percent of the hours that vessels engaged in commercial service and ferries attempt to transit such ice-covered waterways.

(3) REPORT BY COMMANDANT.—Not later than 90 days after the date on which the Comptroller General submits the report under paragraph (1), the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report that includes the following:

(A) A plan for Coast Guard implementation of any recommendation made by the Comptroller General under paragraph (1)(B)(ii) with which the Commandant concurs.



(B) With respect to any recommendation made under paragraph (1)(B)(ii) with which the Commandant does not concur, an explanation of the reasons why the Commandant does not concur.

(C) A review of, and a proposed implementation plan for, the results of the fleet mix analysis under paragraph (1)(B)(i)(III).

(D) Any proposed modifications to current Coast Guard standards for icebreaking operations in the Great Lakes.

(4) PILOT PROGRAM.—During the 5 ice seasons following the date of enactment of this Act, the Coast Guard shall conduct a pilot program to determine the extent to which the current Coast Guard Great Lakes icebreaking cutter fleet can meet the proposed standards described in paragraph (2).

(b) DATA ON ICEBREAKING OPERATIONS IN THE GREAT LAKES.—

(1) IN GENERAL.—The Commandant shall collect, during ice season, archive, and disseminate data on icebreaking operations and transits on ice-covered waterways in the Great Lakes of vessels engaged in commercial service and ferries.

(2) ELEMENTS.—Data collected, archived, and disseminated under paragraph (1) shall include the following:

(A) Voyages by vessels engaged in commercial service and ferries to transit ice-covered waterways in the Great Lakes that are delayed or canceled because of the nonavailability of a suitable icebreaking vessel.

(B) Voyages attempted by vessels engaged in commercial service and ferries to transit ice-covered waterways in the Great Lakes that do not reach their intended destination because of the nonavailability of a suitable icebreaking vessel.

(C) The period of time that each vessel engaged in commercial service or ferry was delayed in getting underway or during a transit of ice-covered waterways in the Great Lakes due to the nonavailability of a suitable icebreaking vessel.

(D) The period of time elapsed between each request for icebreaking assistance by a vessel engaged in commercial service or ferry and the arrival of a suitable icebreaking vessel and whether such icebreaking vessel was a Coast Guard or commercial asset.

(E) The percentage of hours that Great Lakes ice-covered waterways were open to navigation while vessels engaged in commercial service and ferries attempted to transit such waterways for each ice season after the date of enactment of this Act.

(F) Relevant communications of each vessel engaged in commercial service or ferry with the Coast Guard or commercial icebreaking service providers with respect to subparagraphs (A) through (D).

(G) A description of any mitigating circumstance, such as Coast Guard Great Lakes icebreaker diversions to higher priority missions, that may have contributed to the amount of time described in subparagraphs (C) and (D) or the percentage of time described in subparagraph (E).

(3) VOLUNTARY REPORTING.—Any reporting by operators of commercial vessels engaged in commercial service or ferries under this section shall be voluntary.

(4) PUBLIC AVAILABILITY.—The Commandant shall make the data collected, archived, and disseminated under this subsection available to the public on a publicly accessible internet website of the Coast Guard.

(5) CONSULTATION WITH INDUSTRY.—With respect to the Great Lakes icebreaking operations of the Coast Guard and the development of the data collected, archived, and disseminated under this subsection, the Commandant shall consult operators of—

(A) vessels engaged in commercial service; and

(B) ferries.

(c) REPORT ON COMMON HULL DESIGN.—Section 8105 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) is amended by striking subsection (b) and inserting the following:

“(b) REPORT.—Not later than 90 days after the date of enactment of this subsection, the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the operational benefits and limitations of a common hull design for icebreaking cutters for operation in the Great Lakes, the Northeastern United States, and the Arctic, as appropriate, that are at least as capable as the Coast Guard 140-foot icebreaking tugs.”.

(d) DEFINITIONS.—In this section:

(1) COMMERCIAL SERVICE.—The term “commercial service” has the meaning given such term in section 2101 of title 46, United States Code.

(2) GREAT LAKES.—The term “Great Lakes”—

(A) has the meaning given such term in section 118 of the Federal Water Pollution Control Act (33 U.S.C. 1268); and

(B) includes harbors adjacent to such waters.

(3) ICE-COVERED WATERWAY.—The term “ice-covered waterway” means any portion of the Great Lakes in which vessels engaged in commercial service or ferries operate that is 70 percent or greater covered by ice, but does not include any waters adjacent to piers or docks for which commercial icebreaking services are available and adequate for the ice conditions.

(4) OPEN TO NAVIGATION.—The term “open to navigation” means navigable to the extent necessary to—

(A) meet the reasonable demands of shipping;

(B) minimize delays to passenger ferries;

(C) extricate vessels and persons from danger;

(D) prevent damage due to flooding; and

(E) conduct other Coast Guard missions, as required.

(5) REASONABLE DEMANDS OF SHIPPING.—The term “reasonable demands of shipping” means the safe movement of vessels engaged in commercial service and ferries transiting ice-covered waterways in the Great Lakes to their intended destination, regardless of type of cargo.

**SEC. 211. CENTER OF EXPERTISE FOR GREAT LAKES OIL SPILL SEARCH AND RESPONSE.**

Section 807(d) of the Frank LoBiondo Coast Guard Authorization Act of 2018 (14 U.S.C. 313 note) is amended to read as follows:

“(d) DEFINITION.—In this section, the term ‘Great Lakes’ means—

“(1) Lake Ontario;

“(2) Lake Erie;

“(3) Lake Huron (including Lake St. Clair);

“(4) Lake Michigan;

“(5) Lake Superior; and

“(6) the connecting channels (including the following rivers and tributaries of such rivers: Saint Mary’s River, Saint Clair River, Detroit River, Niagara River, Illinois River, Chicago River, Fox River, Grand River, St. Joseph River, St. Louis River, Menominee River, Muskegon River, Kalamazoo River, and Saint Lawrence River to the Canadian border).”.

**SEC. 212. STUDY ON LAYDOWN OF COAST GUARD CUTTERS.**

Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall conduct a study on the laydown of Coast Guard Fast Response Cutters to assess Coast Guard mission readiness and to identify areas of need for asset coverage.

## Subtitle C—Other Matters

**SEC. 213. RESPONSES OF COMMANDANT OF THE COAST GUARD TO SAFETY RECOMMENDATIONS.**

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

**“§ 721. Responses to safety recommendations**

“(a) IN GENERAL.—Not later than 90 days after the submission to the Commandant of the Coast Guard of a recommendation by the National Transportation Safety Board relating to transportation safety, the Commandant shall submit to the Board a written response to each recommendation, which shall include whether the Commandant—

“(1) concurs with the recommendation;

“(2) partially concurs with the recommendation; or

“(3) does not concur with the recommendation.

“(b) EXPLANATION OF CONCURRENCE.—A response under subsection (a) shall include—

“(1) with respect to a recommendation to which the Commandant concurs, an explanation of the actions the Commandant intends to take to implement such recommendation;

“(2) with respect to a recommendation to which the Commandant partially concurs, an explanation of the actions the Commandant intends to take to implement the portion of such recommendation with which the Commandant partially concurs; and

“(3) with respect to a recommendation to which the Commandant does not concur, the reasons why the Commandant does not concur with such recommendation.

“(c) FAILURE TO RESPOND.—If the Board has not received the written response required under subsection (a) by the end of the time period described in such subsection, the Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that such response has not been received.”

(b) CLERICAL AMENDMENT.—The analysis for chapter 7 of title 14, United States Code, is amended by inserting after the item relating to section 720 the following:

“721. Responses to safety recommendations.”

**SEC. 214. CONVEYANCE OF COAST GUARD VESSELS FOR PUBLIC PURPOSES.**

(a) REDESIGNATION AND TRANSFER.—

(1) IN GENERAL.—Section 914 of the Coast Guard Authorization Act of 2010 (Public Law 111–281) is transferred to chapter 5 of title 14, United States Code, inserted after section 508, redesignated as section 509, and amended so that the enumerator, section heading, typeface, and typestyle conform to those appearing in other sections in title 46, United States Code.

(2) CLERICAL AMENDMENTS.—

(A) COAST GUARD AUTHORIZATION ACT OF 2010.—The table of contents in section 1(b) of the Coast Guard Authorization Act of 2010 (Public Law 111–281) is amended by striking the item relating to section 914.

(B) TITLE 46.—The analysis for chapter 5 of title 14, United States Code, is amended by inserting after the item relating to section 508 the following:

“509. Conveyance of Coast Guard vessels for public purposes.”

(b) CONVEYANCE OF COAST GUARD VESSELS FOR PUBLIC PURPOSES.—Section 509 of title 14, United States Code (as transferred and redesignated under subsection (a)), is amended—

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

“(a) IN GENERAL.—At the request of the Commandant, the Administrator of the General Services Administration may transfer ownership of a Coast Guard vessel or aircraft to an eligible entity for use for educational, cultural, historical, charitable, recreational, or other public purposes if such transfer is authorized by law.”; and

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by inserting “as if such a request were being processed” after “vessels”; and

(ii) by inserting “, as in effect on the date of enactment of the Coast Guard Authorization Act of 2021” after “Code of Federal Regulations”; and

(B) in paragraph (2) by inserting “, as in effect on the date of enactment of the Coast Guard Authorization Act of 2021” after “such title”.

**SEC. 215. ACQUISITION LIFE-CYCLE COST ESTIMATES.**

Section 1132(e) of title 14, United States Code, is amended by striking paragraphs (2) and (3) and inserting the following:

“(2) TYPES OF ESTIMATES.—For each Level 1 or Level 2 acquisition project or program, in addition to life-cycle cost estimates developed under paragraph (1), the Commandant shall require that—

“(A) such life-cycle cost estimates be updated before—

“(i) each milestone decision is concluded; and

“(ii) the project or program enters a new acquisition phase; and

“(B) an independent cost estimate or independent cost assessment, as appropriate, be developed to validate such life-cycle cost estimates developed under paragraph (1).”

**SEC. 216. NATIONAL COAST GUARD MUSEUM FUNDING PLAN.**

Section 316(c)(4) of title 14, United States Code, is amended by striking “the Inspector General of the department in which the Coast Guard is operating” and inserting “a third party entity qualified to undertake such a certification process”.

**SEC. 217. REPORT ON COAST GUARD EXPLOSIVE ORDNANCE DISPOSAL.**

(a) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the viability of establishing an explosive ordnance disposal program (hereinafter referred to as the “Program”) in the Coast Guard.

(b) CONTENTS.—The report required under subsection (a) shall contain, at a minimum, an explanation of the following with respect to such a Program:

- (1) Where within the organizational structure of the Coast Guard the Program would be located, including a discussion of whether the Program should reside in—
- (A) Maritime Safety and Security Teams;
  - (B) Maritime Security Response Teams;
  - (C) a combination of the teams described under subparagraphs (A) and (B); or
  - (D) elsewhere within the Coast Guard.
- (2) The vehicles and dive craft that are Coast Guard airframe and vessel transportable that would be required for the transportation of explosive ordnance disposal elements.
- (3) The Coast Guard stations at which—
- (A) portable explosives storage magazines would be available for explosive ordnance disposal elements; and
  - (B) explosive ordnance disposal elements equipment would be pre-positioned.
- (4) How the Program would support other elements within the Department of Homeland Security, the Department of Justice, and in wartime, the Department of Defense to—
- (A) counter improvised explosive devices;
  - (B) counter unexploded ordnance;
  - (C) combat weapons of destruction;
  - (D) provide service in support of the President; and
  - (E) support national security special events.
- (5) The career progression of Coast Guardsman participating in the Program from—
- (A) Seaman Recruit to Command Master Chief Petty Officer;
  - (B) Chief Warrant Officer 2 to that of Chief Warrant Officer 4; and
  - (C) Ensign to that of Rear Admiral.
- (6) Initial and annual budget justification estimates on a single program element of the Program for—
- (A) civilian and military pay with details on military pay, including special and incentive pays such as—
    - (i) officer responsibility pay;
    - (ii) officer SCUBA diving duty pay;
    - (iii) officer demolition hazardous duty pay;
    - (iv) enlisted SCUBA diving duty pay;
    - (v) enlisted demolition hazardous duty pay;
    - (vi) enlisted special duty assignment pay at level special duty-5;
    - (vii) enlisted assignment incentive pays;
    - (viii) enlistment and reenlistment bonuses;
    - (ix) officer and enlisted full civilian clothing allowances;
    - (x) an exception to the policy allowing a third hazardous duty pay for explosive ordnance disposal-qualified officers and enlisted; and
    - (xi) parachutist hazardous duty pay;
  - (B) research, development, test, and evaluation;
  - (C) procurement;
  - (D) other transaction agreements;
  - (E) operations and support; and
  - (F) overseas contingency operations.

**SEC. 218. PRIBILOF ISLAND TRANSITION COMPLETION ACTIONS.**

(a) **EXTENSIONS.**—Section 524 of the Pribilof Island Transition Completion Act of 2016 (Public Law 114–120) is amended—

- (1) in subsection (b)(5) by striking “5 years” and inserting “6 years”; and
- (2) in subsection (c)(3) by striking “60 days” and inserting “120 days”.

(b) **ACTUAL USE AND OCCUPANCY REPORTS.**—Not later than 90 days after enactment of this Act, and quarterly thereafter, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing—

- (1) the degree to which Coast Guard personnel and equipment are deployed to St. Paul Island, Alaska, in actual occupancy of the facilities, as required under section 524 of the Pribilof Island Transition Completion Act of 2016 (Public Law 114–120); and
- (2) the status of the activities described in subsections (c) and (d) until such activities have been completed.

(c) **AIRCRAFT HANGER.**—The Secretary may—

(1) enter into a lease for a hangar to house deployed Coast Guard aircraft if such hangar was previously under lease by the Coast Guard for purposes of housing such aircraft; and

(2) may enter into an agreement with the lessor of such a hangar in which the Secretary may carry out repairs necessary to support the deployment of such aircraft and the cost such repairs may be offset under the terms of the lease.

(d) **FUEL TANK.**—

(1) **DETERMINATION.**—Not later than 30 days after the date of enactment of this Act, the Secretary shall determine whether the fuel tank located on St. Paul Island, Alaska, that is owned by the Coast Guard is needed for Coast Guard operations.

(2) **TRANSFER.**—Subject to paragraph (3), if the Secretary determines such tank is not needed for operations, the Secretary shall, not later than 90 days after making such determination, transfer such tank to the Alaska Native Village Corporation for St. Paul Island, Alaska.

(3) **FAIR MARKET VALUE EXCEPTION.**—The Secretary may only carry out a transfer under paragraph (2) if the fair market value of such tank is less than the aggregate value of any lease payments for the property on which the tank is located that the Coast Guard would have paid to the Alaska Native Village Corporation for St. Paul Island, Alaska, had such lease been extended at the same rate.

(e) **SAVINGS CLAUSE.**—Nothing in this section shall be construed to limit any rights of the Alaska Native Village Corporation for St. Paul to receive conveyance of all or part of the lands and improvements related to Tract 43 under the same terms and conditions as prescribed in section 524 of the Pribilof Island Transition Completion Act of 2016 (Public Law 114–120).

**SEC. 219. NOTIFICATION OF COMMUNICATION OUTAGES.**

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

(1) contains a plan for the Coast Guard to notify mariners of radio outages for towers owned and operated by the Coast Guard in District 17;

(2) address in such plan how the Coast Guard in District 17 will—

(A) disseminate outage updates regarding outages on social media at least every 48 hours;

(B) provide updates on a publicly accessible website at least every 48 hours;

(C) develop methods for notifying mariners where cellular connectivity does not exist;

(D) generate receipt confirmation and acknowledgment of outages from mariners; and

(E) develop and advertise a web-based communications update hub on AM/FM radio for mariners; and

(3) identifies technology gaps necessary to implement the plan and provide a budgetary assessment necessary to implement the plan.

## **TITLE III—MARITIME**

### **Subtitle A—Shipping**

**SEC. 301. NONOPERATING INDIVIDUAL.**

Section 8313(b) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283) is amended by striking “the date that is 2 years after the date of the enactment of this Act” and inserting “January 1, 2025”.

**SEC. 302. OCEANOGRAPHIC RESEARCH VESSELS.**

(a) **REPORT REQUIRED.**—Not later than 180 days after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of the department in which the Coast Guard is operating, shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report detailing the total number of vessels known or estimated to operate or to have operated under section 50503 of title 46, United States Code, during each of the past 10 fiscal years.

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

(1) The total number of foreign-flagged vessels known or estimated to operate or to have operated as oceanographic research vessels (as such term is defined in section 2101 of title 46, United States Code) during each of the past 10 fiscal years.

(2) The total number of United States-flagged vessels known or estimated to operate or to have operated as oceanographic research vessels (as such term is defined section 2101 of title 46, United States Code) during each of the past 10 fiscal years.

**SEC. 303. ATLANTIC COAST PORT ACCESS ROUTES BRIEFING.**

Not later than 30 days after the date of enactment of this Act, and every 30 days thereafter until the requirements of section 70003 of title 46, United States Code, are fully executed with respect to the Atlantic Coast Port Access Route, the Secretary of the department in which the Coast Guard is operating shall brief the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on any progress made to execute such requirements.

## Subtitle B—Vessel Safety

**SEC. 304. FISHING VESSEL SAFETY.**

(a) IN GENERAL.—Chapter 45 of title 46, United States Code, is amended—

(1) in section 4502(f)(2) by striking “certain vessels described in subsection (b) if requested by the owner or operator; and” and inserting “vessels described in subsection (b) if—

“(A) requested by an owner or operator; or

“(B) the vessel is—

“(i) at least 50 feet overall in length;

“(ii) built before July 1, 2013; and

“(iii) 25 years of age or older; and”;

(2) in section 4503(b) by striking “Except as provided in section 4503a, subsection (a)” and inserting “Subsection (a)”; and

(3) by repealing section 4503a.

(b) ALTERNATIVE SAFETY COMPLIANCE AGREEMENTS.—Nothing in this section or the amendments made by this section shall be construed to affect or apply to any alternative compliance and safety agreement entered into by the Coast Guard that is in effect on the date of enactment of this Act.

(c) CONFORMING AMENDMENTS.—The table of sections in chapter 45 of title 46, United States Code, is amended by striking the item relating to section 4503a.

**SEC. 305. REQUIREMENTS FOR DUKW-TYPE AMPHIBIOUS PASSENGER VESSELS.**

(a) REGULATIONS REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Commandant of the Coast Guard shall issue regulations for DUKW-type amphibious passenger vessels operating in waters subject to the jurisdiction of the United States, as defined in section 2.38 of title 33, Code of Federal Regulations (as in effect on the date of enactment of this Act).

(b) DEADLINE FOR COMPLIANCE.—The regulations issued under subsection (a) shall take effect not later than 24 months after the date of enactment of this Act.

(c) REQUIREMENTS.—The regulations required under subsection (a) shall include the following:

(1) A requirement that operators of DUKW-type amphibious passenger vessels provide reserve buoyancy for such vessels through passive means, including watertight compartmentalization, built-in flotation, or such other means as determined appropriate by the Commandant, in order to ensure that such vessels remain afloat and upright in the event of flooding, including when carrying a full complement of passengers and crew.

(2) A requirement that an operator of a DUKW-type amphibious passenger vessel—

(A) review and notate the forecast of the National Weather Service of the National Oceanic and Atmospheric Administration in the logbook of the vessel before getting underway and periodically while underway;

(B) proceed to the nearest harbor or safe refuge in any case in which a watch or warning is issued for wind speeds exceeding the wind speed equivalent used to certify the stability of such DUKW-type amphibious passenger vessel; and

(C) maintain and monitor a weather monitor radio receiver at the operator station of the vessel that is automatically activated by the warning alarm device of the National Weather Service.

(3) A requirement that—

(A) operators of DUKW-type amphibious passenger vessels inform passengers that seat belts may not be worn during waterborne operations;

(B) before the commencement of waterborne operations, a crew member shall visually check that the seatbelt of each passenger is unbuckled; and

(C) operators or crew maintain a log recording the actions described in subparagraphs (A) and (B).

(4) A requirement for annual training for operators and crew of DUKW-type amphibious passenger vessels, including—

(A) training for personal flotation and seat belt requirements, verifying the integrity of the vessel at the onset of each waterborne departure, identification of weather hazards, and use of National Weather Service resources prior to operation; and

(B) training for crew to respond to emergency situations, including flooding, engine compartment fires, man-overboard situations, and in water emergency egress procedures.

(d) CONSIDERATION.—In issuing the regulations required under subsection (a), the Commandant shall consider whether personal flotation devices should be required for the duration of the waterborne transit of a DUKW-type amphibious passenger vessel.

(e) INTERIM REQUIREMENTS.—Beginning on the date on which the regulations under subsection (a) are issued, the Commandant shall require that operators of DUKW-type amphibious passenger vessels that are not in compliance with such regulations shall be subject to the following requirements:

(1) Remove the canopies and any window coverings of such vessels for waterborne operations, or install in such vessels a canopy that does not restrict horizontal or vertical escape by passengers in the event of flooding or sinking.

(2) If a canopy and window coverings are removed from any such vessel pursuant to paragraph (1), require that all passengers wear a personal flotation device approved by the Coast Guard before the onset of waterborne operations of such vessel.

(3) Reengineer such vessels to permanently close all unnecessary access plugs and reduce all through-hull penetrations to the minimum number and size necessary for operation.

(4) Install in such vessels independently powered electric bilge pumps that are capable of dewatering such vessels at the volume of the largest remaining penetration in order to supplement an operable Higgins pump or a dewatering pump of equivalent or greater capacity.

(5) Install in such vessels not fewer than 4 independently powered bilge alarms.

(6) Conduct an in-water inspection of any such vessel after each time a through-hull penetration of such vessel has been removed or uncovered.

(7) Verify through an in-water inspection the watertight integrity of any such vessel at the outset of each waterborne departure of such vessel.

(8) Install underwater LED lights that activate automatically in an emergency.

(9) Otherwise comply with any other provisions of relevant Coast Guard guidance or instructions in the inspection, configuration, and operation of such vessels.

**SEC. 306. EXONERATION AND LIMITATION OF LIABILITY FOR SMALL PASSENGERS VESSELS.**

(a) RESTRUCTURING.—Chapter 305 of title 46, United States Code, is amended—

(1) by inserting the following before section 30501 the following:

**“Subchapter I—General Provisions”;**

(2) by inserting the following before section 30503:

**“Subchapter II—Exoneration and Limitation of Liability”;**

and

(3) by redesignating sections 30503 through 30512 as sections 30521 through 30530, respectively.

(b) DEFINITIONS.—Section 30501 of title 46, United States Code, is amended to read as follows:

**“§ 30501. Definitions**

“In this chapter:

“(1) COVERED SMALL PASSENGER VESSEL.—The term ‘covered small passenger vessel’—

“(A) means a small passenger vessel, as defined in section 2101 that is—  
“(i) not a wing-in-ground craft; and

“(ii) carrying—

“(I) not more than 49 passengers on an overnight domestic voyage; and

“(II) not more than 150 passengers on any voyage that is not an overnight domestic voyage; and

“(B) includes any wooden vessel constructed prior to March 11, 1996, carrying at least 1 passenger for hire.

“(2) OWNER.—The term ‘owner’ includes a charterer that mans, supplies, and navigates a vessel at the charterer’s own expense or by the charterer’s own procurement.”.

(c) CLERICAL AMENDMENT.—The item relating to section 30501 in the analysis for chapter 305 of title 46, United States Code, is amended to read as follows:

“30501. Definitions.”.

(d) APPLICABILITY.—Section 30502 of title 46, United States Code, is amended by inserting “as to covered small passenger vessels, and” before “as otherwise provided”.

(e) PROVISIONS REQUIRING NOTICE OF CLAIM OR LIMITING TIME FOR BRINGING ACTION.—Section 30526 of title 46, United States Code, as redesignated by subsection (a), is amended—

(1) in subsection (a), by inserting “and covered small passenger vessels” after “seagoing vessels”;

(2) in subsection (b)(1), by striking “6 months” and inserting “2 years”; and

(3) in subsection (b)(2), by striking “one year” and inserting “2 years”.

(f) TABLES OF SUBCHAPTERS AND TABLES OF SECTIONS.—The table of sections for chapter 305 of title 46, United States Code, is amended—

(1) by inserting before section 30501 the following:

“SUBCHAPTER I—GENERAL PROVISIONS”;

(2) by inserting after section 30502 the following:

“SUBCHAPTER II—EXONERATION AND LIMITATION OF LIABILITY”;

and

(3) by redesignating the items relating to sections 30503 through 30512 as items relating to sections 30521 through 30530, respectively.

(g) CONFORMING AMENDMENTS.—Title 46, United States Code, is further amended—

(1) in section 14305(a)(5), by striking “section 30506” and inserting “section 30524”;

(2) in section 30523(a), as redesignated by subsection (a), by striking “section 30506” and inserting “section 30524”;

(3) in section 30524(b), as redesignated by subsection (a), by striking “section 30505” and inserting “section 30523”; and

(4) in section 30525, as redesignated by subsection (a)—

(A) in the matter preceding paragraph (1), by striking “sections 30505 and 30506” and inserting “sections 30523 and 30524”;

(B) in paragraph (1) by striking “section 30505” and inserting “section 30523”; and

(C) in paragraph (2) by striking “section 30506(b)” and inserting “section 30524(b)”.

**SEC. 307. AUTOMATIC IDENTIFICATION SYSTEM REQUIREMENTS.**

(a) REQUIREMENT FOR FISHING VESSELS TO HAVE AUTOMATIC IDENTIFICATION SYSTEMS.—Section 70114(a)(1) of title 46, United States Code, is amended—

(1) by striking “, while operating on the navigable waters of the United States,”;

(2) by redesignating subparagraphs (A) through (D) as clauses (i) through (iv);

(3) by inserting before clauses (i) through (iv), as redesignated by paragraph (2), the following:

“(A) While operating on the navigable waters of the United States:”; and

(4) by adding at the end the following:

“(B) A vessel of the United States that is more than 65 feet overall in length, while engaged in fishing, fish processing, or fish tendering operations on the



navigable waters of the United States or in the United States exclusive economic zone.”.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to the Secretary of Commerce for fiscal year 2022, \$5,000,000, to remain available until expended, to purchase automatic identification systems for fishing vessels, fish processing vessels, fish tender vessels more than 50 feet in length, as described under this section and the amendments made by this section.

## **Subtitle C—Shipbuilding Program**

### **SEC. 308. LOANS FOR RETROFITTING TO QUALIFY AS A VESSEL OF THE UNITED STATES.**

Section 53706(a) of title 46, United States Code, is amended by adding at the end the following:

“(8) Financing (including reimbursement of an obligor for expenditures previously made for) the reconstruction, reconditioning, retrofitting, repair, or similar work in a shipyard located in the United States—

“(A) required for the vessel to be a vessel of the United States;

“(B) required for the vessel to be issued a coastwise endorsement under chapter 121;

“(C) to convert a civilian vessel of the United States to a more useful military configuration;

“(D) for any vessel under contract to the Federal Government; or

“(E) for any vessel participating in—

“(i) the Maritime Security Program or the Emergency Preparedness Program under chapter 531;

“(ii) the Cable Security Fleet under chapter 532;

“(iii) the Tanker Security Fleet under chapter 534; or

“(iv) the National Defense Reserve Fleet under section 57100.”.

### **SEC. 309. QUALIFIED VESSEL.**

(a) **ELIGIBLE VESSEL.**—Section 53501(2) of title 46, United States Code, is amended—

(1) in subparagraph (A)(iii) by striking “and” at the end;

(2) in subparagraph (B)(v) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(C) a ferry, as such term is defined in section 2101; and

“(D) a passenger vessel or small passenger vessel, as such terms are defined in section 2101, that has a passenger capacity of 50 passengers or greater.”.

(b) **QUALIFIED VESSEL.**—Section 53501(5) of title 46, United States Code, is amended—

(1) in subparagraph (A)(iii) by striking “and” at the end;

(2) in subparagraph (B)(v) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

“(C) a ferry, as such term is defined in section 2101; and

“(D) a passenger vessel or small passenger vessel, as such terms are defined in section 2101, that has a passenger capacity of 50 passengers or greater.”.

### **SEC. 310. ESTABLISHING A CAPITAL CONSTRUCTION FUND.**

Section 53503(b) of title 46, United States Code, is amended by inserting “(including transportation on a ferry, passenger vessel, or small passenger vessel, as such terms are defined in section 2101, that has a passenger capacity of 50 passengers or greater)” after “short sea transportation”.

## **TITLE IV—MISCELLANEOUS**

### **Subtitle A—Navigation**

#### **SEC. 401. RESTRICTION ON CHANGING SALVORS.**

Section 311(c)(3) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)(3)) is amended by adding at the end the following:

“(C) An owner or operator may not change salvors as part of a deviation under subparagraph (B) in cases in which the original salvor satisfies the Coast

Guard requirements in accordance with the National Contingency Plan and the applicable response plan required under subsection (j).

“(D) In any case in which the Coast Guard authorizes a deviation from the salvor as part of a deviation under subparagraph (B) from the applicable response plan required under subsection (j), the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing the deviation and the reasons for such deviation.”.

**SEC. 402. TOWING VESSEL INSPECTION FEES.**

Notwithstanding section 9701 of title 31, United States Code, and section 2110 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may not charge an inspection fee for towing vessels required to have a Certificate of Inspection under subchapter M of title 46, Code of Federal Regulations, until—

- (1) the completion of the review required under section 815 of the Frank LoBiondo Coast Guard Authorization Act of 2018 (Public Law 115–282); and
- (2) the promulgation of regulations to establish specific inspection fees for such vessels.

**SEC. 403. PROVIDING REQUIREMENTS FOR VESSELS ANCHORED IN ESTABLISHED ANCHORAGE GROUNDS.**

(a) IN GENERAL.—Section 70006 of title 46, United States Code, is amended to read as follows:

**“§ 70006. Anchorage grounds**

“(a) ANCHORAGE GROUNDS.—

“(1) ESTABLISHMENT.—The Secretary of the department in which the Coast Guard is operating shall define and establish anchorage grounds in the navigable waters of the United States for vessels operating in such waters.

“(2) RELEVANT FACTORS FOR ESTABLISHMENT.—In carrying out paragraph (1), the Secretary shall take into account all relevant factors concerning navigational safety, protection of the marine environment, proximity to undersea pipelines and cables, safe and efficient use of Marine Transportation System, and national security.

“(b) VESSEL REQUIREMENTS.—Vessels, of certain sizes or type determined by the Secretary, shall—

- “(1) set and maintain an anchor alarm for the duration of an anchorage;
- “(2) comply with any directions or orders issued by the Captain of the Port; and
- “(3) comply with any applicable anchorage regulations.

“(c) PROHIBITIONS.—A vessel may not—

- “(1) anchor in any Federal navigation channel unless authorized or directed to by the Captain of the Port;
- “(2) anchor in near proximity, within distances determined by the Coast Guard, to an undersea pipeline or cable, unless authorized or directed to by the Captain of the Port; and
- “(3) anchor or remain anchored in an anchorage ground during any period in which the Captain of the Port orders closure of the anchorage ground due to inclement weather, navigational hazard, a threat to the environment, or other safety or security concern.

“(d) SAFETY EXCEPTION.—Nothing in this section shall be construed to prevent a vessel from taking actions necessary to maintain the safety of the vessel or to prevent the loss of life or property.”.

(b) REGULATORY REVIEW.—

(1) REVIEW REQUIRED.—Not later than 1 year after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall complete a review of existing anchorage regulations and identify regulations that may need modification—

- (A) in the interest of marine safety, security, and environmental concerns, taking into account undersea pipelines, cables, or other infrastructure; and
- (B) to implement the amendments made by this section.

(2) BRIEFING.—Upon completion of the review under paragraph (1), but not later than 2 years after the date of enactment of this Act, the Secretary shall provide a briefing to the Committee on Commerce, Science, and Transportation of the Senate and the Subcommittee on Coast Guard and Maritime Transportation of the Committee on Transportation and Infrastructure of the House of Representatives that summarizes the review.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 700 of title 46, United States Code, is amended by striking the item relating to section 70006 and inserting the following:

“70006. Anchorage grounds.”.

(d) APPLICABILITY OF REGULATIONS.—The amendments made by subsection (a) may not be construed to alter any existing rules, regulations, or final agency actions issued under section 70006 of title 46, United States Code, as in effect on the day before the date of enactment of this Act until all regulations required under subsection (b) take effect.

**SEC. 404. AQUATIC NUISANCE SPECIES TASK FORCE.**

(a) RECREATIONAL VESSEL DEFINED.—Section 1003 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4702) is amended—

(1) by redesignating paragraphs (13) through (17) as paragraphs (15) through (19), respectively; and

(2) by inserting after paragraph (12) the following:

“(13) ‘State’ means each of the several States, the District of Columbia, American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, and the Virgin Islands of the United States;

“(14) ‘recreational vessel’ has the meaning given that term in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362);”.

(b) OBSERVERS.—Section 1201 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4721) is amended by adding at the end the following:

“(g) OBSERVERS.—The chairpersons designated under subsection (d) may invite representatives of nongovernmental entities to participate as observers of the Task Force.”.

(c) AQUATIC NUISANCE SPECIES TASK FORCE.—Section 1201(b) of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4721(b)) is amended—

(1) in paragraph (6), by striking “and” at the end;

(2) by redesignating paragraph (7) as paragraph (10); and

(3) by inserting after paragraph (6) the following:

“(7) the Director of the National Park Service;

“(8) the Director of the Bureau of Land Management;

“(9) the Commissioner of Reclamation; and”.

(d) AQUATIC NUISANCE SPECIES PROGRAM.—Section 1202 of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4722) is amended—

(1) in subsection (e) by adding at the end the following:

“(4) TECHNICAL ASSISTANCE AND RECOMMENDATIONS.—The Task Force may provide technical assistance and recommendations for best practices to an agency or entity engaged in vessel inspections or decontaminations for the purpose of—

“(A) effectively managing and controlling the movement of aquatic nuisance species into, within, or out of water of the United States; and

“(B) inspecting recreational vessels in a manner that minimizes disruptions to public access for boating and recreation in non-contaminated vessels.

“(5) CONSULTATION.—In carrying out paragraph (4), including the development of recommendations, the Task Force may consult with—

“(A) State fish and wildlife management agencies;

“(B) other State agencies that manage fishery resources of the State or sustain fishery habitat; and

“(C) relevant nongovernmental entities.”; and

(2) in subsection (k) by adding at the end the following:

“(3) Not later than 90 days after the date of enactment of the Coast Guard Authorization Act of 2022, the Task Force shall submit a report to Congress recommending legislative, programmatic, or regulatory changes to eliminate remaining gaps in authorities between members of the Task Force to effectively manage and control the movement of aquatic nuisance species.”.

(e) TECHNICAL CORRECTIONS AND CONFORMING AMENDMENTS.—The Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701 et seq.) is further amended—

(1) in section 1002(b)(2), by inserting a comma after “funded”;

(2) in section 1003, in paragraph (7), by striking “Canadian” and inserting “Canadian”;

(3) in section 1203(a)—

(A) in paragraph (1)(F), by inserting “and” after “research,”; and

(B) in paragraph (3), by striking “encourage” and inserting “encouraged”;

- (4) in section 1204(b)(4), in the paragraph heading, by striking “ADMINISTRATIVE” and inserting “ADMINISTRATIVE”; and  
 (5) in section 1209, by striking “subsection (a)” and inserting “section 1202(a)”.

**SEC. 405. LIMITATION ON RECOVERY FOR CERTAIN INJURIES INCURRED IN AQUACULTURE ACTIVITIES.**

- (a) IN GENERAL.—Section 30104 of title 46, United States Code, is amended—  
 (1) by inserting “(a) IN GENERAL.—” before the first sentence; and  
 (2) by adding at the end the following:  
 “(b) LIMITATION ON RECOVERY BY AQUACULTURE WORKERS.—  
 “(1) IN GENERAL.—For purposes of subsection (a), the term ‘seaman’ does not include an individual who—  
 “(A) is an aquaculture worker if State workers’ compensation is available to such individual; and  
 “(B) was, at the time of injury, engaged in aquaculture in a place where such individual had lawful access.  
 “(2) AQUACULTURE WORKER DEFINED.—In this subsection, the term ‘aquaculture worker’ means an individual who—  
 “(A) is employed by a commercial enterprise that is involved in the controlled cultivation and harvest of aquatic plants and animals, including—  
 “(i) the cleaning, processing, or canning of fish and fish products;  
 “(ii) the cultivation and harvesting of shellfish; and  
 “(iii) the controlled growing and harvesting of other aquatic species;  
 “(B) does not hold a license issued under section 7101(c); and  
 “(C) is not required to hold a merchant mariner credential under part F of subtitle II.”.
- (b) APPLICABILITY.—The amendments made by this section shall apply to an injury incurred on or after the date of enactment of this Act.

## Subtitle B—Other Matters

**SEC. 406. INFORMATION ON TYPE APPROVAL CERTIFICATES.**

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

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

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

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

“904. Information on type approval certificates.”.

**SEC. 407. PASSENGER VESSEL SECURITY AND SAFETY REQUIREMENTS.**

- Section 3507(k)(1) of title 46, United States Code, is amended—  
 (1) in subparagraph (A) by striking “at least 250” and inserting “250 or more”;  
 and  
 (2) by striking subparagraph (B) and inserting the following:  
 “(B) has overnight accommodations for 250 or more passengers; and”.

**SEC. 408. CARGO WAITING TIME REDUCTION.**

- (a) INTERAGENCY TASK FORCE.—The President shall, acting through the Supply Chain Disruptions Task Force established under Executive Order 14017 (relating to supply chains) of February 24, 2021 (86 Fed. Reg. 11849) (hereinafter referred to as the “Task Force”), carry out the duties described in subsection (c).

- (b) DUTIES.—In carrying out this section, the Task Force shall—  
 (1) evaluate and quantify the economic and environmental impact of cargo backlogs;  
 (2) evaluate and quantify the costs incurred by each Federal agency represented on the Task Force, and by State and local governments, due to such cargo backlogs;  
 (3) evaluate the responses of each such Federal agency to such cargo backlogs;  
 and

(4) not later than 90 days after the date of enactment of this Act—

(A) develop a plan to—

(i) significantly reduce or eliminate such cargo backlog; and

(ii) reduce nationwide cargo processing delays, including the Port of Los Angeles and the Port of Long Beach; and

(B) submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing the plan developed under subparagraph (A).

(c) **REPORT OF THE COMMANDANT.**—No later than 90 days after the date of enactment of this Act, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on cargo backlogs that includes—

(1) an explanation of the extent to which vessels carrying cargo are complying with the requirements of chapter 700 of title 46, United States Code;

(2) the status of the investigation on the cause of the oil spill that occurred in October 2021 on the waters over the San Pedro Shelf related to an anchor strike, including the expected date on which the Marine Casualty Investigation Report with respect to such spill will be released; and

(3) with respect to such vessels, a summary of actions taken or planned to be taken by the Commandant to—

(A) provide additional protections against oil spills caused by anchor strikes; and

(B) address other safety concerns and environmental impacts.

**SEC. 409. LIMITED INDEMNITY PROVISIONS IN STANDBY OIL SPILL RESPONSE CONTRACTS.**

(a) **IN GENERAL.**—Subject to subsections (b) and (c), a contract for the containment or removal of a discharge entered into by the President under section 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) shall contain a provision to indemnify a contractor for liabilities and expenses incidental to the containment or removal arising out of the performance of the contract that is substantially identical to the terms contained in subsections (d) through (h) of section H.4 (except for paragraph (1) of subsection (d)) of the contract offered by the Coast Guard in the solicitation numbered DTCG89–98– A–68F953, dated November 17, 1998.

(b) **REQUIREMENTS.**—

(1) **SOURCE OF FUNDS.**—The provision required under subsection (a) shall include a provision that the obligation to indemnify is limited to funds available in the Oil Spill Liability Trust Fund established by section 9509(a) of the Internal Revenue Code of 1986 at the time the claim for indemnity is made.

(2) **UNCOMPENSATED REMOVAL.**—A claim for indemnity under a contract described in subsection (a) shall be made as a claim for uncompensated removal costs under section 1012(a)(4) of the Oil Pollution Act of 1990 (33 U.S.C. 2712(a)(4)).

(3) **LIMITATION.**—The total indemnity for a claim under a contract described in subsection (a) may not be more than \$50,000 per incident.

(c) **APPLICABILITY OF EXEMPTIONS.**—Notwithstanding subsection (a), the United States shall not be obligated to indemnify a contractor for any act or omission of the contractor carried out pursuant to a contract entered into under this section where such act or omission is grossly negligent or which constitutes willful misconduct.

**SEC. 410. PORT COORDINATION COUNCIL FOR POINT SPENCER.**

Section 541 of the Coast Guard Authorization Act of 2016 (Public Law 114–120) is amended—

(1) in subsection (b) by striking paragraphs (1) and (2) and inserting the following:

“(1) BSNC (to serve as Council Chair).

“(2) The Secretary of Homeland Security.

“(3) An Oil Spill Response Organization that serves the area in which such Port is located.”;

(2) in subsection (c)(1)—

(A) in subparagraph (B) by adding “and” at the end; and

(B) by striking subparagraphs (C) and (D) and inserting the following:

“(C) land use planning and development on the Bering Sea, the Chukchi Sea, and the Arctic Ocean, in support of—

“(i) search and rescue;

“(ii) shipping safety;

“(iii) economic development;

“(iv) oil spill prevention and response;

- “(v) national security;
  - “(vi) major marine casualties;
  - “(vii) protection of Alaska Native archaeological and cultural resources; and
  - “(viii) port of refuge, arctic research, and maritime law enforcement.”;
- (3) by amending subsection (c)(3) to read as follows:
- “(3) Facilitate coordination among members of the Council on the development and use of the land and coastline of Point Spencer, as such development and use relate to activities of the Council at the Port of Point Spencer.”; and
- (4) in subsection (e)—
- (A) by striking “Operations and management costs” and inserting the following:
  - “(1) DETERMINATION OF COSTS.—Operations and management costs”; and
  - (B) by adding at the end the following:
- “(2) FUNDING.—To facilitate the mooring buoy system in Port Clarence and to assist the Council in the development of other oil spill prevention and response infrastructure, including reactivating the airstrip at Point Spencer with appropriate technology and safety equipment in support of response operations, there is authorized to be made available \$5,000,000 for each of fiscal years 2023 through 2025 from the interest generated from the Oil Spill Liability Trust Fund.”.

**SEC. 411. ALASKA OIL SPILL PLANNING CRITERIA.**

(a) ALASKA OIL SPILL PLANNING CRITERIA.—Section 311(j)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(5)) is amended by adding at the end the following:

“(J)(i) Except as provided in clause (iv), in any case in which the Secretary has determined that the national planning criteria established pursuant to this subsection are inappropriate for a vessel operating in the area of responsibility of Coast Guard Sector Anchorage, a response plan required under this paragraph with respect to a discharge of oil for the vessel shall comply with the planning criteria established under clause (ii), which planning criteria shall, with respect to a discharge of oil from the vessel, supercede the national planning criteria and apply in lieu of any alternative planning criteria approved for vessels operating in such area.

“(ii) The President shall establish planning criteria for a worst case discharge of oil, and a substantial threat of such a discharge, within the area of responsibility of Coast Guard Sector Anchorage, including planning criteria for the following:

“(I) Mechanical oil spill response resources that are required to be located within such area.

“(II) Response times for mobilization of oil spill response resources and arrival on the scene of a worst case discharge of oil, or substantial threat of such a discharge, occurring within such area.

“(III) Dedicated vessels for oil spill response that are capable of operating in the ocean environment and required to be located within such area.

“(IV) Ensuring the availability of at least one oil spill removal organization that is classified by the Coast Guard and that—

“(aa) is capable of responding in all operating environments in such area;

“(bb) provides vessel routing measures consistent with international routing measure deviation protocols;

“(cc) maintains real-time continuous vessel tracking, monitoring, and engagement protocols with the ability to detect and address vessel operation anomalies;

“(dd) has the capability to manage wildlife protection and rehabilitation;

“(ee) controls oil spill response resources of dedicated and nondedicated resource providers within such area, through ownership, contracts, agreements, or other means approved by the President, sufficient to mobilize and sustain a response to a worst case discharge of oil and to contain, recover, and temporarily store discharged oil; and

“(ff) has pre-positioned all of its oil spill response resources in strategic locations throughout such area in a manner that ensures the ability to support response personnel, marine operations, air cargo, or other related logistics infrastructure.

“(V) Temporary storage capability using both dedicated and non-dedicated assets located within such area.

“(VI) Non-mechanical oil spill response resources, to be available under contracts, agreements, or other means approved by the President, capable of responding to both a discharge of persistent oil and a discharge of non-persistent oil, whether the discharged oil was carried by a vessel as fuel or cargo.

“(VII) With respect to tank barges carrying non-persistent oil in bulk as cargo to be delivered to communities within such area, oil spill response resources that is required to be carried on board.

“(VIII) Ensuring that oil spill response resources otherwise required to be included in a response plan for purposes of compliance with salvage and marine firefighting requirements are not used to meet the requirements of this subparagraph.

“(IX) Specifying a minimum length of time that approval of a response plan under this subparagraph is valid.

“(iii) The President may approve a response plan for a vessel under this subparagraph only if the owner or operator of the vessel demonstrates the availability of the oil spill response resources required to be included in the response plan under the planning criteria established under clause (ii).

“(iv) Nothing in this subparagraph affects—

“(I) vessels operating within the area of responsibility of the Coast Guard sector responsible for Anchorage, Alaska, with primary operations occurring within Cook Inlet, Alaska; or

“(II) the requirements applicable to tank vessels subject to section 5005 of the Oil Pollution Act of 1990 (33 U.S.C. 2735).”

(b) **ESTABLISHMENT OF ALASKA OIL SPILL PLANNING CRITERIA.—**

(1) **DEADLINE.**—Not later than 180 days after the date of enactment of this Act, the President shall establish the planning criteria required to be established under subparagraph (J) of section 311(j)(5) of the Federal Water Pollution Control Act of (33 U.S.C. 1321(j)(5)), as added by this section.

(2) **CONSULTATION.**—In establishing such planning criteria, the President shall consult with the State of Alaska, owners and operators of vessels subject to such planning criteria, oil spill removal organizations, Alaska Native organizations, and environmental non-governmental organizations located within the State of Alaska.

(c) **CONGRESSIONAL REPORT.**—Not later than one year after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall submit to Congress a report regarding the status of implementing the requirements of subparagraph (J) of section 311(j)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)(5)), as added by this section.

**SEC. 412. NONAPPLICABILITY.**

Requirements under sections 3507(d), 3507(e), 3508, and 3509 of title 46, United States Code, shall not apply to the passenger vessel *American Queen* (U.S. Coast Guard Official Number 1030765) or any other passenger vessel—

(1) on which construction identifiable with the specific vessel begins prior to the date of enactment of this Act; and

(2) to which sections 3507 and 3508 would otherwise apply when such vessels are operating inside the boundary line.

**SEC. 413. REPORT ON ENFORCEMENT OF COASTWISE LAWS.**

The Commandant of the Coast Guard shall submit to Congress a report describing any changes to the enforcement of chapters 121 and 551 of title 46, United States Code, as a result of the amendments to section 4(a)(1) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)(1)) made by section 9503 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283).

**SEC. 414. LAND CONVEYANCE, SHARPE ARMY DEPOT, LATHROP, CALIFORNIA.**

Not later than 1 year after the date of enactment of this Act, the Administrator of the Maritime Administration shall complete the land conveyance required under section 2833 of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283).

**SEC. 415. CENTER OF EXPERTISE FOR MARINE ENVIRONMENTAL RESPONSE.**

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Commandant of the Coast Guard, in consultation with the Administrator of the National Oceanic and Atmospheric Administration, shall establish a Center of Expertise for Marine Environmental Response (referred to in this section as the “Center of Expertise”) in accordance with section 313 of title 14, United States Code.

(b) **LOCATION.**—The Center of Expertise shall be located in close proximity to—

- (1) an area of the country with quick access to State, Federal, and international waters, port and marine environments, coastal and estuary environments, and the intercoastal waterway;
  - (2) multiple Coast Guard sea and air stations;
  - (3) multiple Federal agencies that are engaged in coastal and fisheries management;
  - (4) one or more designated national estuaries;
  - (5) State coastal and wildlife management agencies; and
  - (6) an institution of higher education with adequate marine science search laboratory facilities and capabilities and expertise in coastal marine ecology, ecosystems, environmental chemistry, fish and wildlife management, coastal mapping, water resources, and marine technology development.
- (c) FUNCTIONS.—The Center of Expertise shall—
- (1) monitor and assess, on an ongoing basis, the state of knowledge regarding training, education, and technology development for marine environmental response protocols in State, Federal, and international waters, port and marine environments, coastal and estuary environments, and the intercoastal waterway;
  - (2) identify any significant gaps in research related to marine environmental response protocols, including an assessment of major scientific or technological deficiencies in responses to past incidents in these waterways that are interconnected, and seek to fill such gaps;
  - (3) conduct research, development, testing, and evaluation for marine environmental response equipment, technologies, and techniques to mitigate and respond to environmental incidents in these waterways;
  - (4) educate and train Federal, State, and local first responders in—
    - (A) the incident command system structure;
    - (B) marine environmental response techniques and strategies; and
    - (C) public affairs; and
  - (5) work with academic and private sector response training centers to develop and standardize marine environmental response training and techniques.
- (d) MARINE ENVIRONMENTAL RESPONSE DEFINED.—In this section, the term “marine environmental response” means any response to incidents that—
- (1) impacts—
    - (A) the marine environment of State, Federal or international waterways;
    - (B) port and marine environments;
    - (C) coastal and estuary environments; or
    - (D) the intercoastal waterway; and
  - (2) promotes—
    - (A) the protection and conservation of the marine environment;
    - (B) the health of fish, animal populations, and endangered species; and
    - (C) the resilience of coastal ecosystems and infrastructure.

**SEC. 416. PROHIBITION ON ENTRY AND OPERATION.**

(a) PROHIBITION.—

(1) IN GENERAL.—Except as otherwise provided in this section, during the period in which Executive Order 14065 (87 Fed. Reg. 10293, relating to blocking certain Russian property or transactions), or any successor Executive Order is in effect, no vessel described in subsection (b) may enter or operate in the navigable waters of the United States or transfer cargo in any port or place under the jurisdiction of the United States.

(2) LIMITATIONS ON APPLICATION.—

(A) IN GENERAL.—The prohibition under paragraph (1) shall not apply with respect to vessel described in subsection (b) if the Secretary of State determines that—

- (i) the vessel is owned or operated by a Russian national or operated by the government of the Russian Federation; and
- (ii) it is in the national security interest not to apply the prohibition to such vessel.

(B) NOTICE.—Not later than 15 days after making a determination under subparagraph (A), the Secretary of State shall submit to the Committee on Foreign Affairs and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate written notice of the determination and the basis upon which the determination was made.

(C) PUBLICATION.—The Secretary of State shall publish a notice in the Federal Register of each determination made under subparagraph (A).



(b) **VESSELS DESCRIBED.**—A vessel referred to in subsection (a) is a vessel owned or operated by a Russian national or operated by the government of the Russian Federation.

(c) **INFORMATION AND PUBLICATION.**—The Secretary of the department in which the Coast Guard is operating, with the concurrence of the Secretary of State, shall—

(1) maintain timely information on the registrations of all foreign vessels owned or operated by or on behalf of the Government of the Russian Federation, a Russian national, or a entity organized under the laws of the Russian Federation or any jurisdiction within the Russian Federation; and

(2) periodically publish in the Federal Register a list of the vessels described in paragraph (1).

(d) **NOTIFICATION OF GOVERNMENTS.**—

(1) **IN GENERAL.**—The Secretary of State shall notify each government, the agents or instrumentalities of which are maintaining a registration of a foreign vessel that is included on a list published under subsection (c)(2), not later than 30 days after such publication, that all vessels registered under such government's authority are subject to subsection (a).

(2) **ADDITIONAL NOTIFICATION.**—In the case of a government that continues to maintain a registration for a vessel that is included on such list after receiving an initial notification under paragraph (1), the Secretary shall issue an additional notification to such government not later than 120 days after the publication of a list under subsection (c)(2).

(e) **NOTIFICATION OF VESSELS.**—Upon receiving a notice of arrival under section 7001(a)(5) of title 46, United States Code, from a vessel described in subsection (b), the Secretary of the department in which the Coast Guard is operating shall notify the master of such vessel that the vessel may not enter or operate in the navigable waters of the United States or transfer cargo in any port or place under the jurisdiction of the United States, unless—

(1) the Secretary of State has made a determination under subsection (a)(2); or

(2) the Secretary of the department in which the Coast Guard is operating allows provisional entry of the vessel, or transfer of cargo from the vessel, under subsection (f).

(f) **PROVISIONAL ENTRY OR CARGO TRANSFER.**—Notwithstanding any other provision of this section, the Secretary of the department in which the Coast Guard is operating may allow provisional entry of, or transfer of cargo from, a vessel, if such entry or transfer is necessary for the safety of the vessel or persons aboard.

**SEC. 417. ST. LUCIE RIVER RAILROAD BRIDGE.**

The Commandant of the Coast Guard shall take such actions as are necessary to implement any recommendations for the St. Lucie River railroad bridge made by the Coast Guard in the document titled “Waterways Analysis and Management System for Intracoastal Waterway Miles 925-1005 (WAMS #07301)” published by Coast Guard Sector Miami in 2018.

**SEC. 418. ASSISTANCE RELATED TO MARINE MAMMALS.**

(a) **MARITIME ENVIRONMENTAL AND TECHNICAL ASSISTANCE PROGRAM.**—Section 50307(b) of title 46, United States Code, is amended—

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

(2) in paragraph (2) by striking the period and insert “; and”; and

(3) by adding at the end the following:

“(3) technologies that quantifiably reduce underwater noise from marine vessels, including noise produced incidental to the propulsion of marine vessels.”.

(b) **ASSISTANCE TO REDUCE IMPACTS OF VESSEL STRIKES AND NOISE ON MARINE MAMMALS.**—

(1) **IN GENERAL.**—Chapter 541 of title 46, United States Code, is amended by adding at the end the following:

**“§ 54102. Assistance to reduce impacts of vessel strikes and noise on marine mammals**

“(a) **IN GENERAL.**—The Administrator of the Maritime Administration, in coordination with the Secretary of the department in which the Coast Guard is operating, may make grants to, or enter into contracts or cooperative agreements with, academic, public, private, and nongovernmental entities to develop and implement mitigation measures that will lead to a quantifiable reduction in—

“(1) impacts to marine mammals from vessels; and

“(2) underwater noise from vessels, including noise produced incidental to the propulsion of vessels.

“(b) **ELIGIBLE USE.**—Assistance under this section may be used to develop, assess, and carry out activities that reduce threats to marine mammals by—

- “(1) reducing—
  - “(A) stressors related to vessel traffic; and
  - “(B) vessel strike mortality, and serious injury; or
- “(2) monitoring—
  - “(A) sound; and
  - “(B) vessel interactions with marine mammals.
- “(c) PRIORITY.—The Administrator shall prioritize assistance under this section for projects that—
  - “(1) is based on the best available science on methods to reduce threats related to vessels traffic;
  - “(2) collect data on the reduction of such threats;
  - “(3) reduce—
    - “(A) disturbances from vessel presence;
    - “(B) mortality risk; or
    - “(C) serious injury from vessel strikes; or
  - “(4) conduct risk assessments, or tracks progress toward threat reduction.
- “(d) BRIEFING.—The Administrator shall provide to the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate, an annual briefing that includes the following:
  - “(1) The name and location of each entity receiving a grant under this section.
  - “(2) The amount of each such grant.
  - “(3) A description of the activities carried out with assistance provided under this section.
  - “(4) An estimate of the impact that a project carried out with such assistance has on the reduction of threats to marine mammals.
- “(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section \$10,000,000 for each of fiscal years 2022 through 2026, to remain available until expended.”.
  - (2) CLERICAL AMENDMENT.—The analysis for chapter 541 of title 46, United States Code, is amended by adding at the end the following:
 

“54102. Assistance to reduce impacts of vessel strikes and noise on marine mammals.”.
- (c) NEAR REAL-TIME MONITORING AND MITIGATION PROGRAM FOR LARGE WHALES.—
  - (1) IN GENERAL.—Part of A of subtitle V of title 46, United States Code, is amended by adding at the end the following:

#### “CHAPTER 507—MONITORING AND MITIGATION

“Sec.

“50701. Near real-time monitoring and mitigation program for large whales.

“50702. Pilot project.

#### “§ 50701. Near real-time monitoring and mitigation program for large whales

“(a) ESTABLISHMENT.—The Administrator of the Maritime Administration, in consultation with the Commandant of the Coast Guard, shall design and deploy a near real-time large whale monitoring and mitigation program (in this section referred to as the Program) informed by the technologies, monitoring methods, and mitigation protocols developed pursuant to the pilot program required under section 50702.

“(b) PURPOSE.—The purpose of the Program will be to reduce the risk to large whales of vessel collisions and to minimize other impacts.

“(c) REQUIREMENTS.—In designing and deploying the Program, the Administrator shall—

- “(1) prioritize species of large whales for which vessel collision impacts are of particular concern;
- “(2) prioritize areas where such vessel impacts are of particular concern;
- “(3) develop technologies capable of detecting and alerting individuals and enforcement agencies of the probable location of large whales on a near real-time basis, to include real time data whenever possible;
- “(4) inform sector-specific mitigation protocols to effectively reduce takes of large whales; and
- “(5) integrate technology improvements as such improvements become available.

“(d) AUTHORITY.—The Administrator may make grants or enter into and contracts, leases, or cooperative agreements as may be necessary to carry out the purposes of this section on such terms as the Administrator considers appropriate, consistent with Federal acquisition regulations.

**“§ 50702. Pilot project**

“(a) ESTABLISHMENT.—The Administrator of the Maritime Administration shall carry out a pilot monitoring and mitigation project for North Atlantic right whales (in this section referred to as the ‘Pilot Program’) for purposes of informing a cost-effective, efficient, and results-oriented near real-time monitoring and mitigation program for large whales under 50701.

“(b) PILOT PROJECT REQUIREMENTS.—In carrying out the pilot program, the Administrator, in coordination with the Commandant of the Coast Guard, using best available scientific information, shall identify and ensure coverage of—

“(1) core foraging habitats of North Atlantic right whales, including—

“(A) the South of the Islands core foraging habitat;

“(B) the Cape Cod Bay Area core foraging habitat;

“(C) the Great South Channel core foraging habitat; and

“(D) the Gulf of Maine; and

“(2) important feeding, breeding, calving, rearing, or migratory habitats of North Atlantic right whales that co-occur with areas of high risk of mortality, serious injury, or other impacts to such whales, including from vessels or vessel strikes.

“(c) PILOT PROJECT COMPONENTS.—

“(1) IN GENERAL.—Not later than 3 years after the date of enactment of the Coast Guard Authorization Act of 2022, the Administrator, in consultation with the Commandant, Tribal governments, and with input from affected stakeholders, shall design and deploy a near real-time monitoring system for North Atlantic right whales that—

“(A) comprises the best available detection and survey technologies to detect North Atlantic right whales within core foraging habitats;

“(B) uses dynamic habitat suitability models to inform the likelihood of North Atlantic right whale occurrence in core foraging habitat at any given time;

“(C) coordinates with the Integrated Ocean Observing System and Coast Guard vessel traffic service centers, and may coordinate with Regional Ocean Partnerships to leverage monitoring assets;

“(D) integrates historical data;

“(E) integrates new near real-time monitoring methods and technologies as they become available;

“(F) accurately verifies and rapidly communicates detection data;

“(G) creates standards for allowing ocean users to contribute data to the monitoring system using comparable near real-time monitoring methods and technologies; and

“(H) communicates the risks of injury to large whales to ocean users in a way that is most likely to result in informed decision making regarding the mitigation of those risks.

“(2) NATIONAL SECURITY CONSIDERATIONS.—All monitoring methods, technologies, and protocols under this section shall be consistent with national security considerations and interests.

“(3) ACCESS TO DATA.—The Administrator shall provide access to data generated by the monitoring system deployed under paragraph (1) for purposes of scientific research and evaluation, and public awareness and education, including through the NOAA Right Whale Sighting Advisory System and WhaleMap or other successive public web portals, subject to review for national security considerations.

“(d) MITIGATION PROTOCOLS.—The Administrator, in consultation with the Commandant, and with input from affected stakeholders, develop and deploy mitigation protocols that make use of the near real-time monitoring system deployed under subsection (c) to direct sector-specific mitigation measures that avoid and significantly reduce risk of serious injury and mortality to North Atlantic right whales.

“(e) REPORTING.—

“(1) PRELIMINARY REPORT.—Not later than 2 years after the date of the enactment of the Coast Guard Authorization Act of 2022, the Administrator, in consultation with the Commandant, shall submit to the appropriate Congressional Committees and make available to the public a preliminary report which shall include—

“(A) a description of the monitoring methods and technology in use or planned for deployment;

“(B) analyses of the efficacy of the methods and technology in use or planned for deployment for detecting North Atlantic right whales;

“(C) how the monitoring system is directly informing and improving North American right whale management, health, and survival;

“(D) a prioritized identification of technology or research gaps;

“(E) a plan to communicate the risks of injury to large whales to ocean users in a way that is most likely to result in informed decision making regarding the mitigation of those risks; and

“(F) additional information, as appropriate.

“(2) FINAL REPORT.—Not later than 6 years after the date of the enactment of the Coast Guard Authorization Act of 2022, the Administrator, in consultation with the Commandant, shall submit to the appropriate congressional committees and make available to the public a final report, addressing the components in subparagraph (A) and including—

“(A) an assessment of the benefits and efficacy of the near real-time monitoring and mitigation program;

“(B) a strategic plan to expand the pilot program to provide near real-time monitoring and mitigation measures;

“(i) to additional large whale species of concern for which such measures would reduce risk of serious injury or death; and

“(ii) in important feeding, breeding, calving, rearing, or migratory habitats of whales that co-occur with areas of high risk of mortality or serious injury of such whales from vessel strikes or disturbance;

“(C) a prioritized plan for acquisition, deployment, and maintenance of monitoring technologies;

“(D) the locations or species for which the plan would apply; and

“(E) a budget and description of funds necessary to carry out the strategic plan.

“(f) ADDITIONAL AUTHORITY.—The Administrator may make grants enter into contracts, leases, or cooperative agreements as may be necessary to carry out the purposes of this section on such terms as the Administrator considers appropriate, consistent with Federal acquisition regulations.

“(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section \$17,000,000 for each of fiscal years 2022 through 2026.

“(h) DEFINITIONS.—In this section and section 50701:

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

“(2) CORE FORAGING HABITATS.—The term ‘core foraging habitats’ means areas with biological and physical oceanographic features that aggregate Calanus finmarchicus and where North Atlantic right whales foraging aggregations have been well documented.

“(3) NEAR REAL-TIME.—The term ‘near real-time’ means detected activity that is visual, acoustic, or in any other form, of North Atlantic right whales that are transmitted and reported as soon as technically feasible after such detected activity has occurred.

“(4) LARGE WHALE.—The term ‘large whale’ means all Mysticeti species and species within the genera *Physeter* and *Orcinus*.”

(2) CLERICAL AMENDMENT.—The table of chapters for subtitle V of title 46, United States Code is amended by adding after the item related to chapter 505 the following:

“507. Monitoring and Mitigation ..... 50701”.

SEC. 419. MANNING AND CREWING REQUIREMENTS FOR CERTAIN VESSELS, VEHICLES, AND STRUCTURES.

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

**“§ 8108. Exemptions from manning and crew requirements**

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

“(1) a citizen of the United States;

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

or

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

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

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

“(1) shall provide that the number of individuals manning or crewing the covered facility who are described in paragraphs (2) and (3) of subsection (a) may

not exceed two and one-half times the number of individuals required to man or crew the covered facility under the laws of the nation under the laws of which the covered facility is documented; and

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

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

“(e) REVOCATION.—

“(1) IN GENERAL.—The Secretary—

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

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

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

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

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

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

or

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

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

“(i) DEFINITIONS.—In this section:

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

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

(b) ANNUAL REPORT.—

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

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

(A) the name and International Maritime Organization number;

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

(C) the nationality of owner or owners; and

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

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

(d) EXISTING EXEMPTIONS.—

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

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

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

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

“8108. Exemptions from manning and crew requirements.”.

## **TITLE V—SEXUAL ASSAULT AND SEXUAL HARASSMENT PREVENTION AND RESPONSE**

### **SEC. 501. DEFINITIONS.**

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

(1) by redesignating paragraphs (45) through (54) as paragraphs (47) through (56), respectively; and

(2) by inserting after paragraph (44) the following:

“(45) ‘sexual assault’ means any form of abuse or contact as defined in chapter 109A of title 18, or a substantially similar State, local, or Tribal offense.

“(46) ‘sexual harassment’ means—

“(A) conduct that—

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

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

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

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

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

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

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

“(C) any deliberate or repeated unwelcome verbal comment or gesture of a sexual nature by any fellow employee of the complainant.”.

(b) REPORT.—The Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing any changes the Commandant may propose to the definitions added by the amendments in subsection (a).

### **SEC. 502. CONVICTED SEX OFFENDER AS GROUNDS FOR DENIAL.**

(a) IN GENERAL.—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

#### **“§ 7511. Convicted sex offender as grounds for denial**

“(a) SEXUAL ABUSE.—A license, certificate of registry, or merchant mariner’s document authorized to be issued under this part shall be denied to an individual who has been convicted of a sexual offense prohibited under chapter 109A of title 18, except for subsection (b) of section 2244 of title 18, or a substantially similar State, local, or Tribal offense.

“(b) ABUSIVE SEXUAL CONTACT.—A license, certificate of registry, or merchant mariner’s document authorized to be issued under this part may be denied to an

individual who within 5 years before applying for the license, certificate, or document, has been convicted of a sexual offense prohibited under subsection (b) of section 2244 of title 18, or a substantially similar State, local, or Tribal offense.”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 75 of title 46, United States Code, is amended by adding at the end the following:

“7511. Convicted sex offender as grounds for denial.”.

**SEC. 503. SEXUAL HARASSMENT OR SEXUAL ASSAULT AS GROUNDS FOR SUSPENSION OR REVOCATION.**

(a) IN GENERAL.—Chapter 77 of title 46, United States Code, is amended by inserting after section 7704 the following:

**“§ 7704a. Sexual harassment or sexual assault as grounds for suspension or revocation**

“(a) SEXUAL HARASSMENT.—If it is shown at a hearing under this chapter that a holder of a license, certificate of registry, or merchant mariner’s document issued under this part, within 5 years before the beginning of the suspension and revocation proceedings, is the subject of an official finding of sexual harassment, then the license, certificate of registry, or merchant mariner’s document may be suspended or revoked.

“(b) SEXUAL ASSAULT.—If it is shown at a hearing under this chapter that a holder of a license, certificate of registry, or merchant mariner’s document issued under this part, within 10 years before the beginning of the suspension and revocation proceedings, is the subject of an official finding of sexual assault, then the license, certificate of registry, or merchant mariner’s document shall be revoked.

“(c) OFFICIAL FINDING.—

“(1) IN GENERAL.—In this section, the term ‘official finding’ means—

“(A) a legal proceeding or agency finding or decision that determines the individual committed sexual harassment or sexual assault in violation of any Federal, State, local, or Tribal law or regulation; or

“(B) a determination after an investigation by the Coast Guard that, by a preponderance of the evidence, the individual committed sexual harassment or sexual assault if the investigation affords appropriate due process rights to the subject of the investigation.

“(2) INVESTIGATION BY THE COAST GUARD.—An investigation by the Coast Guard under paragraph (1)(B) shall include, at a minimum, evaluation of the following materials that, upon request, shall be provided to the Coast Guard:

“(A) Any inquiry or determination made by the employer or former employer of the individual as to whether the individual committed sexual harassment or sexual assault.

“(B) Any investigative materials, documents, records, or files in the possession of an employer or former employer of the individual that are related to the claim of sexual harassment or sexual assault by the individual.

“(3) ADMINISTRATIVE LAW JUDGE REVIEW.—

“(A) COAST GUARD INVESTIGATION.—A determination under paragraph (1)(B) shall be reviewed and affirmed by an administrative law judge within the same proceeding as any suspension or revocation of a license, certificate of registry, or merchant mariner’s document under subsection (a) or (b).

“(B) LEGAL PROCEEDING.—A determination under paragraph (1)(A) that an individual committed sexual harassment or sexual assault is conclusive in suspension and revocation proceedings.”.

(b) CLERICAL AMENDMENT.—The chapter analysis of chapter 77 of title 46, United States Code, is amended by inserting after the item relating to section 7704 the following:

“7704a. Sexual harassment or sexual assault as grounds for suspension or revocation.”.

**SEC. 504. ACCOMMODATION; NOTICES.**

Section 11101 of title 46, United States Code, is amended—

(1) in subsection (a)(3), by striking “and” at the end;

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

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

“(5) each crew berthing area shall be equipped with information regarding—

“(A) vessel owner or company policies prohibiting sexual assault and sexual harassment, retaliation, and drug and alcohol usage; and

“(B) procedures and resources to report crimes, including sexual assault and sexual harassment, including information—

“(i) on the contact information, website address, and mobile application to the Coast Guard Investigative Services for reporting of crimes and the Coast Guard National Command Center;

“(ii) on vessel owner or company procedures to report violations of company policy and access resources;

“(iii) on resources provided by outside organizations such as sexual assault hotlines and counseling;

“(iv) on the retention period for surveillance video recording after an incident of sexual harassment or sexual assault is reported; and

“(v) additional items specified in regulations issued by, and at the discretion of, the Secretary of the department in which the Coast Guard is operating.”; and

(4) in subsection (d), by adding at the end the following: “In each washing space in a visible location there shall be information regarding procedures and resources to report crimes upon the vessel, including sexual assault and sexual harassment, and vessel owner or company policies prohibiting sexual assault and sexual harassment, retaliation, and drug and alcohol usage.”.

**SEC. 505. PROTECTION AGAINST DISCRIMINATION.**

Section 2114(a)(1) of title 46, United States Code, is amended—

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

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

“(B) the seaman in good faith has reported or is about to report to the vessel owner, Coast Guard or other appropriate Federal agency or department sexual harassment or sexual assault against the seaman or knowledge of sexual harassment or sexual assault against another seaman;”.

**SEC. 506. ALCOHOL PROHIBITION.**

(a) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall, taking into account the safety and security of every individual on documented vessels, issue such regulations as are necessary relating to alcohol consumption on documented vessels, according to the following requirements:

(A) The Secretary shall determine safe levels of alcohol consumption by crewmembers aboard documented vessels engaged in commercial service.

(B) If the Secretary determines there is no alcohol policy that can be implemented to ensure a safe environment for crew and passengers, the Secretary shall implement a prohibition on possession and consumption of alcohol by crewmembers while aboard a vessel, except when possession is associated with the commercial sale or gift to non-crew members aboard the vessel.

(2) IMMUNITY FROM CIVIL LIABILITY.—Any crewmember who reports an incident of sexual assault or sexual harassment that is directly related to a violation of the regulations issued under paragraph (1) is immune from civil liability for any related violation of such regulations.

**SEC. 507. SURVEILLANCE REQUIREMENTS.**

(a) IN GENERAL.—Part B of subtitle II of title 46, United States Code, is amended by adding at the end the following:

**“CHAPTER 49—OCEANGOING NON-PASSENGER COMMERCIAL VESSELS**

“Sec.  
“4901. Surveillance requirements.

**“§ 4901. Surveillance requirements**

“(a) IN GENERAL.—A vessel engaged in commercial service that does not carry passengers, shall maintain a video surveillance system.

“(b) APPLICABILITY.—The requirements in this section shall apply to—

“(1) documented vessels with overnight accommodations for at least 10 persons on board—

“(A) is on a voyage of at least 600 miles and crosses seaward of the Boundary Line; or

“(B) is at least 24 meters (79 feet) in overall length and required to have a load line under chapter 51;

“(2) documented vessels of at least 500 gross tons as measured under section 14502, or an alternate tonnage measured under section 14302 as prescribed by the Secretary under section 14104 on an international voyage; and

“(3) vessels with overnight accommodations for at least 10 persons on board that are operating for no less than 72 hours on waters superjacent to the Outer Continental Shelf.

“(c) PLACEMENT OF VIDEO AND AUDIO SURVEILLANCE EQUIPMENT.—



“(1) IN GENERAL.—The owner of a vessel to which this section applies shall install video and audio surveillance equipment aboard the vessel not later than 2 years after enactment of the Coast Guard Authorization Act of 2022, or during the next scheduled drydock, whichever is later.

“(2) LOCATIONS.—Video and audio surveillance equipment shall be placed in passageways on to which doors from staterooms open. Such equipment shall be placed in a manner ensuring the visibility of every door in each such passageway.

“(d) NOTICE OF VIDEO AND AUDIO SURVEILLANCE.—The owner of a vessel to which this section applies shall provide clear and conspicuous signs on board the vessel notifying the crew of the presence of video and audio surveillance equipment.

“(e) ACCESS TO VIDEO AND AUDIO RECORDS.—

“(1) IN GENERAL.—The owner of a vessel to which this section applies shall provide to any Federal, state, or other law enforcement official performing official duties in the course and scope of a criminal or marine safety investigation, upon request, a copy of all records of video and audio surveillance that the official believes is relevant to the investigation.

“(2) CIVIL ACTIONS.—Except as proscribed by law enforcement authorities or court order, the owner of a vessel to which this section applies shall, upon written request, provide to any individual or the individual’s legal representative a copy of all records of video and audio surveillance—

“(A) in which the individual is a subject of the video and audio surveillance;

“(B) the request is in conjunction with a legal proceeding or investigation; and

“(C) that may provide evidence of any sexual harassment or sexual assault incident in a civil action.

“(3) LIMITED ACCESS.—The owner of a vessel to which this section applies shall ensure that access to records of video and audio surveillance is limited to the purposes described in this paragraph and not used as part of a labor action against a crew member or employment dispute unless used in a criminal or civil action.

“(f) RETENTION REQUIREMENTS.—The owner of a vessel to which this section applies shall retain all records of audio and video surveillance for not less than 150 days after the footage is obtained. Any video and audio surveillance found to be associated with an alleged incident should be preserved for not less than 4 years from the date of the alleged incident. The Federal Bureau of Investigation and the Coast Guard are authorized access to all records of video and audio surveillance relevant to an investigation into criminal conduct.

“(g) DEFINITION.—In this section, the term ‘owner’ means the owner, charterer, managing operator, master, or other individual in charge of a vessel.

“(h) EXEMPTION.—Fishing vessels, fish processing vessels, and fish tender vessels are exempt from this section.”

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle II of title 46, United States Code, is amended by adding after the item related to chapter 47 the following:

“49. **Oceangoing Non-Passenger Commercial Vessels** ..... 4901”.

**SEC. 508. MASTER KEY CONTROL.**

(a) IN GENERAL.—Chapter 31 of title 46, United States Code, is amended by adding at the end the following:

**“§ 3106. Master key control system**

“(a) IN GENERAL.—The owner of a vessel subject to inspection under section 3301 shall—

“(1) ensure that such vessel is equipped with a vessel master key control system, manual or electronic, which provides controlled access to all copies of the vessel’s master key of which access shall only be available to the individuals described in paragraph (2);

“(2) establish a list of all crew, identified by position, allowed to access and use the master key and maintain such list upon the vessel, within owner records and included in the vessel safety management system;

“(3) record in a log book, located in a centralized location that is readily accessible to law enforcement personnel, information on all access and use of the vessel’s master key; and

“(4) make the list under paragraph (2) and the log book under paragraph (3) available upon request to any agent of the Federal Bureau of Investigation, any member of the Coast Guard, and any law enforcement officer performing official duties in the course and scope of an investigation.

“(b) PROHIBITED USE.—Crew not included on the list described in subsection (a)(2) shall not have access to or use the master key unless in an emergency and shall immediately notify the master and owner of the vessel following use of such key.

“(c) REQUIREMENTS FOR LOG BOOK.—The log book described in subsection (a)(3)—

“(1) may be—

“(A) electronic; and

“(B) included in the vessel safety management system; and

“(2) shall include—

“(A) dates and times of access;

“(B) the room or location accessed; and

“(C) the name and rank of the crew member that used the master key.

“(d) PENALTY.—Any crew member who uses the master key without having been granted access pursuant to subsection (a)(2) shall be liable to the United States Government for a civil penalty of not more than \$1,000 and may be subject to suspension or revocation under section 7703.

“(e) EXEMPTION.—This section shall not apply to vessels subject to section 3507(f).”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 31 of title 46, United States Code, is amended by adding at the end the following:

“3106. Master key control system.”.

**SEC. 509. SAFETY MANAGEMENT SYSTEMS.**

Section 3203 of title 46, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating paragraphs (5) and (6) as paragraphs (7) and (8);

and

(B) by inserting after paragraph (4) the following:

“(5) with respect to sexual harassment and sexual assault, procedures for, and annual training requirements for all shipboard personnel on—

“(A) prevention;

“(B) bystander intervention;

“(C) reporting;

“(D) response; and

“(E) investigation;

“(6) the log book required under section 3106;”;

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

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

“(b) PROCEDURES AND TRAINING REQUIREMENTS.—In prescribing regulations for the procedures and training requirements described in subsection (a)(5), such procedures and requirements shall be consistent with the requirements to report sexual harassment or sexual assault under section 10104.”.

**SEC. 510. REQUIREMENT TO REPORT SEXUAL ASSAULT AND HARASSMENT.**

Section 10104 of title 46, United States Code, is amended by striking subsections (a) and (b) and inserting the following:

“(a) MANDATORY REPORTING BY CREW MEMBER.—

“(1) IN GENERAL.—A crew member of a documented vessel shall report to the Secretary any complaint or incident of sexual harassment or sexual assault of which the crewmember has first-hand or personal knowledge.

“(2) PENALTY.—A crew member with first-hand or personal knowledge of a sexual assault or sexual harassment incident on a documented vessel who knowingly fails to report in compliance with paragraph (a)(1) is liable to the United States Government for a civil penalty of not more than \$5,000.

“(3) AMNESTY.—A crew member who fails to make the required reporting under paragraph (1) shall not be subject to the penalty described in paragraph (2) if the complaint is shared in confidence with the crew member directly from the assaulted individual or the crew member is a victim advocate as defined in section 40002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (34 U.S.C. 12291(a)).

“(b) MANDATORY REPORTING BY VESSEL OWNER.—

“(1) IN GENERAL.—A vessel owner or managing operator of a documented vessel or the employer of a seafarer on that vessel shall report to the Secretary any complaint or incident of harassment, sexual harassment, or sexual assault in violation of employer policy or law, of which such vessel owner or managing operator of a vessel engaged in commercial service, or the employer of the seafarer is made aware. Such reporting shall include results of any investigation into the incident, if applicable, and any action taken against the offending crewmember.

“(2) PENALTY.—A vessel owner or managing operator of a vessel engaged in commercial service, or the employer of a seafarer on that vessel who knowingly fails to report in compliance with paragraph (1) is liable to the United States Government for a civil penalty of not more than \$25,000.

“(c) REPORTING PROCEDURES.—

“(1) A report required under subsection (a) shall be made as soon as practicable, but no later than 10 days after the individual develops first-hand or personal knowledge of the sexual assault or sexual harassment incident to the Coast Guard National Command Center by the fastest telecommunication channel available.

“(2) A report required under subsection (b) shall be made immediately after the vessel owner, managing operator, or employer of the seafarer gains knowledge of a sexual assault or sexual harassment incident by the fastest telecommunication channel available, and such report shall be made to the Coast Guard National Command Center—

“(A) the nearest Coast Guard Captain of the Port; or

“(B) the appropriate officer or agency of the government of the country in whose waters the incident occurs.

“(3) A report required under subsections (a) and (b) shall include, to the best of the reporter’s knowledge—

“(A) the name, official position or role in relation to the vessel, and contact information of the individual making the report;

“(B) the name and official number of the documented vessel;

“(C) the time and date of the incident;

“(D) the geographic position or location of the vessel when the incident occurred; and

“(E) a brief description of the alleged sexual harassment or sexual assault being reported.

“(4) After receipt of the report made under this subsection, the Coast Guard will collect information related to the identity of each alleged victim, alleged perpetrator, and witness through means designed to protect, to the extent practicable, the personal identifiable information of such individuals.

“(d) REGULATIONS.—The requirements of this section are effective as of the date of enactment of Coast Guard Authorization Act of 2022. The Secretary may issue additional regulations to implement the requirements of this section.”.

**SEC. 511. CIVIL ACTIONS FOR PERSONAL INJURY OR DEATH OF SEAMEN.**

(a) PERSONAL INJURY TO OR DEATH OF SEAMEN.—Section 30104(a) of title 46, United States Code, as so designated by section 405(a)(1), is amended by inserting “, including an injury resulting from sexual assault or sexual harassment,” after “in the course of employment”.

(b) TIME LIMIT ON BRINGING MARITIME ACTION.—Section 30106 of title 46, United States Code, is amended—

(1) in the section heading by striking “**for personal injury or death**”;

(2) by striking “Except as otherwise” and inserting the following:

“(a) IN GENERAL.—Except as otherwise”; and

(3) by adding at the end the following:

“(b) EXTENSION FOR SEXUAL OFFENSE.—A civil action under subsection (a) arising out of a maritime tort for a claim of sexual harassment or sexual assault shall be brought not more than 5 years after the cause of action for a claim of sexual harassment or sexual assault arose.”.

(c) CLERICAL AMENDMENT.—The analysis for chapter 301 of title 46, United States Code, is amended by striking the item related to section 30106 and inserting the following:

“30106. Time limit on bringing maritime action.”.

**SEC. 512. ADMINISTRATION OF SEXUAL ASSAULT FORENSIC EXAMINATION KITS.**

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

**“§ 564. Administration of sexual assault forensic examination kits**

“(a) REQUIREMENT.—A Coast Guard vessel that embarks on a covered voyage shall be—

“(1) equipped with no less than 2 sexual assault and forensic examination kits; and

“(2) staffed with at least 1 medical professional qualified and trained to administer such kits.

“(b) COVERED VOYAGE DEFINED.—In this section, the term ‘covered voyage’ means a prescheduled voyage of a Coast Guard vessel that, at any point during such voyage—

“(1) would require the vessel to travel 5 consecutive days or longer at 20 knots per hour to reach a land-based or afloat medical facility; and

“(2) aeromedical evacuation will be unavailable during the travel period referenced in paragraph (1).”.

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

“564. Administration of sexual assault forensic examination kits.”.

## TITLE VI—TECHNICAL, CONFORMING, AND CLARIFYING AMENDMENTS

### SEC. 601. TECHNICAL CORRECTIONS.

(a) Section 319(b) of title 14, United States Code, is amended by striking “section 331 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note)” and inserting “section 44801 of title 49”.

(b) Section 1156(c) of title 14, United States Code, is amended by striking “section 331 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note)” and inserting “section 44801 of title 49”.

### SEC. 602. TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL TECHNICAL AMENDMENTS.

(a) IN GENERAL.—Section 70105 of title 46, United States Code, is amended—

(1) in the section heading by striking “**security cards**” and inserting “**worker identification credentials**”;

(2) by striking “transportation security card” each place it appears and inserting “transportation worker identification credential”;

(3) by striking “transportation security cards” each place it appears and inserting “transportation worker identification credentials”;

(4) by striking “card” each place it appears and inserting “credential”

(5) in the heading for subsection (b) by striking “CARDS” and inserting “CREDENTIALS”;

(6) by striking subsection (i) and redesignating subsections (j) and (k) as subsections (i) and (j), respectively;

(7) by striking subsection (l) and redesignating subsections (m) through (q) as subsections (k) through (o), respectively;

(8) in subsection (j), as so redesignated—

(A) in the subsection heading by striking “SECURITY CARD” and inserting “WORKER IDENTIFICATION CREDENTIAL”; and

(B) in the heading for paragraph (2) by striking “SECURITY CARDS” and inserting “WORKER IDENTIFICATION CREDENTIAL”;

(9) in subsection (k)(1), as so redesignated, by striking “subsection (k)(3)” and inserting “subsection (j)(3)”; and

(10) in subsection (o), as so redesignated—

(A) in the subsection heading by striking “SECURITY CARD” and inserting “WORKER IDENTIFICATION CREDENTIAL”;

(B) in paragraph (1)—

(i) by striking “subsection (k)(3)” and inserting “subsection (j)(3)”; and

(ii) by striking “This plan shall” and inserting “Such receipt and activation shall”; and

(C) in paragraph (2) by striking “on-site activation capability” and inserting “on-site receipt and activation of transportation worker identification credentials”.

(b) CLERICAL AMENDMENT.—The analysis for chapter 701 of title 46, United States Code, is amended by striking the item related to section 70105 and inserting the following:

“70105. Transportation worker identification credentials.”.

### SEC. 603. REINSTATEMENT.

(a) REINSTATEMENT.—The text of section 12(a) of the Act of June 21, 1940 (33 U.S.C. 522(a)), popularly known as the Truman-Hobbs Act, is—

(1) reinstated as it appeared on the day before the date of enactment of section 8507(b) of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (Public Law 116–283); and

(2) redesignated as the sole text of section 12 of the Act of June 21, 1940 (33 U.S.C. 522).

(b) EFFECTIVE DATE.—The provision reinstated by subsection (a) shall be treated as if such section 8507(b) had never taken effect.

(c) CONFORMING AMENDMENT.—The provision reinstated under subsection (a) is amended by striking “, except to the extent provided in this section”.

#### PURPOSE OF LEGISLATION

The purpose of H.R. 6865, as amended, is to authorize \$12.8 billion in discretionary funding for the United States Coast Guard (hereinafter Coast Guard or Service) in fiscal year 2022 and \$13.9 billion in fiscal year 2023, setting aside \$585 million for improvements to Coast Guard shoreside infrastructure and facilities. The bill also authorizes \$510 million for the acquisition of a twelfth National Security Cutter and three Fast Response Cutters, \$350 million for the acquisition of a Great Lakes icebreaker in fiscal year 2022, and \$20 million in fiscal year 2023 for icebreaking cutters for operation in the Great Lakes, Northeastern United States, and the Arctic. The bill reauthorizes the end-of-year strength of 44,500 active-duty personnel and gradually increases the number of commissioned officers on the active-duty promotion list to 7,400 by fiscal year 2025. Further, H.R. 6865, as amended, allows the Secretary of Homeland Security to increase the authorized end strength of the Coast Guard Selected Reserves by up to 3 percent and the Commandant by up to 2 percent of the existing end strength per fiscal year. Finally, the bill makes reforms to Coast Guard authorities and laws governing shipping and navigation.

#### BACKGROUND AND NEED FOR LEGISLATION

##### *Coast Guard*

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

Under Section 102 of Title 14, United States Code, the Coast Guard has primary responsibility to enforce or assist in the enforcement of all applicable federal laws in, under, and over the high seas and waters subject to the jurisdiction of the United States; to ensure safety of life and property at sea; to protect the marine environment; to carry out icebreaking activities; and to ensure the safety and security of vessels, ports, waterways, and related facilities.

As one of the six Armed Services, the Coast Guard also maintains defense readiness and may be called upon to operate as a specialized service in the Navy upon the declaration of war or when the President directs. The Coast Guard is composed of approximately 40,000 active-duty military members, 6,200 reservists, and 8,700 civilian employees. The Coast Guard, or its predecessors, have defended the nation in every war since 1790.

In fiscal year 2020, the Coast Guard responded to over 16,800 search and rescue cases, saving nearly 4,300 lives. Additionally, the Coast Guard conducted over 7,900 boardings of vessels entering American ports, screened nearly 103,000 commercial vessels entering American ports for potential security threats, maintained over

45,000 aids to navigation, and detained 456 suspected smugglers carrying 318,340 pounds of cocaine.<sup>1</sup>

H.R. 6865, as amended, authorizes the Coast Guard for the next two years at fiscally responsible levels to continue carrying out these missions, with the aid of additional afloat assets, and targeted funding to improve the Coast Guard's crumbling shoreside infrastructure and facilities.

Pursuant to section 8101 of the *Elijah E. Cummings Coast Guard Authorization Act of 2020* (Public Law 116–283), Coast Guard operational activities were authorized at \$8.39 billion for fiscal year 2021. H.R. 6865, as amended, authorizes an 11 percent increase for Coast Guard operational activities at \$9.28 billion in fiscal year 2022 and \$10.21 billion in fiscal year 2023.

#### *Investments in the Coast Guard*

The Coast Guard has endured chronic underfunding for many years. As the Commandant of the Coast Guard, Admiral Karl Schultz, remarked, “Every mission begins and ends at a Coast Guard facility.”<sup>2</sup> Yet, every day the men and women of the Coast Guard are forced to work out of crumbling facilities. The Coast Guard's sole accession point for its enlisted workforce, Training Center Cape May in Cape May, New Jersey, houses recruits in antiquated barracks facing rapid deterioration. The impacts from extreme weather events have only exacerbated the vulnerability of Coast Guard mission critical infrastructure. The Coast Guard has an estimated \$3 billion backlog in deferred or overdue maintenance, repair, and recapitalization work for its housing and shoreside infrastructure. The Government Accountability Office (GAO) found that nearly 45 percent of the Service's shore infrastructure assets are beyond their 65-year service life.<sup>3</sup> Given the sheer number of structures past their projected service life and their location in salt air, high wind, and marine environments, facilities have fallen into disrepair and are in critical condition, pose public health hazards, or have been condemned altogether. The Coast Guard owns or leases more than 20,000 shore facilities, such as piers, docks, boat stations, air stations, and housing units at more than 2,700 locations. Without adequate funding, excessive deterioration of these facilities jeopardizes Coast Guard mission readiness and operational capability. Admiral Schultz noted, “Every day we continue to operate with antiquated infrastructure, it gets harder to protect our modern maritime economy, harder to save those in peril, harder to attract talented men and women into our ranks and, ultimately, harder to defend the nation.”<sup>4</sup> H.R. 6865, as amended, begins to chip away at the excessive \$3 billion infrastructure backlog by authorizing \$350 million for each fiscal year (2022 and 2023) to improve Coast Guard shoreside infrastructure, the

<sup>1</sup>United States Coast Guard. *Fiscal Year 2020 Annual Performance Report*. [https://www.uscg.mil/Portals/0/documents/budget/FY\\_2020\\_USCG\\_APR\\_Final-V3-dtd-3-16-2021.pdf?ver=2021-03-15-113137-970](https://www.uscg.mil/Portals/0/documents/budget/FY_2020_USCG_APR_Final-V3-dtd-3-16-2021.pdf?ver=2021-03-15-113137-970).

<sup>2</sup>Mike Gooding, “USCG Commandant says infrastructure ‘antiquated’ and ‘crumbling,’” 13NewsNow, February 20, 2020, available at <https://www.13newsnow.com/article/news/national/military-news/uscg-commandant-says-infrastructure-antiquated-and-crumbling/291-80c90197-1e82-4ecd-92f7-c6a9b07f954a>.

<sup>3</sup>GAO. *Coast Guard Shore Infrastructure. Applying Leading Practices Could Help Better Manage Project Backlogs of At Least \$2.6 Billion*. GAO-19-82. <https://www.gao.gov/assets/gao-19-82.pdf>.

<sup>4</sup>Supra note 2.

minimum amount estimated to be necessary to mitigate further increases in the maintenance and construction backlog.

Additionally, H.R. 6865, as amended, dedicates \$175 million to repair the facilities at the Coast Guard Yard (hereafter, the Yard) in Baltimore, Maryland. For over a century, Coast Guard vessels have been built, repaired, and renovated in the Yard. As one of only five remaining public shipyards in the United States, the Yard provides a unique capability to support the Coast Guard and the National Fleet, including the National Oceanic and Atmospheric Administration, the Navy, the Army, and other government agencies. It is an essential component of the core industrial base and fleet support operations of the Coast Guard with a primary mission of renovating, maintaining, and repairing Coast Guard vessels. Nearly all of the waterfront and utility infrastructure was built during World War II, as a result, the Yard is currently experiencing rapid and widespread failure of critical infrastructure. Moreover, the Coast Guard's recapitalization of its surface fleet makes the Yard incapable of organically servicing every class of cutters now in the Coast Guard fleet, warranting investment to its infrastructure.

H.R. 6865, as amended, also calls for the Coast Guard to begin including a dedicated line item in its budget submission for expenditures related to supporting defense missions and activities. The Coast Guard receives significantly less funding than that of its sister services and currently, the Committee, as the oversight authority, has no visibility into the extent of expenses the Coast Guard incurs through supporting the Department of Defense's (hereafter, DoD) national security operations and activities. Its statutory designation as an Armed Force compels the Coast Guard to exercise defense readiness, but the Service also has law enforcement, marine safety, environmental stewardship, and port security functions to perform. An appropriate accounting is necessary to give the Committee a lens into the monetary contributions the Coast Guard makes to DoD missions.

Acknowledging that the Coast Guard's greatest assets are its people, H.R. 6865, as amended, includes legislation to allow the Commandant to retain officers above grade O-2 who possess a critical skill or specialty needed for the Service. This grants the Coast Guard the same authority as the DoD so that members providing a critical and unique skill to the Service are not forced into retirement. Further, it adds 500 more commissioned officers to the active-duty promotion list over the next three years. As the Coast Guard prepares for expanded mission activities in the polar regions and the cyber domain, and edges closer to replacing its legacy fleet, the Committee finds that an increase in officer billets is necessary. The Committee also believes the health, including mental health, of each member of the Coast Guard is paramount, not only for national security objectives, but also because the Committee has a sincere interest in taking care of the nation's military servicemembers. Coast Guard members perform high risk, stressful duties in the face of perilous, and often, demoralizing conditions. When the pressure becomes exceptionally overwhelming, they risk behavioral or mental health conditions that could jeopardize their continued service on active duty with the threat of a medical separation. The Committee recognizes that individuals who receive

treatment for behavioral health conditions experience improved concentration, enhanced creativity, reduced absenteeism, increased productivity, and better overall performance. It is the Committee’s position that after treatment, many members of the Coast Guard should be allowed to resume service in the Coast Guard if they are able to do so without persistent duty modifications and do not pose a risk to themselves or other members of the Coast Guard. Included in H.R. 6865, as amended, is a provision to address this concern so that the Coast Guard implements a behavioral health policy that is on par with comparable DoD policy. This provision was originally proposed by the late Congressman Don Young.

The Committee recognizes that the Coast Guard has struggled with diversifying its workforce despite well intentioned efforts. Historically, the Service has included low proportions of people from underrepresented groups (women and members of racial and ethnic minority groups) compared to the country’s overall population numbers for these same groups. A study conducted by the RAND Corporation revealed that representation from these groups declines as rank increases, “ultimately resulting in a less diverse senior leadership.”<sup>5</sup> For instance, although women make up 33 percent of the O–1 officer rank, they are just 11 percent of the O–6 rank, and 14 percent of flag officers (rank of Rear Admiral and above). Furthermore, the study identified that black officers had higher rates of separation than white officers due to not being selected for promotion. This bill mandates implementation of the recommendations made in the RAND report titled “Improving the Representation of Women and Racial/Ethnic Minorities Among U.S. Coast Guard Active-Duty Members” with which the Commandant concurs.<sup>6</sup> The Committee believes recommendations such as developing a long-term strategic plan for outreach to, and the deliberate career development of, underrepresented minority groups could go a long way in achieving a more diverse Coast Guard in the future.

### *Maritime Transportation*

The maritime transportation system (hereinafter, MTS) is a key contributor to commerce and essential to the economic health and prosperity of the United States. The past two years demonstrated the fragility of not only the U.S. supply chain, but the supply chain worldwide. Modernizing the operations of the MTS is more important than ever in the wake of the global COVID–19 pandemic and its associated supply chain crisis, and following calls to decarbonize the shipping industry within the next 30 years. The Committee is committed to supporting the MTS and growing our shipbuilding industry. In this regard, the bill expands eligibility for the Federal Ship Financing Program (Title XI) to include any retrofitting, repair, or similar work in shipyards located in the United States for U.S. flagged vessels. It also broadens eligibility for the Capital Construction Fund to include passenger ferries so that they can start benefiting from this special tax-exempt domestic shipbuilding program.

<sup>5</sup>RAND Corporation. *Improving the Representation of Women and Racial/Ethnic Minorities Among U.S. Coast Guard Active-Duty Members*. RR-A362-2. [https://www.rand.org/pubs/research\\_reports/RRA362-2.html](https://www.rand.org/pubs/research_reports/RRA362-2.html).

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



H.R. 6865, as amended, further supports U.S. maritime industry by ensuring that all vessels operating in the United States' territorial waters are manned by either U.S. crew or crew of the nation of which the vessel is flagged. As the nation aspires to reduce its dependence on fossil fuels and invest in more renewable forms of energy, such as wind or solar, the Committee is keenly interested in protecting American workers involved in the installation and maintenance of offshore infrastructure. The Biden Administration seeks to deploy 30 gigawatts of offshore wind energy by 2030.<sup>7</sup> This initiative necessitates increasing offshore wind supply vessels to manage and work the offshore wind projects. The Outer Continental Shelf Lands Act (43 U.S.C. 1301, et seq.) requires vessels operating in the Outer Continental Shelf to be manned by U.S. citizens or permanent resident aliens, or if the vessel is foreign owned, by U.S. citizens or permanent resident aliens or by crew allowed under the flag state's national manning plan. However, it is the Committee's position that such an exemption poses a risk to energy independence and national and economic security and harms our merchant marine workforce. By requiring that foreign flagged vessels operating in U.S. waters be manned by U.S. crew or crew of the flag nation, H.R. 6865, as amended, will level the playing field for American mariners in U.S. waters.

The Committee closely monitored the oil spill on the California coastline near Long Beach in the fall of 2021. The San Pedro Bay Pipeline, a 17-mile long and 16-inch thick pipeline that begins at Elly Platform, released an estimated 24,696 gallons of crude oil into the Pacific Ocean.<sup>8</sup> Oil spills are notoriously detrimental to the environment, animal habitats, marine life, and to the health, safety, and economy of the local communities impacted by the spill. Cleanup efforts for this oil spill resulted in a total of 9,000 gallons of oil recovered on water, 478,000 pounds of oil/sand debris recovered onshore, 110 cumulative miles of shoreline cleaned, and 24 oiled birds cleaned and released to their natural habitat. An initial assessment determined the spill originated from a 13-inch crack discovered in the pipeline by a remotely operated vehicle. Although still under investigation, the crack is believed to have been caused by a vessel anchor strike during a heavy weather event that impacted the San Pedro Shelf approximately 10 months earlier.<sup>9</sup> Committed to safeguarding our shorelines from another oil spill catastrophe, the Committee revised the vessel anchoring laws in H.R. 6865, as amended, so that vessels are proscribed from anchoring within a specified distance to an undersea pipeline or cable unless permitted by the Captain of the Port and must maintain anchor alarms that will notify the vessel operator if its anchor starts drifting.

### *Vessel Safety*

Recent maritime casualties have led to calls for reform to the small passenger vessel safety regime. On September 2, 2019, 34

<sup>7</sup>The White House, Office of the Press Secretary. *FACT SHEET: Biden Administration Jumpstarts Offshore Wind Energy Projects to Create Jobs*. March 29, 2021. <https://www.whitehouse.gov/briefing-room/statements-releases/2021/03/29/fact-sheet-biden-administration-jumpstarts-offshore-wind-energy-projects-to-create-jobs/>.

<sup>8</sup>California Department of Fish and Wildlife. *Pipeline P00547*. <https://wildlife.ca.gov/OSPR/NRDA/Pipeline-P00547>.

<sup>9</sup>Information obtained from the United States Coast Guard.

lives were lost when the small passenger vessel MV CONCEPTION dive boat caught fire and eventually sank off the coast of Santa Cruz Island, California. An investigation and report provided by the National Transportation Safety Board (hereafter, NTSB) could not identify the exact cause of the ignition source for the fire but attributed the maritime disaster to the failure to implement a number of safety precautions, the implementation of any one of which could have prevented or mitigated loss of life.<sup>10</sup> It was one of the deadliest maritime incidents in modern history. The NTSB issued several safety recommendations related to small passenger vessels, and at the direction of the *Elijah E. Cummings Coast Guard Authorization Act of 2020*, the Coast Guard promulgated interim regulations on fire safety for such vessels. Families of the victims attempting to recover for their loss found such claims were subject to the Limitation of Liability Act of 1851 (46 U.S.C. 30501, et seq.) which limits recovery of damages from liable vessel owners to the value of the vessel post-accident. In this case, dive boat CONCEPTION was valued at a total loss after the fire, leaving the families with no potential recompense from the owners. To ensure future victims have an avenue for recovery in similar incidents, H.R. 6865, as amended, eliminates the exemption from the Limitation of Liability Act for certain small passenger vessels.

Furthermore, H.R. 6865, as amended, instructs the Coast Guard to implement safety requirements for DUKW-type amphibious passenger vessels to prevent future accidents like the 2018 sinking of the *Stretch Duck 7* in Table Rock Lake, Branson, Missouri where 17 lives were lost, including four children. All victims drowned after a violent windstorm capsized the 33-foot long, modified WWII vessel causing it to sink. Although the National Weather Service had issued a severe thunderstorm warning for the area, the vessel embarked on the waterborne portion of a two-part tour. Within five minutes of entering the water the storm intensified, generating waves reportedly as much as five feet high and wind gusts recorded at 73 mph. Passengers scrambled to don life jackets and escape over the side of the vessel, but found themselves trapped by the large canopy that hung overhead. Just four minutes after the storm began, the vessel sank. Two other DUKW boat casualty incidents in the U.S., the *Miss Majestic* in 1999 and *DUKW 34* in 2010 claimed the lives of 15 passengers. Both were of similar design to the *Stretch Duck 7* and both sank very rapidly after taking on water. DUKW boats are specifically designed to operate on land and water. This design, however, makes them inherently hazardous as they are at a greater risk of sinking and sinking more rapidly than other more modern small passenger vessels. Studies conducted by the National Academy of Sciences (hereafter, NAS) and NTSB assessed the overall safety of DUKW boats and provided recommendations to enhance the safe operation of these amphibious passenger vessels in water.<sup>11</sup> Both reports recognized the dangers of canopies installed on these vessels and the lack of reserve buoyancy, both of which were major contributors to the fatalities

<sup>10</sup>NTSB. *Fire Aboard Small Passenger Vessel Conception*. October 20, 2020. <https://www.nts.gov/investigations/Pages/DCA19MM047.aspx>.

<sup>11</sup>See National Academies of Science, Engineering and Medicine. *Options for Improving the Safety of DUKW Type Amphibious Vessels*. <https://www.nap.edu/catalog/26447/options-for-improving-the-safety-of-duk-w-type-amphibious-vessels>; NTSB. *Sinking of Amphibious Passenger Vessel Stretch Duck*. <https://www.nts.gov/investigations/Pages/DCA18MM028.aspx>.

in all three DUKW boat incidents. H.R. 6865, as amended, compels promulgation of regulations based on the safety recommendations prescribed by NAS and NTSB, such as installation of mechanisms to ensure the vessels remain afloat and upright in the event of flooding, notation in the vessel's logbook of the National Weather Service forecast before entering the water, and removal or modification of canopies so that it does not restrict egress by passengers in the event of flooding.

#### *Sexual Assault*

In October 2021, Midshipman X, a member of the U.S. Merchant Marine Academy (USMMA) Class of 2022, shocked the maritime industry after publishing a blog post on the Maritime Legal Aid & Advocacy website of her first-hand detailed account of being forcibly raped aboard a Maersk vessel during Sea Year in 2019.<sup>12</sup> In conjunction with other allegations and cases in which the USMMA settled sexual assault claims, this raised concerns about the need for systemic maritime industry mechanisms for reporting and investigating claims of sexual assault and sexual harassment, as well as mechanisms for punishing offenders.

The Sea Year program is an educational partnership between the USMMA and several U.S. flag ocean carriers. Cadets spend approximately 135 days at sea during their sophomore year and 265 days during their junior year. According to the USMMA, the program is essential to learning self-reliance, self-discipline, and self-confidence. However, the program has come under scrutiny in the past and was suspended in 2016 following several incidents of sexual assault and sexual harassment (SASH). When the program was reinstated in 2017, the Department of Transportation instituted various reforms including a zero-tolerance policy for SASH, new policies on shipboard behavior, better reporting opportunities, and a certification process for the participating operators.

When Midshipman X's story became public, the Committee recognized that directives solely focused on the safety of cadets during Sea Year were insufficient to address industry-wide SASH issues. The Committee heard directly from victims and advocacy groups and found each account of sexual abuse disturbing and disheartening. Every mariner deserves to feel safe while at sea. H.R. 6865, as amended, bans individuals convicted of sexual assault from receiving a merchant mariner credential and revokes the credentials of those convicted of sexual assault in the previous ten years. H.R. 6865, as amended, also requires vessels to have a master key control system. The bill also requires the installation of surveillance cameras on passageways showing stateroom doors and grants law enforcement and victims of SASH access to the video footage. H.R. 6865, as amended, also incorporates new reporting mandates for crew members and vessel owners so that the Coast Guard is alerted to a SASH incident on a U.S.-flagged vessel and may use the information to potentially take action on a mariner's credential where a pattern of sexual abuse is established. Given the role alcohol may play in incidents of SASH, H.R. 6865, as amended, also

<sup>12</sup> Maritime Legal Aid & Advocacy. *I Was a 19-Year-Old Virgin When I Was Raped by a 60+ Year-Old 1st Engineer Aboard a Maersk Ship During Sea Year. I Know Several Other Current USMMA Students Who Were Also Raped During Sea Year.* <https://www.maritimelegalaid.com/blog/i-was-raped-aboard-a-maersk-ship-during-sea-year>

directs the Coast Guard to issue regulations on minimum safe alcohol consumption levels while out at sea. The bill allows owners and operators to set more stringent standards.

Finally, the bill establishes requirements for Coast Guard cutters to maintain sexual assault forensic examination (SAFE) kits when underway on a pre-scheduled voyage that will not have access to advanced medical care for a period of at least five consecutive days. The Committee's concern is that victims of a sexual assault while out at sea may elect, but not have access to this vital evidentiary preservation kit due to the inherent limitations of being underway. SAFE kits have a prescriptive window of time when they can be performed to be viable. Outside that window they lose efficacy, and any potential evidentiary benefits should law enforcement authorities decide to prosecute. The Committee learned that at least some Coast Guard cutters will encounter voyages where access to medical evacuation (for which victims of sexual assault qualify in the Coast Guard) or a land-based medical facility is unavailable for five to seven days.<sup>13</sup>

#### HEARINGS

For the purposes of rule XIII, clause 3(c)(6)(A) of the 117th Congress, the following hearings were used to develop or consider H.R. 6865:

On July 21, 2021, the Subcommittee on Coast Guard and Maritime Transportation held a hearing titled "Review of Fiscal Year 2022 Budget for the Coast Guard and Maritime Transportation Programs." The Subcommittee received testimony from ADM Karl L. Schultz, Commandant, U.S. Coast Guard, Department of Homeland Security; Hon. Daniel B. Maffei, Chairman, Federal Maritime Commission; Jason M. Vanderhaden, Master Chief Petty Officer, U.S. Coast Guard, Department of Homeland Security; and Ms. Lucinda Lessley, Acting Administrator, Maritime Administration. This hearing provided Members an opportunity to examine the President's fiscal year 2022 budget requests for the Coast Guard and Maritime Transportation Programs.

On October 20, 2021, the Subcommittee on Coast Guard and Maritime Transportation held a hearing titled "Achieving Mission Balance: Positioning the Coast Guard for the Future." The Subcommittee received testimony from Vice Adm. Scott A. Buschman, Deputy Commandant for Operations, U.S. Coast Guard, Department of Homeland Security. This hearing examined how the U.S. Coast Guard allocates hours and resources among its multiple statutory missions, as well as how the Coast Guard measures mission performance.

On November 16, 2021, the Subcommittee on Coast Guard and Maritime Transportation held a hearing titled "Rebuilding Coast Guard Infrastructure to Sustain and Enhance Mission Capability." The Subcommittee received testimony from the U.S. Coast Guard and the U.S. Government Accountability Office (GAO). The hearing examined the need to invest in and provide oversight of shoreside infrastructure, information technology (IT), and data infrastructure support for the U.S. Coast Guard to carry out its missions efficiently and without interruptions resulting from chronic under-

<sup>13</sup>Information obtained from the United States Coast Guard.

funding and obsolescence of the Service's physical and technology assets, technological change, data gaps, or natural/environmental hazards.

#### LEGISLATIVE HISTORY AND CONSIDERATION

H.R. 6865 was introduced on February 28, 2022, by Mr. DeFazio of Oregon, Mr. Graves of Missouri, Mr. Carbajal of California, and Mr. Gibbs of Ohio and referred to the Committee on Transportation and Infrastructure. Within the Committee, H.R. 6865 was referred to the Subcommittee on Coast Guard and Maritime Transportation.

The Chair discharged the Subcommittee on Coast Guard and Maritime Transportation from further consideration of H.R. 6865 on March 2, 2022.

The Committee considered H.R. 6865 on March 2, 2022, and ordered the measure to be reported to the House with a favorable recommendation, amended, by voice vote.

The following amendments were offered:

A manager's amendment offered by Mr. DeFazio (#1); was AGREED TO by voice vote.

An amendment offered by Mr. Gibbs (#2); At the end of subtitle B of title IV, add Sec.\_\_\_\_. "Responsible Party"; was WITHDRAWN.

An amendment offered by Mr. Van Drew (#3); At the end of subtitle A of title III, add Sec.\_\_\_\_. "Implementation of Designation"; was NOT AGREED TO by voice vote.

An amendment offered by Mr. Larsen (#4); At the end of title IV, add Sec. 413. "Assistance Related to Marine Mammals"; was AGREED TO by voice vote.

An amendment offered by Mr. Perry (#5); At the end of subtitle A of title III, add Sec.\_\_\_\_. "Exemption from Coastwise Laws for Vessels Transporting Liquefied Natural Gas"; was NOT AGREED TO by voice vote.

An amendment offered by Mr. Graves of Louisiana (#6); At the end of title IV, add Sec.\_\_\_\_. "Manning and Crewing Requirements for Certain Vessels, Vehicles, and Structures"; was AGREED TO by a record vote of 59 yeas and 2 nays (Roll Call Vote No. 86).

An amendment offered by Mr. Perry (#7); At the end of title IV, add Sec.\_\_\_\_. "Prohibition on Use of Funds for Electric Vehicles and Infrastructure"; was NOT AGREED TO by voice vote.

An amendment offered by Mr. Graves of Louisiana (#8); At the end of subtitle B of title III, add Sec.\_\_\_\_. "Risk-Based Inspections"; was WITHDRAWN.

#### COMMITTEE VOTES

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

*Committee on Transportation and Infrastructure Roll Call Vote No. 86*

On: Agreeing to Amendment #6 offered by Mr. Graves of Louisiana

Agreed to: 59 yeas and 2 nays.

Majority Members	Vote	Minority Members	Vote
Mr. DeFazio .....	Yea	Mr. Graves of MO .....	Yea
Ms. Norton .....	Yea	Mr. Young .....	Yea
Ms. Johnson of TX .....	Yea	Mr. Crawford .....	Yea
Mr. Larsen of WA .....	.....	Mr. Gibbs .....	Yea
Mrs. Napolitano .....	Yea	Mr. Webster .....	Yea
Mr. Cohen .....	Yea	Mr. Massie .....	Nay
Mr. Sires .....	Yea	Mr. Perry .....	.....
Mr. Garamendi .....	Yea	Mr. Rodney Davis of IL .....	Yea
Mr. Johnson of GA .....	Yea	Mr. Katko .....	.....
Mr. Carson .....	Yea	Mr. Babin .....	Yea
Ms. Titus .....	Yea	Mr. Graves of LA .....	Yea
Mr. Maloney of NY .....	Yea	Mr. Rouzer .....	Yea
Mr. Huffman .....	Yea	Mr. Bost .....	Yea
Ms. Brownley .....	Yea	Mr. Weber of TX .....	Yea
Ms. Wilson of FL .....	Yea	Mr. LaMalfa .....	Yea
Mr. Payne .....	Yea	Mr. Westerman .....	Yea
Mr. Lowenthal .....	Yea	Mr. Mast .....	.....
Mr. DeSaulnier .....	Yea	Mr. Gallagher .....	.....
Mr. Lynch .....	Yea	Mr. Fitzpatrick .....	Yea
Mr. Carbajal .....	Yea	Miss González-Colón .....	Yea
Mr. Brown .....	.....	Mr. Balderson .....	Yea
Mr. Malinowski .....	Yea	Mr. Stauber .....	Yea
Mr. Stanton .....	Yea	Mr. Burchett .....	Yea
Mr. Allred .....	Yea	Mr. Johnson of SD .....	Yea
Ms. Davids of KS .....	Yea	Mr. Van Drew .....	Yea
Mr. García of IL .....	Yea	Mr. Guest .....	Yea
Mr. Delgado .....	Yea	Mr. Nehls .....	.....
Mr. Pappas .....	Yea	Ms. Mace .....	Yea
Mr. Lamb .....	Yea	Ms. Malliotakis .....	Yea
Mr. Moulton .....	Yea	Ms. Van Duyn .....	Yea
Mr. Auchincloss .....	Nay	Mr. Gimenez .....	.....
Ms. Bourdeaux .....	Yea	Mrs. Steel .....	Yea
Mr. Kahele .....	Yea		
Ms. Strickland .....	Yea		
Ms. Williams of GA .....	Yea		
Ms. Newman .....	Yea		
Mr. Carter of LA .....	Yea		

#### COMMITTEE OVERSIGHT FINDINGS

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

#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

With respect to the requirements of clause 3(c)(2) of rule XIII of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974 and with respect to requirements of clause (3)(c)(3) of rule XIII of the Rules of the House of Representatives and section 402 of the Congressional Budget Act of 1974, the Committee has requested but not received a cost estimate for this bill from the Director of Congressional Budget Office. The Committee has requested but not received from the Director of the Congressional Budget Office a statement as to whether this bill contains any new budget authority, spending authority, credit authority, or an increase or decrease in revenues or tax expenditures. The Chairman of the Committee shall cause such estimate and statement to be printed in the *Congressional Record* upon its receipt by the Committee.

## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

With respect to the requirement of clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, a cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974 was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

## PERFORMANCE GOALS AND OBJECTIVES

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

## DUPLICATION OF FEDERAL PROGRAMS

Pursuant to clause 3(c)(5) of rule XIII of the Rules of the House of Representatives, the Committee finds that no provision of H.R. 6865 establishes or reauthorizes a program of the federal government known to be duplicative of another federal program, a program that was included in any report from the Government Accountability Office to Congress pursuant to section 21 of Public Law 111-139, or a program related to a program identified in the most recent Catalog of Federal Domestic Assistance.

CONGRESSIONAL EARMARKS, LIMITED TAX BENEFITS, AND LIMITED  
TARIFF BENEFITS

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

## FEDERAL MANDATES STATEMENT

An estimate of federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act was not made available to the Committee in time for the filing of this report. The Chairman of the Committee shall cause such estimate to be printed in the *Congressional Record* upon its receipt by the Committee.

## PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any Committee on a bill or joint resolution to include a statement on the extent to which the bill or joint resolution is intended to preempt state, local, or tribal law. The Committee finds that H.R. 6865 does not preempt any state, local, or tribal law.

## ADVISORY COMMITTEE STATEMENT

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

## APPLICABILITY TO LEGISLATIVE BRANCH

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

### SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

#### *Section 1. Short title; Table of Contents*

This section provides that the act may be cited as the “Coast Guard Authorization Act of 2022.”

#### Title I—Authorizations

##### *Section 101. Authorizations of appropriations*

This section amends Section 4902 of title 14, United States Code, to authorize appropriations of \$12.8 billion for fiscal year 2022 and \$13.9 billion for fiscal year 2023 for the Coast Guard.

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

This section amends Section 4904 of title 14, United States Code, to reauthorize the same levels of military strength and training of 44,500 for fiscal years 2022 and 2023.

##### *Section 103. Shoreside infrastructure and facilities*

Of the amounts authorized under section 101, this section authorizes \$585 million to the Coast Guard for both fiscal year 2022 and 2023 to fund the acquisition, construction, rebuilding, or improvement of Coast Guard shoreside infrastructure facilities, including \$175 million to improve facilities at the Coast Guard Yard in Baltimore, Maryland, \$60 million for the recapitalization of the barracks at the United States Coast Guard Training Center Cape May in Cape May, New Jersey, and \$1.2 million for repairs to the Coast Guard Station, New York, waterfront.

##### *Section 104. Availability of amounts for acquisition of additional cutters*

Of the amounts authorized under section 101, this section authorizes \$300 million to the Coast Guard for both fiscal year 2022 and 2023 for the acquisition of a 12th National Security Cutter and \$210 million for the acquisition of three Fast Response Cutters (at least one of which will be used for drug and migrant interdiction in the Caribbean Basin and the Gulf of Mexico). This section also authorizes \$350 million for fiscal year 2022 for the acquisition of a Great Lakes cutter, and an additional \$20 million for fiscal year 2023 for icebreaking cutters for operation in the Northeast, Arctic, and Great Lakes.

#### Title II—Coast Guard

##### Subtitle A—Military Personnel Matters

##### *Section 201. Authorized strength*

This section amends Section 3702 of title 14, United States Code, to allow the Secretary to increase the authorized end strength of



the Coast Guard Selected Reserves to not more than three percent of the current end strength per fiscal year. This section also allows the Commandant to increase the end strength of the Reserves to not more than two percent of the authorized end strength upon finding that the increase is necessary to enhance manning and readiness in essential units, critical specialties, or ratings.

*Section 202. Continuation of officers with certain critical skills on active duty*

This section amends Chapter 21 of title 14, United States Code, to allow the Commandant to designate any officer above grade O-2 to remain on active duty (after date of retirement) if the officer possesses a critical skill or specialty for the service.

*Section 203. Number and distribution of officers on active-duty promotion list*

This section gradually increases the number of commissioned officers on the active-duty promotion list to 7,400 by fiscal year 2025 and institutes a reporting requirement if the number allotted is exceeded. This section also institutes a reporting requirement for the number of officers serving at other federal entities on a reimbursable basis that are not included on the active-duty promotion list.

*Section 204. Coast Guard behavioral health policy*

This section directs the Coast Guard to implement a behavioral health policy that is in parity with the Department of Defense.

*Section 205. Improving representation of women and of racial and ethnic minorities among Coast Guard active-duty members*

This section directs the Coast Guard to identify recommendations in the Coast Guard-commissioned RAND report entitled “Improving the Representation of Women and Racial/Ethnic Minorities Among U.S. Coast Guard Active-Duty Members” and submit a report to Congress on actions taken to implement such recommendations. This section also requires the Coast Guard to update its curriculum and training materials to reflect the implementation of such recommendations.

Subtitle B—Operational Matters

*Section 206. Pilot project for enhancing Coast Guard vessel readiness through condition-based maintenance*

This section directs the Coast Guard to conduct a pilot project to enhance vessel readiness using commercially developed condition-based program standards (e.g., install instrumentation that produces active maintenance alerts, deploy artificial intelligence) and submit an interim report on the progress of the pilot project within six months of enactment of this Act.

*Section 207. Unmanned systems strategy*

This section directs the Coast Guard to submit a report to Congress detailing its strategy on implementing unmanned systems across the Service. This section also directs the Coast Guard’s Blue Technology Center of Expertise to conduct a pilot project on retro-

fitting an existing Coast Guard small boat with commercially available autonomous control and computer vision technology.

*Section 208. Budgeting of Coast Guard relating to certain operations*

This section amends Chapter 51 of title 14, United States Code, to mandate the inclusion of a description of all expenses incurred during the performance and execution of Department of Defense readiness mission activities in the Coast Guard's annual budget submission.

*Section 209. Report on San Diego maritime domain awareness*

This section directs the Coast Guard to submit a report to Congress giving an overview of the maritime domain awareness in the Coast Guard sector responsible for San Diego, California, with the aim of estimating the volume of traffic engaged in illicit maritime activity during fiscal years 2020–2022 to assess the needs of Coast Guard Sector San Diego.

*Section 210. Great Lakes winter shipping*

This section mandates a two-stage report analyzing the current capabilities of the Great Lakes icebreaking program, including recommendations and an implementation plan to improve operations. The section provides for a pilot program to include data collected on commercial voyages, failed voyages due to lack of icebreaking, time periods of icebreaking assistance, and the percentage of hours that Great Lakes ice-covered waterways are accessible.

*Section 211. Center of expertise for Great Lakes oil spill search and response*

This section amends Section 807 of the Coast Guard Authorization Act of 2018 (14 U.S.C. 313) to include the St. Lawrence River and other river systems in the scope of the functions of the Center of Expertise for Great Lakes Oil Spill Preparedness and Response.

*Section 212. Study on laydown of Coast Guard cutters*

This section requires the Secretary of Homeland Security to conduct a study on the laydown of Coast Guard Fast Response Cutters to assess Coast Guard mission readiness and to identify areas of need for asset coverage.

Subtitle C—Other Matters

*Section 213. Responses of Commandant of the Coast Guard to safety recommendations*

This section requires the Coast Guard to respond, in writing, to each National Transportation Safety Board (NTSB) recommendation with one of three potential answers: concur, partially concur, or does not concur.

*Section 214. Conveyance of Coast Guard vessels for public purposes*

This section codifies Section 914 of the Coast Guard Authorization Act of 2010 regarding the conveyance of Coast Guard vessels and amends the section to authorize the Administrator of the General Services Administration to facilitate the transfer of assets di-

rectly from the Coast Guard to an eligible entity for public purposes upon the Commandant's request.

*Section 215. Acquisition life-cycle cost estimates*

This section amends Section 1132 of title 14, United States Code, to modify the process of conducting life-cycle acquisition project or program cost estimates and assessments.

*Section 216. National Coast Guard Museum funding plan*

This section amends section 316 of title 14, United States Code, to remove the Department of Homeland Security Inspector General from conducting the certification of the National Coast Guard Museum funding plan and allow a third party to undertake the review.

*Section 217. Report on Coast Guard explosive ordnance disposal*

This section requires the Coast Guard to submit a report to Congress on the viability of establishing an explosive ordnance disposal program in the Coast Guard, considering where such a program would fit within the organizational structure of the Coast Guard, what vehicles and dive craft would be required for the transportation of explosive ordnance disposal elements, how the program would support the Department of Homeland Security, Department of Justice, and Department of Defense, and initial and annual budget justification estimates.

*Section 218. Pribilof Island transition completion actions*

This section extends the timeline specified under section 524 of the Pribilof Island Transition Completion Act of 2016 (Public Law 114–120), and requires the Secretary of the department in which the Coast Guard is operating to submit a report to Congress detailing the personnel and equipment deployed to St. Paul Island, Alaska, as required by section 524 of the Act, the status of an aircraft hangar leasing agreement and associated costs of repairing the hangar to support a Coast Guard aircraft, and plans for the fuel tank currently located on St. Paul Island, Alaska.

*Section 219. Notification of communication outages*

This section requires the Coast Guard to submit a report to Congress detailing a plan to notify mariners of radio outages for towers owned and operated by the Coast Guard in District 17 and identifying technology gaps necessary to implement such plan.

Title III—Maritime

Subtitle A—Shipping

*Section 301. Nonoperating individual*

This section amends section 8313 of the National Defense Authorization Act of 2021 by extending the moratorium on enforcement of section 8701 of title 46, United States Code, with respect to persons on board merchant vessels who are not passengers, but also are not necessary for the navigation or safety of the vessel, to January 1, 2025.

*Section 302. Oceanographic research vessels*

This section requires the Secretary of Transportation to submit a report on the number of oceanographic research vessels that have operated in U.S. waters over the past ten years.

*Section 303. Atlantic coast port access routes briefing*

This section requires the Coast Guard to provide monthly briefings to Congress on the progress made to execute the requirements in section 70003 of title 46, United States Code, with respect to the Atlantic Coast Port Access Route until such requirements are complete.

#### Subtitle B—Vessel Safety

*Section 304. Fishing vessel safety*

This section amends chapter 45 of title 46, United States Code, by allowing dockside exams for older fishing vessels as frequently as every two years and repealing the never-implemented Alternative Safety Compliance Program for such vessels.

*Section 305. Requirements for DUKW-type amphibious passenger vessels*

This section requires the Coast Guard to implement regulations recommended in the National Academies of Sciences, Engineering, and Medicine report on *Options for Improving the Safety of DUKW Type Amphibious Vessels* and the NTSB Safety Recommendation Reports on the Amphibious Passenger Vessel incidents in Table Rock, Missouri, Hot Springs, Arkansas, and Seattle, Washington, related to the safety of DUKW-type amphibious passenger vessels, popularly marketed as Duck boats.

*Section 306. Exoneration and limitation of liability for small passenger vessels*

This section amends chapter 305 of title 46, United States Code, to exempt certain small passenger vessels from the Limitation of Liability Act and allow individuals injured on small passenger vessels to recover financial damages greater than the value of the vessel.

*Section 307. Automatic identification system requirements*

This section amends section 70114 of title 46, United States Code, to require fishing vessels over 65 feet in length be equipped with and operate an automatic identification system (AIS) and authorizes \$5 million to the Secretary of Commerce for fiscal year 2022 to purchase AIS for fishing vessels more than 50 feet in length.

#### Subtitle C—Shipbuilding Program

*Section 308. Loans for retrofitting to qualify as a vessel of the United States*

This section amends section 53706 of title 46, United States Code, to expand eligibility for a loan guarantee to include retrofitting, repair, or similar work in shipyards in the United States for worked required to allow the vessel to become a vessel of the

United States, be issued a coastwise endorsement, or to convert civilian U.S. flagged vessels to a more useful military configuration.

*Section 309. Qualified vessel*

This section amends section 53501 of title 46, United States Code, to include certain passenger ferries, passenger vessels, and small passenger vessels with 50 or more passengers under the definition of qualified vessel and eligible vessel under the Capital Construction Fund.

*Section 310. Establishing a capital construction fund*

This section amends section 53503 of title 46, United States Code, to allow short sea transportation on certain passenger ferries, passenger vessels, and small passenger vessels with 50 or more passengers as an allowable use under which to establish a capital construction fund.

Title IV—Miscellaneous

Subtitle A—Navigation

*Section 401. Restriction on changing salvors*

This section amends section 311 of the Federal Water Pollution Act (33 U.S.C. 1321) by prohibiting the vessel owner/operator from changing salvors designated in vessel response plans as long as those salvors satisfy the Coast Guard requirements in accordance with the National Contingency Plan. This section further requires that the Coast Guard submit a report to Congress should the Coast Guard authorize a deviation from the salvor designated in the vessel response plan.

*Section 402. Towing vessel inspection fees*

The section prohibits the Secretary of the department in which the Coast Guard is operating from charging an inspection fee for towing vessels required to have a Certificate of Inspection until review and promulgation of regulations established under section 815 of the Frank LoBiondo Coast Guard Authorization Act of 2018 take effect.

*Section 403. Providing requirements for vessels anchored in established anchorage grounds*

This section amends section 70006 of title 46, United States Code, to clarify existing Coast Guard authority to establish anchorage grounds for vessels in navigable waters taking into account navigational safety, protection of the marine environment, undersea pipelines and cables, and national security matters. This section also includes new requirements for vessels to maintain anchor alarms and comply with directions and orders from the Captain of Port.

*Section 404. Aquatic Nuisance Species Task Force*

This section adds the Directors of the National Park Service and the Bureau of Land Management, and the Commissioner of Reclamation to the Aquatic Nuisance Species Task Force and allows the Task Force to provide technical assistance to agencies involved

in vessel inspections or decontamination. This section also institutes a 90-day deadline for the Task Force to submit recommendations for legislative or regulatory changes to eliminate gaps in authorities between members of the Task Force to manage and control the movement of aquatic nuisance species into or out of United States' territorial waters.

*Section 405. Limitation on recovery for certain injuries incurred in aquaculture activities*

This section amends section 30104 of title 46, United States Code, to limit recovery for injuries sustained by an aquaculture worker if state workers' compensation is available to such individual; and to limit recovery to individuals who, at the time of injury, were engaged in aquaculture activities in a place where the individual had lawful access.

Subtitle B—Other Matters

*Section 406. Information on type approval certificates*

This section creates a new section under Title IX of the *Frank LoBiondo Coast Guard Authorization Act of 2018* which directs the Coast Guard to make available to states, upon request, information pertaining to Ballast Water Management Systems with an approved "Type Approval Certificate" by the Coast Guard pursuant to 46 CFR Subpart 162.060 et seq, including the third-party data that was reviewed and forms the basis for the type approval.

*Section 407. Passenger vessel security and safety requirements*

This section amends section 3507 of title 46, United States Code, to clarify that vessels with overnight accommodations for 250 or more passengers are subject to the safety requirements under such section.

*Section 408. Cargo waiting time reduction*

This section directs the existing Supply Chain Disruptions task force to evaluate and quantify the economic and environmental impact of cargo backlogs. This section also requires the Coast Guard to report to Congress on the status of vessel compliance with chapter 700 of title 46, United States Code, and the status of the investigation into the cause of the oil spill that occurred in October 2021 in the waters over the San Pedro Shelf.

*Section 409. Limited indemnity provisions in standby oil spill response contracts*

This section indemnifies an oil spill response contractor up to \$50,000 for liabilities and expenses incidental to the containment or removal of oil arising out of the performance of the contract unless the contractor is negligent or commits misconduct.

*Section 410. Port Coordination Council for Point Spencer*

This section amends Section 541 of Public Law 114–120 to provide for additional members and duties of the Port Coordination Council for Point Spencer. It also authorizes \$5 million for each of fiscal years 2023–2025 for oil spill prevention and response infrastructure at Point Spencer.

*Section 411. Alaska oil spill planning criteria*

This section amends section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) to require the President to establish alternate planning criteria to address oil spill response within the area of responsibility of Coast Guard Sector Anchorage.

*Section 412. Nonapplicability*

This section exempts the passenger vessel *American Queen* (U.S. Coast Guard Official Number 1030765) and any other passenger vessel that began construction before the date of enactment of this Act from the requirements under sections 2507(d), 3507(e), 3508, and 3509 of title 46, United States Code, when the vessel is operating inside the boundary line.

*Section 413. Report on enforcement of coastwise laws*

This section directs the Coast Guard to submit a report describing any changes to the enforcement of chapters 121 and 551 of title 46, United States Code, as a result of the amendments made by section 9503 of the *William M. (Mac) Thornberry National Defense Authorization Act 2021* (Public Law 116–283).

*Section 414. Land conveyance, Sharpe Army Depot, Lathrop, California*

This section directs the Administrator of the Maritime Administration to complete the land conveyance required under section 2833 of the *William M. (Mac) Thornberry National Defense Authorization Act 2021* (Public Law 116–283).

*Section 415. Center of Expertise for Marine Environmental Response*

This section directs the Coast Guard to establish a Center of Expertise for Marine Environmental Response.

*Section 416. Prohibition on entry and operation.*

This section prohibits vessels owned or operated by a Russian national or operated by the Russian Government from entering, operating, or transferring cargo in the navigable waters, ports, or places of jurisdiction of the United States while Executive Order 14065 (Blocking Property of Certain Persons and Prohibiting Certain Transactions with Respect to Continued Russia Efforts to Undermine the Sovereignty and Territorial integrity of Ukraine) is in effect. This section also prescribes specific noticing requirements and publication in the Federal Register of a list of registered foreign vessels subject to the prohibition.

*Section 417. St. Lucie River railroad bridge.*

This section directs the Coast Guard to implement recommendations for the St. Lucie River railroad bridge made by the Coast Guard in the document titled, “Waterways Analysis and Management System for Intracoastal Waterway Miles 925 005 (WAMS #07301).”

*Section 418. Assistance related to marine mammals*

This section amends section 50307 of title 46, United States Code, to add vessel noise reduction technology as eligible under the

Maritime Environmental and Technical Assistance program and adds section 54102 to Chapter 541 of title 46, United States Code, to establish a grant program to mitigate vessel hazards such as impacts and noise on marine mammals. This section also adds Chapter 507 to Subtitle V, Part A of title 46, United States Code, to direct the Maritime Administration to deploy a real-time monitoring program for large whales as informed by a pilot project focusing on the North Atlantic Right Whale.

*Section 419. Manning and crewing requirements for certain vessels, vehicles, and structures*

This section establishes section 8109, “Exemptions from manning and crew requirements” to Chapter 81 of title 46, United States Code, to allow foreign flagged vessels to operate in the Outer Continental Shelf if manned by either United States crew, or crew of the nation of which the vessel is flagged.

Title V—Sexual Assault and Sexual Harassment Prevention and Response

*Section 501. Definitions*

This section amends section 2101 of title 46, United States Code, to define the terms “sexual harassment” and “sexual assault”.

*Section 502. Convicted sex offender as grounds for denial*

This section clarifies the ability of the Coast Guard to deny a license, certificate of registry, or merchant mariner’s document to an individual who has been convicted of sexual assault or sexual harassment (SASH) within the previous five years.

*Section 503. Sexual harassment or sexual assault as grounds for suspension or revocation*

This section requires the Coast Guard to revoke a license, certificate of registry, or merchant mariner’s document to an individual who has been convicted of sexual assault within the previous ten years, and it clarifies the ability of the Coast Guard to revoke or suspend such credentials to an individual who has been convicted of sexual harassment within the last five years.

*Section 504. Accommodations; notices*

This section amends section 11101 of title 46, United States Code, to require U.S. vessels to include information in each crew sleeping area and bathroom on the SASH and drug and alcohol policies of the vessels’ owner and operator and directions on how to report SASH and drug and alcohol incidents.

*Section 505. Protection against discrimination*

This section amends section 2114 of title 46, United States Code, to protect victims and witnesses who report or intend to report SASH incidents from discrimination.

*Section 506. Alcohol prohibition*

This section directs the Coast Guard to promulgate regulations related to crew consumption and possession of alcohol. It also in-



cludes an amnesty provision so that the violation of the alcohol policy does not impede the reporting of SASH incidents.

*Section 507. Surveillance requirements*

This section mandates that non-passenger carrying, ocean-going, commercial vessels install a video surveillance system with audio capability in areas adjacent to bedrooms and limit access of footage to law enforcement officials and victims of SASH.

*Section 508. Master key control*

This section requires that vessel owners, with the exception of cruise vessels subject to section 3507 of title 46, United States Code, implement a master key control system to limit access to the vessel's master key, maintain a logbook capturing all access and use of the vessel's master key, and make the logbook available to law enforcement officials upon request.

*Section 509. Safety management systems*

This section amends section 3203 of title 46 to require company SASH policies be included in the vessel's safety management system.

*Section 510. Requirement to report sexual assault and harassment*

This section amends 10104 of title 46, United States Code, to create new reporting mandates and procedures for crew and vessel owners to report SASH incidents to the Coast Guard and outlines the reporting procedure.

*Section 511. Civil actions for personal injury or death of seamen*

This section amends sections 30104 and 30106 of title 46, United States Code, to extend the current statute of limitations for civil cases under title 46 to five years for instances of SASH and clarifies that a private right of action for maritime SASH claims exists.

*Section 512. Administration of sexual assault forensic examination kits*

This section adds section 563, "Administration of sexual assault forensic examination kits" to Chapter 5 of title 14, United States Code, to require that Coast Guard vessels that are scheduled to be without access to a land-based or afloat medical facility be equipped with at least two sexual assault and forensic examination kits and at least one medical professional qualified and trained to administer such kits.

Title VI—Technical, Conforming and Clarifying Amendments

*Section 601. Technical corrections*

This section amends section 319(b) of title 14, United States Code, by striking "section 331 of the *FAA Modernization and Reform Act of 2012* (49 U.S.C. 40101 note)" and inserting "section 44801 of title 49". This section also amends section 1156(c) of title 14, United States Code, by striking "section 331 of the *FAA Modernization and Reform Act of 2012* (49 U.S.C. 40101 note)" and inserting "section 44801 of title 49".

*Section 602. Transportation worker identification credential technical amendments*

This section amends section 70105 of title 46, United States Code, by changing “security cards” to “worker identification credentials”.

*Section 603. Reinstatement*

This section reinstates the text of section 12(a) of the Act of June 21, 1940, (33 U.S.C. 522(a)), popularly known as the *Truman-Hobbs Act*, as it appeared on the day before the enactment of section 8507(b) of the *National Defense Authorization Act for Fiscal Year 2021* (Public Law 116–283) and redesignates it as the sole text of section 12 of the Act of June 21, 1940 (33 U.S.C. 522).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

**TITLE 14, UNITED STATES CODE**

\* \* \* \* \*

**SUBTITLE I—ESTABLISHMENT, POWERS,  
DUTIES, AND ADMINISTRATION**

\* \* \* \* \*

**CHAPTER 3—COMPOSITION AND ORGANIZATION**

\* \* \* \* \*

**§ 316. National Coast Guard Museum**

(a) **ESTABLISHMENT.**—The Commandant may establish, accept, operate, maintain and support the Museum, on lands which will be federally owned and administered by the Coast Guard, and are located in New London, Connecticut.

(b) **USE OF FUNDS.**—

(1) The Secretary shall not expend any funds appropriated to the Coast Guard on the construction of any museum established under this section.

(2) Subject to the availability of appropriations, the Secretary may expend funds appropriated to the Coast Guard on the engineering and design of a Museum.

(3) The priority for the use of funds appropriated to the Coast Guard shall be to preserve, protect, and display historic Coast Guard artifacts, including the design, fabrication, and installation of exhibits or displays in which such artifacts are included.

(c) FUNDING PLAN.—Not later than 2 years after the date of the enactment of the Elijah E. Cummings Coast Guard Authorization Act of 2020 and at least 90 days before the date on which the Commandant accepts the Museum under subsection (f), the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a plan for constructing, operating, and maintaining such Museum, including—

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

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

(3) an explanation of any environmental remediation issues related to the land associated with the Museum; and

(4) a certification by [the Inspector General of the department in which the Coast Guard is operating] *a third party entity qualified to undertake such a certification process* that the estimates provided pursuant to paragraphs (1) and (2) are reasonable and realistic.

(d) CONSTRUCTION.—

(1) The Association may construct the Museum described in subsection (a).

(2) The Museum shall be designed and constructed in compliance with the International Building Code 2018, and construction performed on Federal land under this section shall be exempt from State and local requirements for building or demolition permits.

(e) AGREEMENTS.—Under such terms and conditions as the Commandant considers appropriate, notwithstanding section 504, and until the Commandant accepts the Museum under subsection (f), the Commandant may—

(1) license Federal land to the Association for the purpose of constructing the Museum described in subsection (a); and

(2)(A) at a nominal charge, lease the Museum from the Association for activities and operations related to the Museum; and

(B) authorize the Association to generate revenue from the use of the Museum.

(f) ACCEPTANCE.—Not earlier than 90 days after the Commandant submits the plan under subsection (c), the Commandant shall accept the Museum from the Association and all right, title, and interest in and to the Museum shall vest in the United States when—

(1) the Association demonstrates, in a manner acceptable to the Commandant, that the Museum meets the design and construction requirements of subsection (d); and

- (2) all financial obligations of the Association incident to the National Coast Guard Museum have been satisfied.
- (g) SERVICES.—The Commandant may solicit from the Association and accept services from nonprofit entities, including services related to activities for construction of the Museum.
- (h) AUTHORITY.—The Commandant may not establish a Museum except as set forth in this section.
- (i) DEFINITIONS.—In this section:
  - (1) MUSEUM.—The term “Museum” means the National Coast Guard Museum.
  - (2) ASSOCIATION.—The term “Association” means the National Coast Guard Museum Association.

\* \* \* \* \*

**§ 319. Land-based unmanned aircraft system program**

- (a) IN GENERAL.—Subject to the availability of appropriations, the Secretary shall establish a land-based unmanned aircraft system program under the control of the Commandant.
- (b) UNMANNED AIRCRAFT SYSTEM DEFINED.—In this section, the term “unmanned aircraft system” has the meaning given that term in [section 331 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note)] *section 44801 of title 49*.
- (c) FUNDING FOR CERTAIN ENHANCED CAPABILITIES.—In each of fiscal years 2020 and 2021, the Commandant may provide additional funding of \$5,000,000 for additional long-range maritime patrol aircraft, acquired through full and open competition.

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**CHAPTER 5—FUNCTIONS AND POWERS**

Sec.							
	*	*	*	*	*	*	*
	CHAPTER 5—FUNCTIONS AND POWERS						
	SUBCHAPTER I—GENERAL POWERS						
	*	*	*	*	*	*	*
509.	<i>Conveyance of Coast Guard vessels for public purposes.</i>						
	*	*	*	*	*	*	*
	SUBCHAPTER IV—MISCELLANEOUS						
	*	*	*	*	*	*	*
564.	<i>Administration of sexual assault forensic examination kits.</i>						
	*	*	*	*	*	*	*
	SUBCHAPTER I—GENERAL POWERS						
	*	*	*	*	*	*	*

**§ 509. CONVEYANCE OF COAST GUARD VESSELS FOR PUBLIC PURPOSES.**

(a) IN GENERAL.—*At the request of the Commandant, the Administrator of the General Services Administration may transfer ownership of a Coast Guard vessel or aircraft to an eligible entity for use for educational, cultural, historical, charitable, recreational, or other public purposes if such transfer is authorized by law.*

(b) *CONDITIONS OF CONVEYANCE.*—*The General Services Administration may not convey a vessel or aircraft to an eligible entity as authorized by law unless the eligible entity agrees—*

(1) *to provide the documentation needed by the General Services Administration to process a request for aircraft or vessels as if such a request were being processed under section 102.37.225 of title 41, Code of Federal Regulations, as in effect on the date of enactment of the Coast Guard Authorization Act of 2021;*

(2) *to comply with the special terms, conditions, and restrictions imposed on aircraft and vessels under section 102.37.460 of such title, as in effect on the date of enactment of the Coast Guard Authorization Act of 2021;*

(3) *to make the vessel available to the United States Government if it is needed for use by the Commandant of the Coast Guard in time of war or a national emergency; and*

(4) *to hold the United States Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, that occurs after conveyance of the vessel, except for claims arising from use of the vessel by the United States Government under paragraph (3).*

(c) *OTHER OBLIGATIONS UNAFFECTED.*—*Nothing in this section amends or affects any obligation of the Coast Guard or any other person under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) or any other law regarding use or disposal of hazardous materials including asbestos and polychlorinated biphenyls.*

(d) *ELIGIBLE ENTITY DEFINED.*—*In this section, the term “eligible entity” means a State or local government, nonprofit corporation, educational agency, community development organization, or other entity that agrees to comply with the conditions established under this section.*

\* \* \* \* \*

#### SUBCHAPTER IV—MISCELLANEOUS

\* \* \* \* \*

#### **§ 564. Administration of sexual assault forensic examination kits**

(a) *REQUIREMENT.*—*A Coast Guard vessel that embarks on a covered voyage shall be—*

(1) *equipped with no less than 2 sexual assault and forensic examination kits; and*

(2) *staffed with at least 1 medical professional qualified and trained to administer such kits.*

(b) *COVERED VOYAGE DEFINED.*—*In this section, the term “covered voyage” means a prescheduled voyage of a Coast Guard vessel that, at any point during such voyage—*

(1) *would require the vessel to travel 5 consecutive days or longer at 20 knots per hour to reach a land-based or afloat medical facility; and*

(2) *aeromedical evacuation will be unavailable during the travel period referenced in paragraph (1).*

**CHAPTER 7—COOPERATION**

Sec.

\* \* \* \* \*  
 721. Responses to safety recommendations.  
 \* \* \* \* \*

**§ 721. Responses to safety recommendations**

(a) *IN GENERAL.*—Not later than 90 days after the submission to the Commandant of the Coast Guard of a recommendation by the National Transportation Safety Board relating to transportation safety, the Commandant shall submit to the Board a written response to each recommendation, which shall include whether the Commandant—

- (1) concurs with the recommendation;
- (2) partially concurs with the recommendation; or
- (3) does not concur with the recommendation.

(b) *EXPLANATION OF CONCURRENCE.*—A response under subsection (a) shall include—

- (1) with respect to a recommendation to which the Commandant concurs, an explanation of the actions the Commandant intends to take to implement such recommendation;
- (2) with respect to a recommendation to which the Commandant partially concurs, an explanation of the actions the Commandant intends to take to implement the portion of such recommendation with which the Commandant partially concurs; and
- (3) with respect to a recommendation to which the Commandant does not concur, the reasons why the Commandant does not concur with such recommendation.

(c) *FAILURE TO RESPOND.*—If the Board has not received the written response required under subsection (a) by the end of the time period described in such subsection, the Board shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that such response has not been received.

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**CHAPTER 11—ACQUISITIONS**

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

\* \* \* \* \*

**§ 1132. Acquisition**

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

- (1) clearly defines the operational requirements for the project or program;
- (2) establishes the feasibility of alternatives;
- (3) develops an acquisition project or program baseline;
- (4) produces a life-cycle cost estimate; and

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

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

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

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

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

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

(c) **ANALYSIS OF ALTERNATIVES.**—

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

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

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

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

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

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

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

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

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

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

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

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

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

(G) the business case for each viable alternative.

(d) TEST AND EVALUATION MASTER PLAN.—

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

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

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

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

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

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

(B) the performance data to be used to determine whether the key performance parameters have been resolved;

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

(D) the results during test and evaluation that will be required to demonstrate that a capability, asset, or subsystem meets performance requirements;

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

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

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

(H) operational test and evaluation phases;



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

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

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

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

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

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

(e) LIFE-CYCLE COST ESTIMATES.—

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

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

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

(2) TYPES OF ESTIMATES.—*For each Level 1 or Level 2 acquisition project or program, in addition to life-cycle cost estimates developed under paragraph (1), the Commandant shall require that—*

*(A) such life-cycle cost estimates be updated before—*

*(i) each milestone decision is concluded; and*

*(ii) the project or program enters a new acquisition phase; and*

*(B) an independent cost estimate or independent cost assessment, as appropriate, be developed to validate such life-cycle cost estimates developed under paragraph (1).*

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SUBCHAPTER III—PROCUREMENT

\* \* \* \* \*

**§ 1156. Limitation on unmanned aircraft systems**

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

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

(2) may lease, acquire, or acquire the services of an unmanned aircraft system only if such system—

(A) has been part of a program of record of, procured by, or used by a Federal entity (or funds for research, development, test, and evaluation have been received from a Federal entity with regard to such system) before the date on which the Commandant leases, acquires, or acquires the services of the system; and

(B) is leased, acquired, or utilized by the Commandant through an agreement with a Federal entity, unless such an agreement is not practicable or would be less cost-effective than an independent contract action by the Coast Guard.

(b) SMALL UNMANNED AIRCRAFT EXEMPTION.—Subsection (a)(2) does not apply to small unmanned aircraft.

(c) DEFINITIONS.—In this section, the terms “small unmanned aircraft” and “unmanned aircraft system” have the meanings given those terms in [section 331 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note)] *section 44801 of title 49.*

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**SUBTITLE II—PERSONNEL**

\* \* \* \* \*

**CHAPTER 21—PERSONNEL; OFFICERS**

Sec.

\* \* \* \* \*

**SUBCHAPTER II—DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS; SEPARATION FOR CAUSE**

\* \* \* \* \*

2166. *Continuation on active duty; Coast Guard officers with certain critical skills.*

\* \* \* \* \*

**SUBCHAPTER I—APPOINTMENT AND PROMOTION**

\* \* \* \* \*

**§ 2103. Number and distribution of commissioned officers on active duty promotion list**

[(a) MAXIMUM TOTAL NUMBER.—The total number of Coast Guard commissioned officers on the active duty promotion list, excluding warrant officers, shall not exceed 6,900; except that the Commandant may temporarily increase that number by up to 2 percent for no more than 60 days following the date of the commissioning of a Coast Guard Academy class.]

(a) MAXIMUM TOTAL NUMBER.—

(1) *IN GENERAL.*—The total number of Coast Guard commissioned officers on the active duty promotion list, excluding warrant officers, shall not exceed—

(A) 7,100 in fiscal year 2022;

(B) 7,200 in fiscal year 2023;

(C) 7,300 in fiscal year 2024; and

(D) 7,400 in fiscal year 2025 and each subsequent fiscal year.

(2) *TEMPORARY INCREASE.*—Notwithstanding paragraph (1), the Commandant may temporarily increase the total number of commissioned officers permitted under such paragraph by up to 2 percent for no more than 60 days following the date of the commissioning of a Coast Guard Academy class.

(3) *NOTIFICATION.*—Not later than 30 days after exceeding the total number of commissioned officers permitted under paragraph (1), and each 30 days thereafter until the total number of commissioned officers no longer exceeds the number of such officers permitted under paragraph (1), the Commandant shall notify the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the number of officers on the active duty promotion list on the last day of the preceding 30-day period.

(b) *DISTRIBUTION PERCENTAGES BY GRADE.*—

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

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

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

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

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

(c) *COMPUTATIONS.*—

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

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

(3) *TREATMENT OF OFFICERS SERVING OUTSIDE COAST GUARD.*—The number of commissioned officers on the active duty promotion list below the rank of vice admiral serving with other Federal departments or agencies on a reimbursable basis or excluded under section 324(d) of title 49 shall not be counted

against the total number of commissioned officers authorized to serve in each grade.

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

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

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**SUBCHAPTER II—DISCHARGES; RETIREMENTS;  
REVOCATION OF COMMISSIONS; SEPARATION FOR CAUSE**

\* \* \* \* \*

**§2166. Continuation on active duty; Coast Guard officers with certain critical skills**

(a) *IN GENERAL.*—The Commandant may authorize an officer in a grade above grade O-2 to remain on active duty after the date otherwise provided for the retirement of such officer in section 2154 of this title, if the officer possesses a critical skill, or specialty, or is in a career field designated pursuant to subsection (b).

(b) *CRITICAL SKILLS, SPECIALTY, OR CAREER FIELD.*—The Commandant shall designate any critical skill, specialty, or career field eligible for continuation on active duty as provided in subsection (a).

(c) *DURATION OF CONTINUATION.*—An officer continued on active duty pursuant to this section shall, if not earlier retired, be retired on the first day of the month after the month in which the officer completes 40 years of active service.

(d) *POLICY.*—The Commandant shall carry out this section by prescribing policy which shall specify the criteria to be used in designating any critical skill, specialty, or career field for purposes of subsection (b).

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**SUBTITLE III—COAST GUARD RESERVE AND  
AUXILIARY**

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**CHAPTER 37—COAST GUARD RESERVE**

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## SUBCHAPTER I—ADMINISTRATION

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**§ 3702. Authorized strength**

(a) The President shall prescribe the authorized strength of the Coast Guard Reserve if not otherwise prescribed by law.

(b) Subject to the authorized strength of the Coast Guard Reserve, the Secretary shall determine, at least annually, the authorized strength in numbers in each grade necessary to provide for mobilization requirements. Without the consent of the member concerned, a member of the Reserve may not be reduced in grade because of the Secretary's determination.

(c) *The Secretary may vary the authorized end strength of the Coast Guard Selected Reserves for a fiscal year by a number equal to not more than 3 percent of such end strength upon a determination by the Secretary that varying such authorized end strength is in the national interest.*

(d) *The Commandant may increase the authorized end strength of the Coast Guard Selected Reserves by a number equal to not more than 2 percent of such authorized end strength upon a determination by the Commandant that such increase would enhance manning and readiness in essential units or in critical specialties or ratings.*

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

\* \* \* \* \*

**CHAPTER 49—AUTHORIZATIONS**

\* \* \* \* \*

**§ 4902. Authorizations of appropriations**

Funds are authorized to be appropriated for fiscal [years 2020 and 2021] *years 2022 and 2023* for necessary expenses of the Coast Guard as follows:

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

(i) [ \$8,151,620,850 for fiscal year 2020 ] *\$9,282,360,000 for fiscal year 2022*; and

(ii) [ \$8,396,169,475 for fiscal year 2021 ] *\$10,210,596,000 for fiscal year 2023*.

(B) Of the amount authorized under subparagraph (A)(i), [ \$17,035,000 ] *\$17,723,520* shall be for environmental compliance and restoration.

(C) Of the amount authorized under subparagraph, (A)(ii) [ \$17,376,000 ] *\$18,077,990* shall be for environmental compliance and restoration.

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

for maintenance, rehabilitation, lease, and operation of facilities and equipment—

(i) ~~【\$2,794,745,000 for fiscal year 2020】~~ *\$3,312,114,000 for fiscal year 2022*; and

(ii) ~~【\$3,312,114,000 for fiscal year 2021】~~ *\$3,477,600,000 for fiscal year 2023*.

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

(i) ~~【\$10,000,000 for fiscal year 2020】~~ *\$20,400,000 for fiscal year 2022*; and

(ii) ~~【\$20,000,000 for fiscal year 2021】~~ *\$20,808,000 for fiscal year 2023*.

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

(A) ~~【\$13,834,000 for fiscal year 2020】~~ *\$14,393,220 for fiscal year 2022*; and

(B) ~~【\$14,111,000 for fiscal year 2021】~~ *\$14,681,084 for fiscal year 2023*.

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

(A) ~~【\$205,107,000 for fiscal year 2020】~~ *\$213,393,180 for fiscal year 2022*; and

(B) ~~【\$209,209,000 for fiscal year 2021】~~ *\$217,661,044 for fiscal year 2023*.

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**§ 4904. Authorized levels of military strength and training**

(a) ACTIVE DUTY STRENGTH.—The Coast Guard is authorized an end-of-year strength for active duty personnel of 44,500 for each of ~~【fiscal years 2020 and 2021】~~ *fiscal years 2022 and 2023*.

(b) MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads for each of ~~【fiscal years 2020 and 2021】~~ *fiscal years 2022 and 2023* as follows:

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

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**CHAPTER 51—REPORTS**

Sec.

\* \* \* \* \*

5113. *Officers not on active duty promotion list.*

5114. *Expenses of performing and executing defense readiness mission activities.*

\* \* \* \* \*

**§5113. Officers not on active duty promotion list**

*Not later than 60 days after the date on which the President submits to Congress a budget pursuant to section 1105 of title 31, the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate the number of Coast Guard officers serving at other Federal entities on a reimbursable basis but not on the active duty promotion list.*

**§5114. Expenses of performing and executing defense readiness mission activities**

*The Commandant of the Coast Guard shall include in the annual budget submission of the President under section 1105(a) of title 31, a dedicated budget line item that adequately represents a calculation of the annual costs and expenditures of performing and executing all defense readiness mission activities, including—*

*(1) all expenses related to the Coast Guard’s coordination, training, and execution of defense readiness mission activities in the Coast Guard’s capacity as an Armed Force (as such term is defined in section 101 of title 10) in support of Department of Defense national security operations and activities or for any other military department or defense agency (as such terms are defined in such section);*

*(2) costs associated with Coast Guard detachments assigned in support of the Coast Guard’s defense readiness mission; and*

*(3) any other expenses, costs, or matters the Commandant determines appropriate or otherwise of interest to Congress.*

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**WILLIAM M. (MAC) THORNBERRY NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2021**

\* \* \* \* \*

**DIVISION G—ELIJAH E. CUMMINGS COAST GUARD AUTHORIZATION ACT OF 2020**

\* \* \* \* \*

**TITLE LVXXXI—AUTHORIZATIONS**

\* \* \* \* \*

**SEC. 8105. PROCUREMENT AUTHORITY FOR POLAR SECURITY CUTTERS.**

(a) FUNDING.—Of the amounts authorized to be appropriated by—

(1) section 4902(2)(A)(i) of title 14, United States Code, as amended by section 8101 of this division, \$135,000,000 for fiscal year 2020; and

(2) section 4902(2)(A)(ii) of title 14, United States Code, as amended by section 8101 of this division, \$610,000,000 for fiscal year 2021, is authorized for construction of a Polar Security Cutter.

**[(b) PROHIBITION ON CONTRACTS OR USE OF FUNDS FOR DEVELOPMENT OF COMMON HULL DESIGN.—**Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating may not enter into any contract for, and no funds shall be obligated or expended on, the development of a common hull design for medium Polar Security Cutters and Great Lakes icebreakers.]

*(b) REPORT.—Not later than 90 days after the date of enactment of this subsection, the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the operational benefits and limitations of a common hull design for icebreaking cutters for operation in the Great Lakes, the Northeastern United States, and the Arctic, as appropriate, that are at least as capable as the Coast Guard 140-foot icebreaking tugs.*

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**TITLE LVXXXIII—MARITIME**

\* \* \* \* \*

**Subtitle B—Shipping**

\* \* \* \* \*

**SEC. 8313. NON-OPERATING INDIVIDUAL.**

(a) **IN GENERAL.**—The Secretary of the department in which the Coast Guard is operating shall not enforce section 8701 of title 46, United States Code, with respect to the following:

(1) A vessel with respect to individuals, other than crew members required by the Certificate of Inspection or to ensure the safe navigation of the vessel and not a member of the steward’s department, engaged on board for the sole purpose of carrying out spill response activities, salvage, marine firefighting, or commercial diving business or functions from or on any vessel, including marine firefighters, spill response personnel, salvage personnel, and commercial divers and diving support personnel.

(2) An offshore supply vessel, an industrial vessel (as such term is defined in section 90.10-16 of title 46, Code of Federal Regulations), or other similarly engaged vessel with respect to persons engaged in the business of the ship on board the vessel—

(A) for—

(i) supporting or executing the industrial business or function of the vessel;

(ii) brief periods to conduct surveys or investigations, assess crew competence, conduct vessel trials, provide extraordinary security resources, or similar



tasks not traditionally performed by the vessel crew;  
or

(iii) performing maintenance tasks on equipment under warranty, or on equipment not owned by the vessel owner, or maintenance beyond the capability of the vessel crew to perform; and

(B) not the master or crew members required by the certificate of inspection and not a member of the steward's department.

(b) SUNSET.—The prohibition in subsection (a) shall terminate on [the date that is 2 years after the date of the enactment of this Act] *January 1, 2025*.

(c) REPORT.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report detailing recommendations to ensure that personnel working on a vessel who perform work or operate equipment on such vessel not related to the operation of the vessel itself undergo a background check and the appropriate training necessary to ensure personnel safety and the safety of the vessel's crew.

(2) CONTENTS.—The report required under paragraph (1) shall include, at a minimum, a discussion of—

(A) options and recommendations for ensuring that the individuals covered by subsection (a) are appropriately screened to mitigate security and safety risks, including to detect substance abuse;

(B) communication and collaboration between the Coast Guard, the department in which the Coast Guard is operating, and relevant stakeholders regarding the development of processes and requirements for conducting background checks and ensuring such individuals receive basic safety familiarization and basic safety training approved by the Coast Guard;

(C) any identified legislative changes necessary to implement effective training and screening requirements for individuals covered by subsection (a); and

(D) the timeline and milestones for implementing such requirements.

\* \* \* \* \*

**FRANK LOBIONDO COAST GUARD AUTHORIZATION ACT  
OF 2018**

\* \* \* \* \*

**SEC. 2. TABLE OF CONTENTS.**

The table of contents of this Act is as follows:

Sec. 1. Short title.

\* \* \* \* \*

## TITLE IX—VESSEL INCIDENTAL DISCHARGE ACT

\* \* \* \* \*

*Sec. 904. Information on type approval certificates.*

\* \* \* \* \*

## TITLE VIII—MISCELLANEOUS

\* \* \* \* \*

## SEC. 807. CENTER OF EXPERTISE FOR GREAT LAKES OIL SPILL SEARCH AND RESPONSE.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Commandant of the Coast Guard shall establish a Center of Expertise for Great Lakes Oil Spill Preparedness and Response (referred to in this section as the “Center of Expertise”) in accordance with section 313 of title 14, United States Code, as amended by this Act.

(b) **LOCATION.**—The Center of Expertise shall be located in close proximity to—

(1) critical crude oil transportation infrastructure on and connecting the Great Lakes, such as submerged pipelines and high-traffic navigation locks; and

(2) an institution of higher education with adequate aquatic research laboratory facilities and capabilities and expertise in Great Lakes aquatic ecology, environmental chemistry, fish and wildlife, and water resources.

(c) **FUNCTIONS.**—The Center of Expertise shall—

(1) monitor and assess, on an ongoing basis, the current state of knowledge regarding freshwater oil spill response technologies and the behavior and effects of oil spills in the Great Lakes;

(2) identify any significant gaps in Great Lakes oil spill research, including an assessment of major scientific or technological deficiencies in responses to past spills in the Great Lakes and other freshwater bodies, and seek to fill those gaps;

(3) conduct research, development, testing, and evaluation for freshwater oil spill response equipment, technologies, and techniques to mitigate and respond to oil spills in the Great Lakes;

(4) educate and train Federal, State, and local first responders located in Coast Guard District 9 in—

(A) the incident command system structure;

(B) Great Lakes oil spill response techniques and strategies; and

(C) public affairs; and

(5) work with academic and private sector response training centers to develop and standardize maritime oil spill response training and techniques for use on the Great Lakes.

[(d) **DEFINITION.**—In this section, the term “Great Lakes” means Lake Superior, Lake Michigan, Lake Huron, Lake Erie, and Lake Ontario.]

(d) **DEFINITION.**—*In this section, the term “Great Lakes” means—*

(1) *Lake Ontario;*

(2) *Lake Erie;*

(3) *Lake Huron (including Lake St. Clair);*

- (4) *Lake Michigan;*
- (5) *Lake Superior; and*
- (6) *the connecting channels (including the following rivers and tributaries of such rivers: Saint Mary's River, Saint Clair River, Detroit River, Niagara River, Illinois River, Chicago River, Fox River, Grand River, St. Joseph River, St. Louis River, Menominee River, Muskegon River, Kalamazoo River, and Saint Lawrence River to the Canadian border).*

\* \* \* \* \*

### TITLE IX—VESSEL INCIDENTAL DISCHARGE ACT

\* \* \* \* \*

#### SEC. 904. INFORMATION ON TYPE APPROVAL CERTIFICATES.

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

\* \* \* \* \*

### COAST GUARD AUTHORIZATION ACT OF 2010

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

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

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

Sec. 1. Short title; table of contents.

\* \* \* \* \*

#### TITLE IX—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

[Sec. 914. Conveyance of Coast Guard vessels for public purposes.]

\* \* \* \* \*

### TITLE IX—MISCELLANEOUS PROVISIONS

\* \* \* \* \*

#### [SEC. 914. CONVEYANCE OF COAST GUARD VESSELS FOR PUBLIC PURPOSES.

[(a) IN GENERAL.—Whenever the transfer of ownership of a Coast Guard vessel or aircraft to an eligible entity for use for educational, cultural, historical, charitable, recreational, or other pub-

lic purposes is authorized by law or declared excess by the Commandant, the Coast Guard shall transfer the vessel or aircraft to the General Services Administration for conveyance to the eligible entity.

[(b) CONDITIONS OF CONVEYANCE.—The General Services Administration may not convey a vessel or aircraft to an eligible entity as authorized by law unless the eligible entity agrees—

[(1) to provide the documentation needed by the General Services Administration to process a request for aircraft or vessels under section 102.37.225 of title 41, Code of Federal Regulations;

[(2) to comply with the special terms, conditions, and restrictions imposed on aircraft and vessels under section 102.37.460 of such title;

[(3) to make the vessel available to the United States Government if it is needed for use by the Commandant of the Coast Guard in time of war or a national emergency; and

[(4) to hold the United States Government harmless for any claims arising from exposure to hazardous materials, including asbestos and polychlorinated biphenyls, that occurs after conveyance of the vessel, except for claims arising from use of the vessel by the United States Government under paragraph (3).

[(c) OTHER OBLIGATIONS UNAFFECTED.—Nothing in this section amends or affects any obligation of the Coast Guard or any other person under the Toxic Substances Control Act (15 U.S.C. 2601 et seq.) or any other law regarding use or disposal of hazardous materials including asbestos and polychlorinated biphenyls.

[(d) ELIGIBLE ENTITY DEFINED.—In this section, the term “eligible entity” means a State or local government, nonprofit corporation, educational agency, community development organization, or other entity that agrees to comply with the conditions established under this section.]

\* \* \* \* \*

**PRIBILOF ISLAND TRANSITION COMPLETION ACT OF 2016**

\* \* \* \* \*

**TITLE V—CONVEYANCES**

\* \* \* \* \*

**Subtitle B—Pribilof Islands**

\* \* \* \* \*

**SEC. 524. TRANSFER, USE, AND DISPOSAL OF TRACT 43.**

(a) TRANSFER.—Not later than 30 days after the date of the enactment of the Pribilof Islands Transition Completion Amendments Act of 2016, the Secretary of Commerce shall—

- (1) terminate the license; and

(2) transfer tract 43 to the Secretary of the department in which the Coast Guard is operating.

(b) DETERMINATION, TRANSFER, AND CONVEYANCE.—

(1) IN GENERAL.—Not later than the end of the 90-day period beginning on the date of the transfer required under subsection (a)(2), the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a determination of—

(A) lands and improvements in tract 43 that are not necessary to carry out Coast Guard communications and search and rescue activities; and

(B) the smallest practicable tract enclosing lands and improvements in tract 43 that are necessary to carry out such communications and activities.

(2) SURVEYS, MAPS, DESCRIPTIONS, AND PLAN.—

(A) LANDS AND IMPROVEMENTS NOT NECESSARY TO COAST GUARD ACTIVITIES.—The determination under paragraph (1)(A) shall include a metes-and-bounds survey, map, and legal description of the lands and improvements to which the determination applies. Such survey, map, and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct clerical and typographical errors in the survey, map, and legal description.

(B) LANDS AND IMPROVEMENTS NECESSARY TO COAST GUARD ACTIVITIES.—The determination under paragraph (1)(B) shall include with respect to the lands and improvements to which the determination applies—

(i) a metes-and-bounds survey, map, and legal description of such lands and improvements, which shall have the same force and effect as if included in this section, except that the Secretary may correct clerical and typographical errors in the survey, map, and legal description;

(ii) a description of Coast Guard actual use and occupancy of such lands and improvements intended to occur within 3 years after the date of the enactment of the Pribilof Islands Transition Completion Amendments Act of 2016; and

(iii) a plan to maintain existing facilities in useable condition, or demolish or replace those facilities, including a cost estimate for carrying out such plan.

(3) CONVEYANCE.—In partial settlement of land claims under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.), and not later than 60 days after the submission of the determination under paragraph (1)(A), the Secretary shall convey to the Alaska Native Village Corporation for St. Paul Island all right, title, and interest of the United States in and to the land and improvements depicted on the metes-and-bounds survey, map, and legal description of the lands and improvements to which the determination under paragraph (1)(A) applies.

(4) FAILURE TO PROVIDE DETERMINATION.—If a determination under paragraph (1) is not provided within the period specified

in that paragraph, in partial settlement of land claims under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) the Secretary shall, by not later than 30 days after the end of that period, convey all right, title, and interest of the United States in and to tract 43 to the Alaska Native Village Corporation for St. Paul Island.

(5) FAILURE TO IMPLEMENT USE AND OCCUPANCY.—If the use and occupancy described in paragraph (2)(B)(ii) have not been fully implemented within ~~5 years~~ *6 years* after the date of enactment of the Pribilof Islands Transition Completion Amendments Act of 2016, in partial settlement of land claims under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) the Secretary shall convey to the Alaska Native Village Corporation for St. Paul Island all right, title, and interest of the United States in and to such portions of the lands and improvements to which the determination under paragraph (1)(B) applies and for which such implementation has not occurred.

(c) FURTHER DETERMINATION AND CONVEYANCE.—

(1) IN GENERAL.—Not later than 5 years after the date of the enactment of the Pribilof Islands Transition Completion Amendments Act of 2016, and not less than once every 5 years thereafter, the Secretary shall—

(A) review the determination made under subsection (b)(1)(B); and

(B) determine if the lands and improvements to which the determination applies are in excess of the smallest practicable tract enclosing the lands and improvements needed to carry out Coast Guard missions.

(2) REPORT OF DETERMINATION.—When a determination is made under paragraph (1), the Secretary shall report the determination to—

(A) the Committee on Transportation and Infrastructure of the House of Representatives;

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

(C) the Alaska Native Village Corporation for St. Paul Island.

(3) ELECTION TO RECEIVE.—Not later than ~~60 days~~ *120 days* after the date it receives a determination under paragraph (1), the Alaska Native Village Corporation for St. Paul Island shall notify the Secretary in writing whether the Alaska Native Village Corporation elects to receive all right, title, and interest of the United States in and to any lands and improvements or a portion of any lands and improvements determined to be in excess of those needed to carry out Coast Guard missions in partial settlement of land claims under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(4) CONVEYANCE.—If such Alaska Native Village Corporation provides notice under paragraph (3) that the Alaska Native Village Corporation elects to receive all right, title, and interest of the United States in and to any lands and improvements or a portion of any lands and improvements, in partial settlement of land claims under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) the Secretary shall convey

all right, title, and interest of the United States in and to the lands and improvements or portion thereof to such Alaska Native Village Corporation.

(5) OTHER DISPOSAL.—If such Alaska Native Village Corporation does not provide notice under paragraph (3) that the Alaska Native Village Corporation elects to receive all right, title, and interest of the United States in and to any lands and improvements or a portion of any lands and improvements, the Secretary may dispose of the lands and improvements in accordance with other applicable law.

(d) CERCLA NOT AFFECTED.—No transfer or conveyance of property under this section shall be construed to affect or limit the application of section 120(h) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)).

(e) REPORTS.—

(1) REMEDIATION OF CONTAMINATED SOIL.—Not later than 2 years after the date of the enactment of the Pribilof Islands Transition Completion Amendments Act of 2016 and not less than once every 2 years thereafter, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on—

(A) efforts taken to remediate contaminated soils on tract 43 and tract 39; and

(B) a schedule for the completion of remediation of contaminated soils on tract 43 and tract 39.

(2) NUMBER OF COAST GUARD PERSONNEL WHO CARRIED OUT COAST GUARD MISSIONS.—On the 15th day of each April and October, the Commandant of the Coast Guard shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a notice detailing the number of Coast Guard personnel who carried out Coast Guard missions on tract 43 during the previous six months and what Coast Guard missions were carried out by such personnel.

(f) REDUNDANT CAPABILITY.—

(1) RULE OF CONSTRUCTION.—Except as provided in paragraph (2), section 681 of title 14, United States Code, shall not be construed to prohibit any conveyance of lands or improvements under this subtitle or any actions that involve the dismantling or disposal of infrastructure that supported the former LORAN system that are associated with the conveyance of lands or improvements under this subtitle.

(2) REDUNDANT CAPABILITY.—If, within the 5-year period beginning on the date of the enactment of the Pribilof Islands Transition Completion Amendments Act of 2016, the Secretary determines that communication equipment, including towers, antennae, and transmitters, on property conveyed in accordance with this subtitle is subsequently required to provide a positioning, navigation, and timing system to provide redundant capability in the event GPS signals are disrupted, the Secretary may—

(A) operate, maintain, keep, locate, inspect, repair, and replace such equipment; and

(B) in carrying out the activities described in subparagraph (A), enter, at any time, a facility without notice, to the extent that it is not possible to provide advance notice, for as long as such equipment is needed to provide such capability.

(g) FEDERAL USE.—In addition to entry under subsection (f)(2)(B), the Secretary may enter property conveyed in accordance with this subtitle for purposes of environmental compliance and remediation after providing advance notice to the property owner to the extent that it is possible to provide such notice.

(h) HIGH FREQUENCY COMMUNICATIONS.—

(1) RESTRICTION.—Except as provided in paragraph (2), on property contained within the boundaries of tract 43 as in effect on the date of enactment of the Pribilof Islands Transition Completion Amendments Act of 2016, no person may operate or maintain—

(A) radio frequency transmitting equipment that produces a signal that exceeds 5 microvolts per meter field intensity, other than such equipment that was in use on the site before the date of the enactment of such Act; or

(B) electric welding equipment, electric generating equipment, a diathermy machine, electric motors of any kind having greater than 5 horsepower, or any other machinery, engine, or equipment that causes any electromagnetic interference.

(2) EXCEPTION.—A person may engage in operations or maintenance otherwise prohibited by paragraph (1) with the concurrence of the Secretary.

(i) DEFINITIONS.—For purposes of this section:

(1) LICENSE.—The term “license” means the agreement dated January 9, 2006, entitled “License Agreement Between The Department of Homeland Security, United States Coast Guard, and The Department of Commerce, National Oceanic and Atmospheric Administration”.

(2) TRACT 39.—The term “tract 39” means T. 35 S., R. 131 W., Seward Meridian, Alaska, Tract 39, the plat of which was Officially Filed on May 14, 1986, containing 0.90 acres.

(3) TRACT 43.—The term “tract 43” means T. 35 S., R. 131 W., Seward Meridian, Alaska, Tract 43, the plat of which was Officially Filed on May 14, 1986, containing 84.88 acres, and any improvements on such tract.

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

\* \* \* \* \*

**TITLE 46, UNITED STATES CODE**

\* \* \* \* \*

**SUBTITLE II—VESSELS AND SEAMEN**

\* \* \* \* \*



PART B—INSPECTION AND REGULATION OF VESSELS

<b>31. General</b> .....	<b>3101</b>
* * * * *	
<b>49. <i>Oceangoing Non-Passenger Commercial Vessels</i></b> .....	<b>4901</b>
* * * * *	

**PART A—GENERAL PROVISIONS**

\* \* \* \* \*

**CHAPTER 21—GENERAL**

\* \* \* \* \*

**§ 2101. General definitions**

In this subtitle—

(1) “associated equipment”—

(A) means—

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) to transport only—

(i) passengers; or

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

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

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

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

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

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

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

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

(A) flammable or combustible;

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

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

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

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

(B) changes the type of the vessel;

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

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

(19) “marine environment” means—

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

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

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

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

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

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

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

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

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

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

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

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

(28) “overall in length” means—

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

(i) 96 percent of the length on a waterline at 85 percent of the least molded depth measured from the top of the keel (or on a vessel designed with a rake of keel, on a waterline parallel to the designed waterline); or

(ii) the length from the fore side of the stem to the axis of the rudder stock on that waterline; and

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

(29) “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 in-

dividual charterer or individual representative of the charterer;

(ii) the master; or

(iii) a member of the crew engaged in the business of the vessel who has not contributed consideration for carriage and who is paid for on board services;

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

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

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

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

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

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

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

(ii) a managing operator;

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

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

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

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

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

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

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

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

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

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

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

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

- (C) that is a submersible vessel carrying at least one passenger for hire; or  
 (D) that is a ferry carrying a passenger.
- (32) “product carrier” means a tanker engaged in the trade of carrying oil except crude oil.
- (33) “public vessel” means a vessel that—  
 (A) is owned, or demise chartered, and operated by the United States Government or a government of a foreign country; and  
 (B) is not engaged in commercial service.
- (34) “recreational vessel” means a vessel—  
 (A) being manufactured or operated primarily for pleasure; or  
 (B) leased, rented, or chartered to another for the latter’s pleasure.
- (35) “recreational vessel manufacturer” means a person engaged in the manufacturing, construction, assembly, or importation of recreational vessels, components, or associated equipment.
- (36) “riding gang member” means an individual who—  
 (A) has not been issued a merchant mariner document under chapter 73;  
 (B) does not perform—  
 (i) watchstanding, automated engine room duty watch, or personnel safety functions; or  
 (ii) cargo handling functions, including any activity relating to the loading or unloading of cargo, the operation of cargo-related equipment (whether or not integral to the vessel), and the handling of mooring lines on the dock when the vessel is made fast or let go;  
 (C) does not serve as part of the crew complement required under section 8101;  
 (D) is not a member of the steward’s department; and  
 (E) is not a citizen or temporary or permanent resident of a country designated by the United States as a sponsor of terrorism or any other country that the Secretary, in consultation with the Secretary of State and the heads of other appropriate United States agencies, determines to be a security threat to the United States.
- (37) “sailing instruction” means teaching, research, and practical experience in operating vessels propelled primarily by sail and may include—  
 (A) any subject related to that operation and to the sea, including seamanship, navigation, oceanography, other nautical and marine sciences, and maritime history and literature; and  
 (B) only when in conjunction with a subject referred to in subclause (A) of this clause, instruction in mathematics and language arts skills to sailing school students having learning disabilities.
- (38) “sailing school instructor” means an individual who is on board a sailing school vessel to provide sailing instruction, but does not include an operator or crewmember who is among those required to be on board the vessel to meet a requirement established under part F of this subtitle.

(39) “sailing school student” means an individual who is on board a sailing school vessel to receive sailing instruction.

(40) “sailing school vessel” means a vessel—

(A) that is less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title;

(B) carrying more than 6 individuals who are sailing school instructors or sailing school students;

(C) principally equipped for propulsion by sail, even if the vessel has an auxiliary means of propulsion; and

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

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

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

(I) engage in scientific research;

(II) instruct in oceanography or limnology; or

(III) receive instruction in oceanography or limnology.

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

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

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

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

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

(46) “sexual harassment” means—

(A) conduct that—

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

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

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

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

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

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

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

(C) any deliberate or repeated unwelcome verbal comment or gesture of a sexual nature by any fellow employee of the complainant.

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

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

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

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

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

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

[(46)] (48) "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.

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

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

[(49)] (51) "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.

[(50)] (52) “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.

[(51)] (53) “uninspected passenger vessel” means an uninspected vessel—

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

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

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

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

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

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

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

[(53)] (55) “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.

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

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#### § 2114. Protection of seamen against discrimination

(a)(1) A person may not discharge or in any manner discriminate against a seaman because—

(A) the seaman in good faith has reported or is about to report to the Coast Guard or other appropriate Federal agency or department that the seaman believes that a violation of a maritime safety law or regulation prescribed under that law or regulation has occurred;

(B) the seaman in good faith has reported or is about to report to the vessel owner, Coast Guard or other appropriate Federal agency or department sexual harassment or sexual assault against the seaman or knowledge of sexual harassment or sexual assault against another seaman;



[(B)] (C) the seaman has refused to perform duties ordered by the seaman’s employer because the seaman has a reasonable apprehension or expectation that performing such duties would result in serious injury to the seaman, other seamen, or the public;

[(C)] (D) the seaman testified in a proceeding brought to enforce a maritime safety law or regulation prescribed under that law;

[(D)] (E) the seaman notified, or attempted to notify, the vessel owner or the Secretary of a work-related personal injury or work-related illness of a seaman;

[(E)] (F) the seaman cooperated with a safety investigation by the Secretary or the National Transportation Safety Board;

[(F)] (G) the seaman furnished information to the Secretary, the National Transportation Safety Board, or any other public official as to the facts relating to any marine casualty resulting in injury or death to an individual or damage to property occurring in connection with vessel transportation; or

[(G)] (H) the seaman accurately reported hours of duty under this part.

(2) The circumstances causing a seaman’s apprehension of serious injury under paragraph (1)(B) must be of such a nature that a reasonable person, under similar circumstances, would conclude that there is a real danger of an injury or serious impairment of health resulting from the performance of duties as ordered by the seaman’s employer.

(3) To qualify for protection against the seaman’s employer under paragraph (1)(B), the employee must have sought from the employer, and been unable to obtain, correction of the unsafe condition.

(b) A seaman alleging discharge or discrimination in violation of subsection (a) of this section, or another person at the seaman’s request, may file a complaint with respect to such allegation in the same manner as a complaint may be filed under subsection (b) of section 31105 of title 49. Such complaint shall be subject to the procedures, requirements, and rights described in that section, including with respect to the right to file an objection, the right of a person to file for a petition for review under subsection (c) of that section, and the requirement to bring a civil action under subsection (d) of that section.

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

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**CHAPTER 31—GENERAL**

Sec.						
3101. Authority to suspend inspection.						
	*	*	*	*	*	*
3106. Master key control system.						
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**§ 3106. Master key control system**

(a) *IN GENERAL.*—The owner of a vessel subject to inspection under section 3301 shall—

(1) ensure that such vessel is equipped with a vessel master key control system, manual or electronic, which provides controlled access to all copies of the vessel's master key of which access shall only be available to the individuals described in paragraph (2);

(2) establish a list of all crew, identified by position, allowed to access and use the master key and maintain such list upon the vessel, within owner records and included in the vessel safety management system;

(3) record in a log book, located in a centralized location that is readily accessible to law enforcement personnel, information on all access and use of the vessel's master key; and

(4) make the list under paragraph (2) and the log book under paragraph (3) available upon request to any agent of the Federal Bureau of Investigation, any member of the Coast Guard, and any law enforcement officer performing official duties in the course and scope of an investigation.

(b) *PROHIBITED USE.*—Crew not included on the list described in subsection (a)(2) shall not have access to or use the master key unless in an emergency and shall immediately notify the master and owner of the vessel following use of such key.

(c) *REQUIREMENTS FOR LOG BOOK.*—The log book described in subsection (a)(3)—

(1) may be—

(A) electronic; and

(B) included in the vessel safety management system; and

(2) shall include—

(A) dates and times of access;

(B) the room or location accessed; and

(C) the name and rank of the crew member that used the master key.

(d) *PENALTY.*—Any crew member who uses the master key without having been granted access pursuant to subsection (a)(2) shall be liable to the United States Government for a civil penalty of not more than \$1,000 and may be subject to suspension or revocation under section 7703.

(e) *EXEMPTION.*—This section shall not apply to vessels subject to section 3507(f).

**CHAPTER 32—MANAGEMENT OF VESSELS**

\* \* \* \* \*

**§ 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, for purposes of this section, all covered small passenger vessels, as defined in section 3306(n)(5)), 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) *with respect to sexual harassment and sexual assault, procedures for, and annual training requirements for all shipboard personnel on—*

(A) *prevention;*

(B) *bystander intervention;*

(C) *reporting;*

(D) *response; and*

(E) *investigation;*

(6) *the log book required under section 3106;*

[(5)] (7) procedures for preparing for and responding to emergency situations; and

[(6)] (8) procedures for internal audits and management reviews of the system.

(b) *PROCEDURES AND TRAINING REQUIREMENTS.—In prescribing regulations for the procedures and training requirements described in subsection (a)(5), such procedures and requirements shall be consistent with the requirements to report sexual harassment or sexual assault under section 10104.*

[(b)] (c) *COMPLIANCE WITH CODE.—Regulations prescribed under this section shall be consistent with the International Safety Management Code with respect to vessels to which this chapter applies under section 3202(a) of this title.*

[(c)] (d) In prescribing regulations for passenger vessels and small passenger vessels, the Secretary shall consider—

(1) the characteristics, methods of operation, and nature of the service of these vessels; and

(2) with respect to vessels that are ferries, the sizes of the ferry systems within which the vessels operate.

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## CHAPTER 35—CARRIAGE OF PASSENGERS

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### § 3507. Passenger vessel security and safety requirements

(a) *VESSEL DESIGN, EQUIPMENT, CONSTRUCTION, AND RETROFITTING REQUIREMENTS.—*

(1) *IN GENERAL.—*Each vessel to which this subsection applies shall comply with the following design and construction standards:

(A) The vessel shall be equipped with ship rails that are located not less than 42 inches above the cabin deck.

(B) Each passenger stateroom and crew cabin shall be equipped with entry doors that include peep holes or other means of visual identification.

(C) For any vessel the keel of which is laid after the date of enactment of the Cruise Vessel Security and Safety Act

of 2010, each passenger stateroom and crew cabin shall be equipped with—

- (i) security latches; and
- (ii) time-sensitive key technology.

(D) The vessel shall integrate technology that can be used for capturing images of passengers or detecting passengers who have fallen overboard, to the extent that such technology is available.

(E) The vessel shall be equipped with a sufficient number of operable acoustic hailing or other such warning devices to provide communication capability around the entire vessel when operating in high risk areas (as defined by the United States Coast Guard).

(2) FIRE SAFETY CODES.—In administering the requirements of paragraph (1)(C), the Secretary shall take into consideration fire safety and other applicable emergency requirements established by the U.S. Coast Guard and under international law, as appropriate.

(b) VIDEO RECORDING.—

(1) REQUIREMENT TO MAINTAIN SURVEILLANCE.—

(A) IN GENERAL.—The owner of a vessel to which this section applies shall maintain a video surveillance system to assist in documenting crimes on the vessel and in providing evidence for the prosecution of such crimes.

(B) PLACEMENT OF VIDEO SURVEILLANCE EQUIPMENT.—

(i) IN GENERAL.—Not later than 18 months after the date of the enactment of the Elijah E. Cummings Coast Guard Authorization Act of 2020, the Commandant in consultation with other relevant Federal agencies or entities as determined by the Commandant, shall establish guidance for performance of the risk assessment described in paragraph (2) regarding the appropriate placement of video surveillance equipment in passenger and crew common areas where there is no reasonable expectation of privacy.

(ii) RISK ASSESSMENT.—Not later than 1 year after the Commandant establishes the guidance described in paragraph (1), the owner shall conduct the risk assessment required under paragraph (1) and shall—

(I) evaluate the placement of video surveillance equipment to deter, prevent, and record a sexual assault aboard the vessel considering factors such as: ship layout and design, itinerary, crew complement, number of passengers, passenger demographics, and historical data on the type and location of prior sexual assault incident allegations;

(II) incorporate to the maximum extent practicable the video surveillance guidance established by the Commandant regarding the appropriate placement of video surveillance equipment;

(III) arrange for the risk assessment to be conducted by an independent third party with expertise in the use and placement of camera surveillance to deter, prevent and record criminal behavior; and

(IV) the independent third party referred to in paragraph (C) shall be a company that has been accepted by a classification society that is a member of the International Association of Classification Societies (hereinafter referred to as "IACS") or another classification society recognized by the Secretary as meeting acceptable standards for such a society pursuant to section 3316(b).

(C) SURVEILLANCE PLAN.—Not later than 180 days after completion of the risk assessment conducted under subparagraph (B)(ii), the owner of a vessel shall develop a plan to install video surveillance equipment in places determined to be appropriate in accordance with the results of the risk assessment conducted under subparagraph (B)(ii), except in areas where a person has a reasonable expectation of privacy. Such plan shall be evaluated and approved by an independent third party with expertise in the use and placement of camera surveillance to deter, prevent and record criminal behavior that has been accepted as set forth in paragraph (2)(D).

(D) INSTALLATION.—The owner of a vessel to which this section applies shall, consistent with the surveillance plan approved under subparagraph (C), install appropriate video surveillance equipment aboard the vessel not later than 2 years after approval of the plan, or during the next scheduled drydock, whichever is later.

(E) ATTESTATION.—At the time of initial installation under subparagraph (D), the vessel owner shall obtain written attestations from—

- (i) an IACS classification society that the video surveillance equipment is installed in accordance with the surveillance plan required under subparagraph (C); and
- (ii) the company security officer that the surveillance equipment and associated systems are operational, which attestation shall be obtained each year thereafter.

(F) UPDATES.—The vessel owner shall ensure the risk assessment described in subparagraph (B)(ii) and installation plan in subparagraph (C) are updated not later than 5 years after the initial installation conducted under subparagraph (D), and every 5 years thereafter. The updated assessment and plan shall be approved by an independent third party with expertise in the use and placement of camera surveillance to deter, prevent, and record criminal behavior that has been accepted by an IACS classification society. The vessel owner shall implement the updated installation plan not later than 180 days after approval.

(G) AVAILABILITY.—Each risk assessment, installation plan and attestation shall be protected from disclosure under the Freedom of Information Act, section 552 of title 5 but shall be available to the Coast Guard—

- (i) upon request, and
- (ii) at the time of the certificate of compliance or certificate of inspection examination.

(H) DEFINITIONS.—For purposes of this section a “ship security officer” is an individual that, with the master’s approval, has full responsibility for vessel security consistent with the International Ship and Port Facility Security Code.

(2) NOTICE OF VIDEO SURVEILLANCE.—The owner of a vessel to which this section applies shall provide clear and conspicuous signs on board the vessel notifying the public of the presence of video surveillance equipment.

(3) ACCESS TO VIDEO RECORDS.—

(A) LAW ENFORCEMENT.—The owner of a vessel to which this section applies shall provide to any law enforcement official performing official duties in the course and scope of an investigation, upon request, a copy of all records of video surveillance that the official believes may provide evidence of a crime reported to law enforcement officials.

(B) CIVIL ACTIONS.—Except as proscribed by law enforcement authorities or court order, the owner of a vessel to which this section applies shall, upon written request, provide to any individual or the individual’s legal representative a copy of all records of video surveillance—

(i) in which the individual is a subject of the video surveillance; and

(ii) that may provide evidence of any sexual assault incident in a civil action.

(C) LIMITED ACCESS.—The owner of a vessel to which this section applies shall ensure that access to records of video surveillance is limited to the purposes described in this paragraph.

(4) RETENTION REQUIREMENTS.—The owner of a vessel to which this section applies shall retain all records of video surveillance for not less than 20 days after the footage is obtained. The vessel owner shall include a statement in the security guide required by subsection (c)(1)(A) that the vessel owner is required by law to retain video surveillance footage for the period specified in this paragraph. If an incident described in subsection (g)(3)(A)(i) is alleged and reported to law enforcement, all records of video surveillance from the voyage that the Federal Bureau of Investigation determines are relevant shall—

(A) be provided to the Federal Bureau of Investigation; and

(B) be preserved by the vessel owner for not less than 4 years from the date of the alleged incident.

(c) SAFETY INFORMATION.—

(1) CRIMINAL ACTIVITY PREVENTION AND RESPONSE GUIDE.—The owner of a vessel to which this section applies (or the owner’s designee) shall—

(A) have available for each passenger a guide (referred to in this subsection as the “security guide”), written in commonly understood English, which—

(i) provides a description of medical and security personnel designated on board to prevent and respond to criminal and medical situations with 24 hour contact instructions;

(ii) describes the jurisdictional authority applicable, and the law enforcement processes available, with respect to the reporting of homicide, suspicious death, a missing United States national, kidnapping, assault with serious bodily injury, any offense to which section 2241, 2242, 2243, or 2244(a) or (c) of title 18 applies, firing or tampering with the vessel, or theft of money or property in excess of \$10,000, together with contact information for the appropriate law enforcement authorities for missing persons or reportable crimes which arise—

(I) in the territorial waters of the United States;

(II) on the high seas; or

(III) in any country to be visited on the voyage;

(B) provide a copy of the security guide to the Federal Bureau of Investigation for comment; and

(C) publicize the security guide on the website of the vessel owner.

(2) EMBASSY AND CONSULATE LOCATIONS.—The owner of a vessel to which this section applies shall provide in each passenger stateroom, and post in a location readily accessible to all crew and in other places specified by the Secretary, information regarding the locations of the United States embassy and each consulate of the United States for each country the vessel will visit during the course of the voyage.

(d) SEXUAL ASSAULT.—The owner of a vessel to which this section applies shall—

(1) maintain on the vessel adequate, in-date supplies of anti-retroviral medications and other medications designed to prevent sexually transmitted diseases after a sexual assault;

(2) maintain on the vessel equipment and materials for performing a medical examination in sexual assault cases to evaluate the patient for trauma, provide medical care, and preserve relevant medical evidence;

(3) make available on the vessel at all times medical staff who have undergone a credentialing process to verify that he or she—

(A) possesses a current physician's or registered nurse's license and—

(i) has at least 3 years of post-graduate or post-registration clinical practice in general and emergency medicine; or

(ii) holds board certification in emergency medicine, family practice medicine, or internal medicine;

(B) is able to provide assistance in the event of an alleged sexual assault, has received training in conducting forensic sexual assault examination, and is able to promptly perform such an examination upon request and provide proper medical treatment of a victim, including administration of anti-retroviral medications and other medications that may prevent the transmission of human immunodeficiency virus and other sexually transmitted diseases; and

- (C) meets guidelines established by the American College of Emergency Physicians relating to the treatment and care of victims of sexual assault;
- (4) prepare, provide to the patient, and maintain written documentation of the findings of such examination that is signed by the patient; and
- (5) provide the patient free and immediate access to—
- (A) contact information for local law enforcement, the Federal Bureau of Investigation, the United States Coast Guard, the nearest United States consulate or embassy, and the National Sexual Assault Hotline program or other third party victim advocacy hotline service; and
- (B) a private telephone line and Internet-accessible computer terminal by which the individual may confidentially access law enforcement officials, an attorney, and the information and support services available through the National Sexual Assault Hotline program or other third party victim advocacy hotline service.
- (e) CONFIDENTIALITY OF SEXUAL ASSAULT EXAMINATION AND SUPPORT INFORMATION.—The master or other individual in charge of a vessel to which this section applies shall—
- (1) treat all information concerning an examination under subsection (d) confidential, so that no medical information may be released to the cruise line or other owner of the vessel or any legal representative thereof without the prior knowledge and approval in writing of the patient, or, if the patient is unable to provide written authorization, the patient's next-of-kin, except that nothing in this paragraph prohibits the release of—
- (A) information, other than medical findings, necessary for the owner or master of the vessel to comply with the provisions of subsection (g) or other applicable incident reporting laws;
- (B) information to secure the safety of passengers or crew on board the vessel; or
- (C) any information to law enforcement officials performing official duties in the course and scope of an investigation; and
- (2) treat any information derived from, or obtained in connection with, post-assault counseling or other supportive services as confidential, so no such information may be released to the cruise line or any legal representative thereof without the prior knowledge and approval in writing of the patient, or, if the patient is unable to provide written authorization, the patient's next-of-kin.
- (f) CREW ACCESS TO PASSENGER STATEROOMS.—The owner of a vessel to which this section applies shall—
- (1) establish and implement procedures and restrictions concerning—
- (A) which crewmembers have access to passenger staterooms; and
- (B) the periods during which they have that access; and
- (2) ensure that the procedures and restrictions are fully and properly implemented and periodically reviewed.
- (g) LOG BOOK AND REPORTING REQUIREMENTS.—



(1) IN GENERAL.—The owner of a vessel to which this section applies shall—

(A) record in a log book, either electronically or otherwise, in a centralized location readily accessible to law enforcement personnel, a report on—

(i) all complaints of crimes described in paragraph (3)(A)(i),

(ii) all complaints of theft of property valued in excess of \$1,000, and

(iii) all complaints of other crimes, committed on any voyage that embarks or disembarks passengers in the United States; and

(B) make such log book available upon request to any agent of the Federal Bureau of Investigation, any member of the United States Coast Guard, and any law enforcement officer performing official duties in the course and scope of an investigation.

(2) DETAILS REQUIRED.—The information recorded under paragraph (1) shall include, at a minimum—

(A) the vessel operator;

(B) the name of the cruise line;

(C) the flag under which the vessel was operating at the time the reported incident occurred;

(D) the age and gender of the victim and the accused assailant;

(E) the nature of the alleged crime or complaint, as applicable, including whether the alleged perpetrator was a passenger or a crewmember;

(F) the vessel's position at the time of the incident, if known, or the position of the vessel at the time of the initial report;

(G) the time, date, and method of the initial report and the law enforcement authority to which the initial report was made;

(H) the time and date the incident occurred, if known;

(I) the total number of passengers and the total number of crew members on the voyage; and

(J) the case number or other identifier provided by the law enforcement authority to which the initial report was made.

(3) REQUIREMENT TO REPORT CRIMES AND OTHER INFORMATION.—

(A) IN GENERAL.—The owner of a vessel to which this section applies (or the owner's designee)—

(i) shall contact the nearest Federal Bureau of Investigation Field Office or Legal Attache by telephone as soon as possible after the occurrence on board the vessel of an incident involving homicide, suspicious death, a missing United States national, kidnapping, assault with serious bodily injury, any offense to which section 2241, 2242, 2243, or 2244(a) or (c) of title 18 applies, firing or tampering with the vessel, or theft of money or property in excess of \$10,000 to report the incident;

(ii) shall furnish a written report of each incident specified in clause (i) to the Internet website maintained by the Secretary of Transportation under paragraph (4)(A);

(iii) may report any serious incident that does not meet the reporting requirements of clause (i) and that does not require immediate attention by the Federal Bureau of Investigation via the Internet website maintained by the Secretary of Transportation under paragraph (4)(A); and

(iv) may report any other criminal incident involving passengers or crewmembers, or both, to the proper State or local government law enforcement authority.

(B) INCIDENTS TO WHICH SUBPARAGRAPH (A) APPLIES.—Subparagraph (A) applies to an incident involving criminal activity if—

(i) the vessel, regardless of registry, is owned, in whole or in part, by a United States person, regardless of the nationality of the victim or perpetrator, and the incident occurs when the vessel is within the admiralty and maritime jurisdiction of the United States and outside the jurisdiction of any State;

(ii) the incident concerns an offense by or against a United States national committed outside the jurisdiction of any nation;

(iii) the incident occurs in the Territorial Sea of the United States, regardless of the nationality of the vessel, the victim, or the perpetrator; or

(iv) the incident concerns a victim or perpetrator who is a United States national on a vessel during a voyage that departed from or will arrive at a United States port.

(4) AVAILABILITY OF INCIDENT DATA VIA INTERNET.—

(A) WEBSITE.—

(i) IN GENERAL.—The Secretary of Transportation shall maintain a statistical compilation of all incidents on board a cruise vessel specified in paragraph (3)(A)(i) on an Internet website that provides a numerical accounting of the missing persons and alleged crimes reported under that paragraph without regard to the investigative status of the incident.

(ii) UPDATES AND OTHER REQUIREMENTS.—The compilation under clause (i) shall—

(I) be updated not less frequently than quarterly;

(II) be able to be sorted by cruise line;

(III) identify each cruise line by name;

(IV) identify each crime or alleged crime committed or allegedly committed by a passenger or crewmember;

(V) identify the number of individuals alleged overboard; and

(VI) include the approximate number of passengers and crew carried by each cruise line during each quarterly reporting period.

(iii) **USER-FRIENDLY FORMAT.**—The Secretary of Transportation shall ensure that the compilation, data, and any other information provided on the Internet website maintained under this subparagraph are in a user-friendly format. The Secretary shall, to the greatest extent practicable, use existing commercial off the shelf technology to transfer and establish the website, and shall not independently develop software, or acquire new hardware in operating the site.

(B) **ACCESS TO WEBSITE.**—Each cruise line taking on or discharging passengers in the United States shall include a link on its Internet website to the website maintained by the Secretary of Transportation under subparagraph (A).

(h) **ENFORCEMENT.**—

(1) **PENALTIES.**—

(A) **CIVIL PENALTY.**—Any person that violates this section or a regulation under this section shall be liable for a civil penalty of not more than \$25,000 for each day during which the violation continues, except that the maximum penalty for a continuing violation is \$50,000.

(B) **CRIMINAL PENALTY.**—Any person that willfully violates this section or a regulation under this section shall be fined not more than \$250,000 or imprisoned not more than 1 year, or both.

(2) **DENIAL OF ENTRY.**—The Secretary may deny entry into the United States to a vessel to which this section applies if the owner of the vessel—

(A) commits an act or omission for which a penalty may be imposed under this subsection; or

(B) fails to pay a penalty imposed on the owner under this subsection.

(i) **PROCEDURES.**—The Secretary shall maintain guidelines, training curricula, and inspection and certification procedures necessary to carry out the requirements of this section.

(j) **REGULATIONS.**—The Secretary and the Commandant shall each issue such regulations as are necessary to implement this section.

(k) **APPLICATION.**—

(1) **IN GENERAL.**—This section and section 3508 apply to a passenger vessel (as defined in section 2101(31)) that—

(A) is authorized to carry **[at least 250] 250 or more** passengers;

**[(B) has onboard sleeping facilities for each passenger; and]**

*(B) has overnight accommodations for 250 or more passengers; and*

(C) is on a voyage that embarks or disembarks passengers in the United States.

(2) **FEDERAL AND STATE VESSELS.**—This section and section 3508 do not apply to a vessel of the United States operated by the Federal Government or a vessel owned and operated by a State.

(1) DEFINITION.—In this section and section 3508, the term “owner” means the owner, charterer, managing operator, master, or other individual in charge of a vessel.

\* \* \* \* \*

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

Sec.  
4501. Application.

\* \* \* \* \*

**[4503a. Alternate safety compliance program.]**

\* \* \* \* \*

**§ 4502. Safety standards**

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

- (1) readily accessible fire extinguishers capable of promptly and effectively extinguishing a flammable or combustible liquid fuel fire;
- (2) at least one readily accessible life preserver or other life-saving device for each individual on board;
- (3) an efficient flame arrestor, backfire trap, or other similar device on the carburetors of each inboard engine which uses gasoline as fuel;
- (4) the means to properly and efficiently ventilate enclosed spaces, including engine and fuel tank compartments, so as to remove explosive or flammable gases;
- (5) visual distress signals;
- (6) other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment; and
- (7) a placard as required by regulations prescribed under section 10603(b) of this title.

(b)(1) In addition to the requirements of subsection (a) of this section, the Secretary shall prescribe regulations requiring the installation, maintenance, and use of the equipment in paragraph (2) of this subsection for vessels to which this chapter applies that—

- (A) operate beyond 3 nautical miles from the baseline from which the territorial sea of the United States is measured or beyond 3 nautical miles from the coastline of the Great Lakes;
- (B) operate with more than 16 individuals on board; or
- (C) in the case of a fish tender vessel, engage in the Aleutian trade.

(2) The equipment to be required is as follows:

- (A) alerting and locating equipment, including emergency position indicating radio beacons;
- (B) subject to paragraph (3), a survival craft that ensures that no part of an individual is immersed in water sufficient to accommodate all individuals on board;
- (C) at least one readily accessible immersion suit for each individual on board that vessel when operating on the waters described in section 3102 of this title;

- (D) marine radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;
  - (E) navigation equipment, including compasses, nautical charts, and publications;
  - (F) first aid equipment and medical supplies sufficient for the size and area of operation of the vessel; and
  - (G) ground tackle sufficient for the vessel.
- (3) Except for a nonapplicable vessel, an auxiliary craft shall satisfy the equipment requirement under paragraph (2)(B) if such craft is—
- (A) necessary for normal fishing operations;
  - (B) readily accessible during an emergency; and
  - (C) capable, in accordance with the Coast Guard capacity rating, when applicable, of safely holding all individuals on board the vessel to which the craft functions as an auxiliary.
- (c)(1) In addition to the requirements described in subsections (a) and (b) of this section, the Secretary may prescribe regulations establishing the standards in paragraph (2) of this subsection for vessels to which this chapter applies that—
- (A)(i) were built after December 31, 1988, or undergo a major conversion completed after that date; and
  - (ii) operate with more than 16 individuals on board; or
  - (B) in the case of a fish tender vessel, engage in the Aleutian trade.
- (2) The standards shall be minimum safety standards, including standards relating to—
- (A) navigation equipment, including radars and fathometers;
  - (B) lifesaving equipment, immersion suits, signaling devices, bilge pumps, bilge alarms, life rails, and grab rails;
  - (C) fire protection and firefighting equipment, including fire alarms and portable and semiportable fire extinguishing equipment;
  - (D) use and installation of insulation material;
  - (E) storage methods for flammable or combustible material; and
  - (F) fuel, ventilation, and electrical systems.
- (d)(1) The Secretary shall prescribe regulations for the operating stability of a vessel to which this chapter applies—
- (A) that was built after December 31, 1989; or
  - (B) the physical characteristics of which are substantially altered after December 31, 1989, in a manner that affects the vessel's operating stability.
- (2) The Secretary may accept, as evidence of compliance with this subsection, a certification of compliance issued by the person providing insurance for the vessel or by another qualified person approved by the Secretary.
- (e) In prescribing regulations under this chapter, the Secretary—
- (1) shall consider the specialized nature and economics of the operations and the character, design, and construction of the vessel; and
  - (2) may not require the alteration of a vessel or associated equipment that was constructed or manufactured before the effective date of the regulation.

(f) To ensure compliance with the requirements of this chapter, the Secretary—

(1) shall require the individual in charge of a vessel described in subsection (b) to keep a record of equipment maintenance, and required instruction and drills;

(2) shall examine at dockside a vessel described in subsection (b) at least once every 5 years, but may require an exam at dockside every 2 years for **【certain vessels described in subsection (b) if requested by the owner or operator; and】** *vessels described in subsection (b) if—*

(A) *requested by an owner or operator; or*

(B) *the vessel is—*

(i) *at least 50 feet overall in length;*

(ii) *built before July 1, 2013; and*

(iii) *25 years of age or older; and*

(3) shall issue a certificate of compliance to a vessel meeting the requirements of this chapter and satisfying the requirements in paragraph (2).

(g)(1) The individual in charge of a vessel described in subsection (b) must pass a training program approved by the Secretary that meets the requirements in paragraph (2) of this subsection and hold a valid certificate issued under that program.

(2) The training program shall—

(A) be based on professional knowledge and skill obtained through sea service and hands-on training, including training in seamanship, stability, collision prevention, navigation, fire fighting and prevention, damage control, personal survival, emergency medical care, emergency drills, and weather;

(B) require an individual to demonstrate ability to communicate in an emergency situation and understand information found in navigation publications;

(C) recognize and give credit for recent past experience in fishing vessel operation; and

(D) provide for issuance of a certificate to an individual that has successfully completed the program.

(3) The Secretary shall prescribe regulations implementing this subsection. The regulations shall require that individuals who are issued a certificate under paragraph (2)(D) must complete refresher training at least once every 5 years as a condition of maintaining the validity of the certificate.

(4) The Secretary shall establish an electronic database listing the names of individuals who have participated in and received a certificate confirming successful completion of a training program approved by the Secretary under this section.

(h) A vessel to which this chapter applies shall be constructed in a manner that provides a level of safety equivalent to the minimum safety standards the Secretary may establish for recreational vessels under section 4302, if—

(1) subsection (b) of this section applies to the vessel;

(2) the vessel is less than 50 feet overall in length; and

(3) the vessel is built after January 1, 2010.

(i)(1) The Secretary of Health and Human Services shall establish a Fishing Safety Training Grants Program to provide funding to municipalities, port authorities, other appropriate public enti-

ties, not-for-profit organizations, and other qualified persons that provide commercial fishing safety training—

(A) to conduct fishing vessel safety training for vessel operators and crewmembers that—

(i) in the case of vessel operators, meets the requirements of subsection (g); and

(ii) in the case of crewmembers, meets the requirements of subsection (g)(2)(A), such requirements of subsection (g)(2)(B) as are appropriate for crewmembers, and the requirements of subsections (g)(2)(D), (g)(3), and (g)(4); and

(B) for purchase of safety equipment and training aids for use in those fishing vessel safety training programs.

(2) The Secretary of Health and Human Services, in consultation with and based on criteria established by the Commandant of the Coast Guard shall award grants under this subsection on a competitive basis.

(3) The Federal share of the cost of any activity carried out with a grant under this subsection shall not exceed 75 percent.

(4) There is authorized to be appropriated \$3,000,000 for each of fiscal years 2018 through 2021 for grants under this subsection.

(j)(1) The Secretary of Health and Human Services shall establish a Fishing Safety Research Grant Program to provide funding to individuals in academia, members of non-profit organizations and businesses involved in fishing and maritime matters, and other persons with expertise in fishing safety, to conduct research on methods of improving the safety of the commercial fishing industry, including vessel design, emergency and survival equipment, enhancement of vessel monitoring systems, communications devices, de-icing technology, and severe weather detection.

(2) The Secretary of Health and Human Services, in consultation with and based on criteria established by the Commandant of the Coast Guard, shall award grants under this subsection on a competitive basis.

(3) The Federal share of the cost of any activity carried out with a grant under this subsection shall not exceed 75 percent.

(4) There is authorized to be appropriated \$3,000,000 for each of fiscal years 2018 through 2021 for activities under this subsection.

(k) For the purposes of this section, the term “auxiliary craft” means a vessel that is carried onboard a fishing vessel and is normally used to support fishing operations.

**§ 4503. Fishing, fish tender, and fish processing vessel certification**

(a) A vessel to which this subsection applies may not be operated unless the vessel—

(1) meets all survey and classification requirements prescribed by the American Bureau of Shipping or another similarly qualified organization approved by the Secretary; and

(2) has on board a certificate issued by the American Bureau of Shipping or that other organization evidencing compliance with this subsection.

(b) [Except as provided in section 4503a, subsection (a)] *Subsection (a)* applies to a fish processing vessel to which this chapter applies that—

(1) is built after July 27, 1990; or

- (2) undergoes a major conversion completed after that date.
- (c)(1) Except as provided in paragraph (2), subsection (a) applies to a vessel to which section 4502(b) of this title applies that is at least 50 feet overall in length and is built after July 1, 2013.
- (2) Subsection (a) does not apply to a fishing vessel or fish tender vessel to which section 4502(b) of this title applies, if the vessel—
- (A) is at least 50 feet overall in length, and not more than 180 feet overall in length as listed on the vessel's certificate of documentation or certificate of number; and
  - (B)(i) is built after the date of the enactment of the Coast Guard Authorization Act of 2016; and
  - (ii) complies with—
    - (I) the requirements described in subsection (d); or
    - (II) the alternative requirements established by the Secretary under subsection (e).
- (d) The requirements referred to in subsection (c)(2)(B)(ii)(I) are the following:
- (1) The vessel is designed by an individual licensed by a State as a naval architect or marine engineer, and the design incorporates standards equivalent to those prescribed by a classification society to which the Secretary has delegated authority under section 3316 or another qualified organization approved by the Secretary for purposes of this paragraph.
  - (2) Construction of the vessel is overseen and certified as being in accordance with its design by a marine surveyor of an organization accepted by the Secretary.
  - (3) The vessel—
    - (A) completes a stability test performed by a qualified individual;
    - (B) has written stability and loading instructions from a qualified individual that are provided to the owner or operator; and
    - (C) has an assigned loading mark.
  - (4) The vessel is not substantially altered without the review and approval of an individual licensed by a State as a naval architect or marine engineer before the beginning of such substantial alteration.
  - (5) The vessel undergoes a condition survey at least twice in 5 years, not to exceed 3 years between surveys, to the satisfaction of a marine surveyor of an organization accepted by the Secretary.
  - (6) The vessel undergoes an out-of-water survey at least once every 5 years to the satisfaction of a certified marine surveyor of an organization accepted by the Secretary.
  - (7) Once every 5 years and at the time of a substantial alteration to such vessel, compliance of the vessel with the requirements of paragraph (3) is reviewed and updated as necessary.
  - (8) For the life of the vessel, the owner of the vessel maintains records to demonstrate compliance with this subsection and makes such records readily available for inspection by an official authorized to enforce this chapter.
- (e)(1) Not later than 10 years after the date of the enactment of the Coast Guard Authorization Act of 2016, the Secretary shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce,



Science, and Transportation of the Senate a report that provides an analysis of the adequacy of the requirements under subsection (d) in maintaining the safety of the fishing vessels and fish tender vessels which are described in subsection (c)(2) and which comply with the requirements of subsection (d).

(2) If the report required under this subsection includes a determination that the safety requirements under subsection (d) are not adequate or that additional safety measures are necessary, then the Secretary may establish an alternative safety compliance program for fishing vessels or fish tender vessels (or both) which are described in subsection (c)(2) and which comply with the requirements of subsection (d).

(3) The alternative safety compliance program established under this subsection shall include requirements for—

- (A) vessel construction;
- (B) a vessel stability test;
- (C) vessel stability and loading instructions;
- (D) an assigned vessel loading mark;
- (E) a vessel condition survey at least twice in 5 years, not to exceed 3 years between surveys;
- (F) an out-of-water vessel survey at least once every 5 years;
- (G) maintenance of records to demonstrate compliance with the program, and the availability of such records for inspection; and
- (H) such other aspects of vessel safety as the Secretary considers appropriate.

(f)(1) For purposes of this section and section 4503a, the term “built” means, with respect to a vessel, that the vessel’s construction has reached any of the following stages:

- (A) The vessel’s keel is laid.
- (B) Construction identifiable with the vessel has begun and assembly of that vessel has commenced comprising of at least 50 metric tons or one percent of the estimated mass of all structural material, whichever is less.

(2) In the case of a vessel greater than 79 feet overall in length, for purposes of paragraph (1)(A) a keel is deemed to be laid when a marine surveyor affirms that a structure adequate for serving as a keel for such vessel is in place and identified for use in the construction of such vessel.

#### **§ 4503a. Alternate safety compliance program**

[(a) Subject to subsection (c), beginning on the date that is 3 years after the date that the Secretary prescribes an alternate safety compliance program, a fishing vessel, fish processing vessel, or fish tender vessel to which section 4502(b) of this title applies shall comply with such an alternate safety compliance program, if the vessel—

- [(1) is at least 50 feet overall in length;
- [(2) is built before July 1, 2013; and
- [(3) is 25 years of age or older.

[(b) A fishing vessel, fish processing vessel, or fish tender vessel built before July 1, 2013, that undergoes a major conversion completed after the later of July 1, 2013, or the date the Secretary prescribes an alternate safety compliance program under subsection (a), shall comply with such an alternate safety compliance program.

[(c) For purposes of subsection (a), a separate alternate safety compliance program may be developed for a specific region or specific fishery.

[(d) Notwithstanding subsection (a), vessels owned by a person that owns more than 30 vessels subject to that subsection are not required to meet the alternate safety compliance requirements of that subsection until January 1, 2030, if that owner enters into a compliance agreement with the Secretary that provides for a fixed schedule for all of the vessels owned by that person to meet requirements of that subsection by that date and the vessel owner is meeting that schedule.

[(e) A fishing vessel, fish processing vessel, or fish tender vessel to which section 4502(b) of this title applies that was classed before July 1, 2012 is not eligible to participate in an alternative safety compliance program prescribed under subsection (a) and, shall—

[(1) remain subject to the requirements of a classification society approved by the Secretary; and

[(2) have on board a certificate from that society.

[(f) For the purposes of this section, the term “built” has the meaning given that term in section 4503(f).]

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**CHAPTER 49—OCEANGOING NON-PASSENGER  
COMMERCIAL VESSELS**

Sec.  
4901. *Surveillance requirements.*

**§ 4901. *Surveillance requirements***

(a) *IN GENERAL.*—A vessel engaged in commercial service that does not carry passengers, shall maintain a video surveillance system.

(b) *APPLICABILITY.*—The requirements in this section shall apply to—

(1) *documented vessels with overnight accommodations for at least 10 persons on board—*

(A) *is on a voyage of at least 600 miles and crosses seaward of the Boundary Line; or*

(B) *is at least 24 meters (79 feet) in overall length and required to have a load line under chapter 51;*

(2) *documented vessels of at least 500 gross tons as measured under section 14502, or an alternate tonnage measured under section 14302 as prescribed by the Secretary under section 14104 on an international voyage; and*

(3) *vessels with overnight accommodations for at least 10 persons on board that are operating for no less than 72 hours on waters superjacent to the Outer Continental Shelf.*

(c) *PLACEMENT OF VIDEO AND AUDIO SURVEILLANCE EQUIPMENT.*—

(1) *IN GENERAL.*—The owner of a vessel to which this section applies shall install video and audio surveillance equipment aboard the vessel not later than 2 years after enactment of the Coast Guard Authorization Act of 2022, or during the next scheduled drydock, whichever is later.

(2) *LOCATIONS.*—Video and audio surveillance equipment shall be placed in passageways on to which doors from state-rooms open. Such equipment shall be placed in a manner ensuring the visibility of every door in each such passageway.

(d) *NOTICE OF VIDEO AND AUDIO SURVEILLANCE.*—The owner of a vessel to which this section applies shall provide clear and conspicuous signs on board the vessel notifying the crew of the presence of video and audio surveillance equipment.

(e) *ACCESS TO VIDEO AND AUDIO RECORDS.*—

(1) *IN GENERAL.*—The owner of a vessel to which this section applies shall provide to any Federal, state, or other law enforcement official performing official duties in the course and scope of a criminal or marine safety investigation, upon request, a copy of all records of video and audio surveillance that the official believes is relevant to the investigation.

(2) *CIVIL ACTIONS.*—Except as proscribed by law enforcement authorities or court order, the owner of a vessel to which this section applies shall, upon written request, provide to any individual or the individual's legal representative a copy of all records of video and audio surveillance—

(A) in which the individual is a subject of the video and audio surveillance;

(B) the request is in conjunction with a legal proceeding or investigation; and

(C) that may provide evidence of any sexual harassment or sexual assault incident in a civil action.

(3) *LIMITED ACCESS.*—The owner of a vessel to which this section applies shall ensure that access to records of video and audio surveillance is limited to the purposes described in this paragraph and not used as part of a labor action against a crew member or employment dispute unless used in a criminal or civil action.

(f) *RETENTION REQUIREMENTS.*—The owner of a vessel to which this section applies shall retain all records of audio and video surveillance for not less than 150 days after the footage is obtained. Any video and audio surveillance found to be associated with an alleged incident should be preserved for not less than 4 years from the date of the alleged incident. The Federal Bureau of Investigation and the Coast Guard are authorized access to all records of video and audio surveillance relevant to an investigation into criminal conduct.

(g) *DEFINITION.*—In this section, the term “owner” means the owner, charterer, managing operator, master, or other individual in charge of a vessel.

(h) *EXEMPTION.*—Fishing vessels, fish processing vessels, and fish tender vessels are exempt from this section.

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**PART E—MERCHANT SEAMEN LICENSES,  
CERTIFICATES, AND DOCUMENTS**

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**CHAPTER 75—GENERAL PROCEDURES FOR LICENSING, CERTIFICATION, AND DOCUMENTATION**

Sec.

7501. Duplicates.

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7511. *Convicted sex offender as grounds for denial.*

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**§ 7511. Convicted sex offender as grounds for denial**

(a) *SEXUAL ABUSE.*—A license, certificate of registry, or merchant mariner’s document authorized to be issued under this part shall be denied to an individual who has been convicted of a sexual offense prohibited under chapter 109A of title 18, except for subsection (b) of section 2244 of title 18, or a substantially similar State, local, or Tribal offense.

(b) *ABUSIVE SEXUAL CONTACT.*—A license, certificate of registry, or merchant mariner’s document authorized to be issued under this part may be denied to an individual who within 5 years before applying for the license, certificate, or document, has been convicted of a sexual offense prohibited under subsection (b) of section 2244 of title 18, or a substantially similar State, local, or Tribal offense.

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**CHAPTER 77—SUSPENSION AND REVOCATION**

Sec.

7701. General.

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7704a. *Sexual harassment or sexual assault as grounds for suspension or revocation.*

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**§ 7704a. Sexual harassment or sexual assault as grounds for suspension or revocation**

(a) *SEXUAL HARASSMENT.*—If it is shown at a hearing under this chapter that a holder of a license, certificate of registry, or merchant mariner’s document issued under this part, within 5 years before the beginning of the suspension and revocation proceedings, is the subject of an official finding of sexual harassment, then the license, certificate of registry, or merchant mariner’s document may be suspended or revoked.

(b) *SEXUAL ASSAULT.*—If it is shown at a hearing under this chapter that a holder of a license, certificate of registry, or merchant mariner’s document issued under this part, within 10 years before the beginning of the suspension and revocation proceedings, is the subject of an official finding of sexual assault, then the license, certificate of registry, or merchant mariner’s document shall be revoked.

(c) *OFFICIAL FINDING.*—

(1) *IN GENERAL.*—In this section, the term “official finding” means—

(A) a legal proceeding or agency finding or decision that determines the individual committed sexual harassment or

*sexual assault in violation of any Federal, State, local, or Tribal law or regulation; or*

*(B) a determination after an investigation by the Coast Guard that, by a preponderance of the evidence, the individual committed sexual harassment or sexual assault if the investigation affords appropriate due process rights to the subject of the investigation.*

(2) *INVESTIGATION BY THE COAST GUARD.—An investigation by the Coast Guard under paragraph (1)(B) shall include, at a minimum, evaluation of the following materials that, upon request, shall be provided to the Coast Guard:*

*(A) Any inquiry or determination made by the employer or former employer of the individual as to whether the individual committed sexual harassment or sexual assault.*

*(B) Any investigative materials, documents, records, or files in the possession of an employer or former employer of the individual that are related to the claim of sexual harassment or sexual assault by the individual.*

(3) *ADMINISTRATIVE LAW JUDGE REVIEW.—*

*(A) COAST GUARD INVESTIGATION.—A determination under paragraph (1)(B) shall be reviewed and affirmed by an administrative law judge within the same proceeding as any suspension or revocation of a license, certificate of registry, or merchant mariner’s document under subsection (a) or (b).*

*(B) LEGAL PROCEEDING.—A determination under paragraph (1)(A) that an individual committed sexual harassment or sexual assault is conclusive in suspension and revocation proceedings.*

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**PART F—MANNING OF VESSELS**

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**CHAPTER 81—GENERAL**

Sec.  
8101. Complement of inspected vessels.

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8108. Exemptions from manning and crew requirements.

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**§ 8108. Exemptions from manning and crew requirements**

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

- (1) a citizen of the United States;*
- (2) an alien lawfully admitted to the United States for permanent residence; or*
- (3) a citizen of the nation under the laws of which the vessel is documented.*

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

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

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

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

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

(e) *REVOCATION.*—

(1) *IN GENERAL.*—The Secretary—

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

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

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

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

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

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

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

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

(i) *DEFINITIONS.*—In this section:

(1) *COVERED FACILITY.*—The term “covered facility” means any vessel, rig, platform, or other vehicle or structure, over 50 percent of which is owned by citizens of a foreign nation or with respect to which the citizens of a foreign nation have the right effectively to control, except to the extent and to the degree that the President determines that the government of such foreign

*nation or any of its political subdivisions has implemented, by statute, regulation, policy, or practice, a national manning requirement for equipment engaged in the exploring for, developing, or producing resources, including non-mineral energy resources in its offshore areas.*

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

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**PART G—MERCHANT SEAMEN PROTECTION AND RELIEF**

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**CHAPTER 101—GENERAL**

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**§ 10104. Requirement to report sexual offenses**

[(a) A master or other individual in charge of a documented vessel shall report to the Secretary a complaint of a sexual offense prohibited under chapter 109A of title 18, United States Code.

[(b) A master or other individual in charge of a documented vessel who knowingly fails to report in compliance with this section is liable to the United States Government for a civil penalty of not more than \$5,000.]

*(a) MANDATORY REPORTING BY CREW MEMBER.—*

*(1) IN GENERAL.—A crew member of a documented vessel shall report to the Secretary any complaint or incident of sexual harassment or sexual assault of which the crewmember has first-hand or personal knowledge.*

*(2) PENALTY.—A crew member with first-hand or personal knowledge of a sexual assault or sexual harassment incident on a documented vessel who knowingly fails to report in compliance with paragraph (a)(1) is liable to the United States Government for a civil penalty of not more than \$5,000.*

*(3) AMNESTY.—A crew member who fails to make the required reporting under paragraph (1) shall not be subject to the penalty described in paragraph (2) if the complaint is shared in confidence with the crew member directly from the assaulted individual or the crew member is a victim advocate as defined in section 40002(a) of the Violent Crime Control and Law Enforcement Act of 1994 (34 U.S.C. 12291(a)).*

*(b) MANDATORY REPORTING BY VESSEL OWNER.—*

*(1) IN GENERAL.—A vessel owner or managing operator of a documented vessel or the employer of a seafarer on that vessel shall report to the Secretary any complaint or incident of harassment, sexual harassment, or sexual assault in violation of employer policy or law, of which such vessel owner or managing operator of a vessel engaged in commercial service, or the employer of the seafarer is made aware. Such reporting shall include results of any investigation into the incident, if applicable, and any action taken against the offending crewmember.*

*(2) PENALTY.—A vessel owner or managing operator of a vessel engaged in commercial service, or the employer of a seafarer*

*on that vessel who knowingly fails to report in compliance with paragraph (1) is liable to the United States Government for a civil penalty of not more than \$25,000.*

**(c) REPORTING PROCEDURES.—**

*(1) A report required under subsection (a) shall be made as soon as practicable, but no later than 10 days after the individual develops first-hand or personal knowledge of the sexual assault or sexual harassment incident to the Coast Guard National Command Center by the fastest telecommunication channel available.*

*(2) A report required under subsection (b) shall be made immediately after the vessel owner, managing operator, or employer of the seafarer gains knowledge of a sexual assault or sexual harassment incident by the fastest telecommunication channel available, and such report shall be made to the Coast Guard National Command Center—*

*(A) the nearest Coast Guard Captain of the Port; or*

*(B) the appropriate officer or agency of the government of the country in whose waters the incident occurs.*

*(3) A report required under subsections (a) and (b) shall include, to the best of the reporter’s knowledge—*

*(A) the name, official position or role in relation to the vessel, and contact information of the individual making the report;*

*(B) the name and official number of the documented vessel;*

*(C) the time and date of the incident;*

*(D) the geographic position or location of the vessel when the incident occurred; and*

*(E) a brief description of the alleged sexual harassment or sexual assault being reported.*

*(4) After receipt of the report made under this subsection, the Coast Guard will collect information related to the identity of each alleged victim, alleged perpetrator, and witness through means designed to protect, to the extent practicable, the personal identifiable information of such individuals.*

**(d) REGULATIONS.—***The requirements of this section are effective as of the date of enactment of Coast Guard Authorization Act of 2022. The Secretary may issue additional regulations to implement the requirements of this section.*

\* \* \* \* \*

**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 this title, or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this 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 effluvia 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<sup>[.]</sup>; and

(5) *each crew berthing area shall be equipped with information regarding—*

*(A) vessel owner or company policies prohibiting sexual assault and sexual harassment, retaliation, and drug and alcohol usage; and*

*(B) procedures and resources to report crimes, including sexual assault and sexual harassment, including information—*

*(i) on the contact information, website address, and mobile application to the Coast Guard Investigative Services for reporting of crimes and the Coast Guard National Command Center;*

*(ii) on vessel owner or company procedures to report violations of company policy and access resources;*

*(iii) on resources provided by outside organizations such as sexual assault hotlines and counseling;*

*(iv) on the retention period for surveillance video recording after an incident of sexual harassment or sexual assault is reported; and*

*(v) additional items specified in regulations issued by, and at the discretion of, the Secretary of the department in which the Coast Guard is operating.*

(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. *In each washing space in a visible location there shall be information regarding procedures and resources to report crimes upon the vessel, including sexual assault and sexual harassment, and vessel owner or company policies prohibiting sexual assault and sexual harassment, retaliation, and drug and alcohol usage.*

(e) Forecastles 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.

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**PART J—MEASUREMENT OF VESSELS**

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**CHAPTER 143—CONVENTION MEASUREMENT**

\* \* \* \* \*

**§ 14305. Optional regulatory measurement**

(a) On request of the owner of a vessel measured under this chapter that is of United States registry or nationality, or a vessel operated under the authority of the United States, the Secretary also shall measure the vessel under chapter 145 of this title. The tonnages determined under that chapter shall be used in applying—

- (1) parts A, B, C, E, F, and G of this subtitle and section 12116 of this title;
- (2) section 3(d)(3) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 903(d)(3));
- (3) section 4 of the Bridge to Bridge Radiotelephone Act (33 U.S.C. 1203(a));
- (4) section 4(a)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(3));
- (5) **[section 30506]** *section 30524* of this title;
- (6) sections 12118 and 12132 of this title;
- (7) section 12139(b) of this title;
- (8) sections 351, 352, 355, and 356 of the Ship Radio Act (47 U.S.C. 351, 352, 354, and 354a);
- (9) section 403 of the Commercial Fishing Industry Vessel Act (46 U.S.C. 3302 note);
- (10) the Officers' Competency Certificates Convention, 1936, and section 8304 of this title;
- (11) the International Convention for the Safety of Life at Sea as provided by IMCO Resolution A.494 (XII) of November 19, 1981;

(12) the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, as provided by IMO Resolution A.540 (XIII) of November 17, 1983;

(13) the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, as provided by IMO Resolution A.541 (XIII) of November 17, 1983;

(14) provisions of law establishing the threshold tonnage levels at which evidence of financial responsibility must be demonstrated; or

(15) unless otherwise provided by law, any other law of the United States in effect before July 19, 1994, and not listed by the Secretary under section 14302(c) of this title.

(b) As long as the owner of a vessel has a request in effect under subsection (a) of this section, the tonnages determined under that request shall be used in applying the other provisions of law described in subsection (a) to that vessel.

\* \* \* \* \*

**SUBTITLE III—MARITIME LIABILITY**

\* \* \* \* \*

**CHAPTER 301—GENERAL LIABILITY PROVISIONS**

Sec.  
30101. Extension of jurisdiction to cases of damage or injury on land.

\* \* \* \* \*

**[30106. Time limit on bringing maritime action for personal injury or death.]**  
30106. *Time limit on bringing maritime action.*

\* \* \* \* \*

**§ 30104. Personal injury to or death of seamen**

(a) *IN GENERAL.*—A seaman injured in the course of employment, including an injury resulting from sexual assault or sexual harassment, or, if the seaman dies from the injury, the personal representative of the seaman may elect to bring a civil action at law, with the right of trial by jury, against the employer. Laws of the United States regulating recovery for personal injury to, or death of, a railway employee apply to an action under this section.

(b) *LIMITATION ON RECOVERY BY AQUACULTURE WORKERS.*—

(1) *IN GENERAL.*—For purposes of subsection (a), the term “seaman” does not include an individual who—

(A) is an aquaculture worker if State workers’ compensation is available to such individual; and

(B) was, at the time of injury, engaged in aquaculture in a place where such individual had lawful access.

(2) *AQUACULTURE WORKER DEFINED.*—In this subsection, the term “aquaculture worker” means an individual who—

(A) is employed by a commercial enterprise that is involved in the controlled cultivation and harvest of aquatic plants and animals, including—

- (i) the cleaning, processing, or canning of fish and fish products;
  - (ii) the cultivation and harvesting of shellfish; and
  - (iii) the controlled growing and harvesting of other aquatic species;
- (B) does not hold a license issued under section 7101(c); and
- (C) is not required to hold a merchant mariner credential under part F of subtitle II.

\* \* \* \* \*

**§ 30106. Time limit on bringing maritime action [for personal injury or death]**

**[Except as otherwise]** (a) *IN GENERAL.*—*Except as otherwise provided by law, a civil action for damages for personal injury or death arising out of a maritime tort must be brought within 3 years after the cause of action arose.*

(b) *EXTENSION FOR SEXUAL OFFENSE.*—*A civil action under subsection (a) arising out of a maritime tort for a claim of sexual harassment or sexual assault shall be brought not more than 5 years after the cause of action for a claim of sexual harassment or sexual assault arose.*

\* \* \* \* \*

**CHAPTER 305—EXONERATION AND LIMITATION OF LIABILITY**

Sec.

*SUBCHAPTER I—GENERAL PROVISIONS*

**[30501. Definition.]**  
**30501. Definitions.**

\* \* \* \* \*

*SUBCHAPTER II—EXONERATION AND LIMITATION OF LIABILITY*

- [30503]** 30521. Declaration of nature and value of goods.
- [30504]** 30522. Loss by fire.
- [30505]** 30523. General limit of liability.
- [30506]** 30524. Limit of liability for personal injury or death.
- [30507]** 30525. Apportionment of losses.
- [30508]** 30526. Provisions requiring notice of claim or limiting time for bringing action.
- [30509]** 30527. Provisions limiting liability for personal injury or death.
- [30510]** 30528. Vicarious liability for medical malpractice with regard to crew.
- [30511]** 30529. Action by owner for limitation.
- [30512]** 30530. Liability as master, officer, or seaman not affected.

***Subchapter I—General Provisions***

**[§ 30501. Definition]**

**[In this chapter, the term “owner” includes a charterer that mans, supplies, and navigates a vessel at the charterer’s own expense or by the charterer’s own procurement.]**

**§ 30501. Definitions**

*In this chapter:*

(1) *COVERED SMALL PASSENGER VESSEL.*—The term “covered small passenger vessel”—

(A) means a small passenger vessel, as defined in section 2101 that is—

(i) not a wing-in-ground craft; and

(ii) carrying—

(I) not more than 49 passengers on an overnight domestic voyage; and

(II) not more than 150 passengers on any voyage that is not an overnight domestic voyage; and

(B) includes any wooden vessel constructed prior to March 11, 1996, carrying at least 1 passenger for hire.

(2) *OWNER.*—The term “owner” includes a charterer that mans, supplies, and navigates a vessel at the charterer’s own expense or by the charterer’s own procurement.

#### **§ 30502. Application**

Except as to covered small passenger vessels, and as otherwise provided, this chapter (except section 30503) applies to seagoing vessels and vessels used on lakes or rivers or in inland navigation, including canal boats, barges, and lighters.

### ***Subchapter II—Exoneration and Limitation of Liability***

#### **§ [30503.] 30521. Declaration of nature and value of goods**

(a) *IN GENERAL.*—If a shipper of an item named in subsection (b), contained in a parcel, package, or trunk, loads the item as freight or baggage on a vessel, without at the time of loading giving to the person receiving the item a written notice of the true character and value of the item and having that information entered on the bill of lading, the owner and master of the vessel are not liable as carriers. The owner and master are not liable beyond the value entered on the bill of lading.

(b) *ITEMS.*—The items referred to in subsection (a) are precious metals, gold or silver plated articles, precious stones, jewelry, trinkets, watches, clocks, glass, china, coins, bills, securities, printings, engravings, pictures, stamps, maps, papers, silks, furs, lace, and similar items of high value and small size.

#### **§ [30504.] 30522. Loss by fire**

The owner of a vessel is not liable for loss or damage to merchandise on the vessel caused by a fire on the vessel unless the fire resulted from the design or neglect of the owner.

#### **§ [30505.] 30523. General limit of liability**

(a) *IN GENERAL.*—Except as provided in [section 30506] section 30524 of this title, the liability of the owner of a vessel for any claim, debt, or liability described in subsection (b) shall not exceed the value of the vessel and pending freight. If the vessel has more than one owner, the proportionate share of the liability of any one owner shall not exceed that owner’s proportionate interest in the vessel and pending freight.

(b) CLAIMS SUBJECT TO LIMITATION.—Unless otherwise excluded by law, claims, debts, and liabilities subject to limitation under subsection (a) are those arising from any embezzlement, loss, or destruction of any property, goods, or merchandise shipped or put on board the vessel, any loss, damage, or injury by collision, or any act, matter, or thing, loss, damage, or forfeiture, done, occasioned, or incurred, without the privity or knowledge of the owner.

(c) WAGES.—Subsection (a) does not apply to a claim for wages.

**§ [30506.] 30524. Limit of liability for personal injury or death**

(a) APPLICATION.—This section applies only to seagoing vessels, but does not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.

(b) MINIMUM LIABILITY.—If the amount of the vessel owner's liability determined under [section 30505] *section 30523* of this title is insufficient to pay all losses in full, and the portion available to pay claims for personal injury or death is less than \$420 times the tonnage of the vessel, that portion shall be increased to \$420 times the tonnage of the vessel. That portion may be used only to pay claims for personal injury or death.

(c) CALCULATION OF TONNAGE.—Under subsection (b), the tonnage of a self-propelled vessel is the gross tonnage without deduction for engine room, and the tonnage of a sailing vessel is the tonnage for documentation. However, space for the use of seamen is excluded.

(d) CLAIMS ARISING ON DISTINCT OCCASIONS.—Separate limits of liability apply to claims for personal injury or death arising on distinct occasions.

(e) PRIVILEGE OR KNOWLEDGE.—In a claim for personal injury or death, the privity or knowledge of the master or the owner's superintendent or managing agent, at or before the beginning of each voyage, is imputed to the owner.

**§ [30507.] 30525. Apportionment of losses**

If the amounts determined under [sections 30505 and 30506] *sections 30523 and 30524* of this title are insufficient to pay all claims—

(1) all claimants shall be paid in proportion to their respective losses out of the amount determined under [section 30505] *section 30523* of this title; and

(2) personal injury and death claimants, if any, shall be paid an additional amount in proportion to their respective losses out of the additional amount determined under [section 30506(b)] *section 30524(b)* of this title.

**§ [30508.] 30526. Provisions requiring notice of claim or limiting time for bringing action**

(a) APPLICATION.—This section applies only to seagoing vessels and covered *small passenger vessels*, but does not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.

(b) **MINIMUM TIME LIMITS.**—The owner, master, manager, or agent of a vessel transporting passengers or property between ports in the United States, or between a port in the United States and a port in a foreign country, may not limit by regulation, contract, or otherwise the period for—

(1) giving notice of, or filing a claim for, personal injury or death to less than **[6 months]** *2 years* after the date of the injury or death; or

(2) bringing a civil action for personal injury or death to less than **[one year]** *2 years* after the date of the injury or death.

(c) **EFFECT OF FAILURE TO GIVE NOTICE.**—When notice of a claim for personal injury or death is required by a contract, the failure to give the notice is not a bar to recovery if—

(1) the court finds that the owner, master, or agent of the vessel had knowledge of the injury or death and the owner has not been prejudiced by the failure;

(2) the court finds there was a satisfactory reason why the notice could not have been given; or

(3) the owner of the vessel fails to object to the failure to give the notice.

(d) **TOLLING OF PERIOD TO GIVE NOTICE.**—If a claimant is a minor or mental incompetent, or if a claim is for wrongful death, any period provided by a contract for giving notice of the claim is tolled until the earlier of—

(1) the date a legal representative is appointed for the minor, incompetent, or decedent's estate; or

(2) 3 years after the injury or death.

**§ [30509.] 30527. Provisions limiting liability for personal injury or death**

(a) **PROHIBITION.**—

(1) **IN GENERAL.**—The owner, master, manager, or agent of a vessel transporting passengers between ports in the United States, or between a port in the United States and a port in a foreign country, may not include in a regulation or contract a provision limiting—

(A) the liability of the owner, master, or agent for personal injury or death caused by the negligence or fault of the owner or the owner's employees or agents; or

(B) the right of a claimant for personal injury or death to a trial by court of competent jurisdiction.

(2) **VOIDNESS.**—A provision described in paragraph (1) is void.

(b) **EMOTIONAL DISTRESS, MENTAL SUFFERING, AND PSYCHOLOGICAL INJURY.**—

(1) **IN GENERAL.**—Subsection (a) does not prohibit a provision in a contract or in ticket conditions of carriage with a passenger that relieves an owner, master, manager, agent, operator, or crewmember of a vessel from liability for infliction of emotional distress, mental suffering, or psychological injury so long as the provision does not limit such liability when the emotional distress, mental suffering, or psychological injury is—

(A) the result of physical injury to the claimant caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator;

(B) the result of the claimant having been at actual risk of physical injury, and the risk was caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator; or

(C) intentionally inflicted by a crewmember or the owner, master, manager, agent, or operator.

(2) **SEXUAL OFFENSES.**—This subsection does not limit the liability of a crewmember or the owner, master, manager, agent, or operator of a vessel in a case involving sexual harassment, sexual assault, or rape.

**§ [30510.] 30528. Vicarious liability for medical malpractice with regard to crew**

In a civil action by any person in which the owner or operator of a vessel or employer of a crewmember is claimed to have vicarious liability for medical malpractice with regard to a crewmember occurring at a shoreside facility, and to the extent the damages resulted from the conduct of any shoreside doctor, hospital, medical facility, or other health care provider, the owner, operator, or employer is entitled to rely on any statutory limitations of liability applicable to the doctor, hospital, medical facility, or other health care provider in the State of the United States in which the shoreside medical care was provided.

**§ [30511.] 30529. Action by owner for limitation**

(a) **IN GENERAL.**—The owner of a vessel may bring a civil action in a district court of the United States for limitation of liability under this chapter. The action must be brought within 6 months after a claimant gives the owner written notice of a claim.

(b) **CREATION OF FUND.**—When the action is brought, the owner (at the owner's option) shall—

(1) deposit with the court, for the benefit of claimants—

(A) an amount equal to the value of the owner's interest in the vessel and pending freight, or approved security; and

(B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter; or

(2) transfer to a trustee appointed by the court, for the benefit of claimants—

(A) the owner's interest in the vessel and pending freight; and

(B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter.

(c) **CESSATION OF OTHER ACTIONS.**—When an action has been brought under this section and the owner has complied with subsection (b), all claims and proceedings against the owner related to the matter in question shall cease.



**§ [30512.] 30530. Liability as master, officer, or seaman not affected**

This chapter does not affect the liability of an individual as a master, officer, or seaman, even though the individual is also an owner of the vessel.

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**SUBTITLE V—MERCHANT MARINE**

PART A—GENERAL

Chapter	Sec.
<b>501. Policy, Studies, and Reports .....</b>	<b>50101</b>
* * * * *	
<b>507. Monitoring and Mitigation .....</b>	<b>50701</b>
* * * * *	

**PART A—GENERAL**

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**CHAPTER 503—ADMINISTRATIVE**

\* \* \* \* \*

**§ 50307. Maritime environmental and technical assistance program**

(a) IN GENERAL.—The Secretary of Transportation, acting through the Maritime Administrator, shall engage in the study, research, development, assessment, and deployment of emerging marine technologies and practices related to the maritime transportation system through the use of public vessels under the control of the Maritime Administration or private vessels under United States registry, and through partnerships and cooperative efforts with academic, public, private, and nongovernmental entities and facilities.

(b) COMPONENTS.—Under this section, the Secretary of Transportation shall identify, study, evaluate, test, demonstrate, or improve emerging marine technologies and practices to improve—

- (1) environmental performance to meet United States Federal and international standards and guidelines, including—
  - (A) reducing air emissions, water emissions, or other ship discharges;
  - (B) increasing fuel economy or the use of alternative fuels and alternative energy (including the use of shore power); or
  - (C) controlling aquatic invasive species; or
  - (D) reducing propeller cavitation; **[and]**

(2) the efficiency and safety of domestic maritime industries[.]; *and*

(3) *technologies that quantifiably reduce underwater noise from marine vessels, including noise produced incidental to the propulsion of marine vessels.*

(c) COORDINATION.—Coordination under subsection (b)(2) may include—

(1) activities that are associated with the development or approval of validation and testing regimes; and

(2) certification or validation of emerging technologies or practices that demonstrate significant environmental or other benefits to domestic maritime industries.

(d) ASSISTANCE.—The Secretary of Transportation may accept gifts, or enter into cooperative agreements, contracts, or other agreements with academic, public, private, and nongovernmental entities and facilities to carry out the activities authorized under subsection (a).

(e) USES.—The results of activities conducted under subsection (b)(1) shall be used to inform—

(1) the policy decisions of the United States related to domestic regulations; and

(2) the position of the United States on matters before the International Maritime Organization.

(f) LIMITATIONS ON THE USE OF FUNDS.—Not more than three percent of the funds appropriated to carry out this section may be used for administrative purposes.

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**CHAPTER 507—MONITORING AND MITIGATION**

Sec.

50701. *Near real-time monitoring and mitigation program for large whales.*

50702. *Pilot project.*

**§50701. Near real-time monitoring and mitigation program for large whales**

(a) ESTABLISHMENT.—*The Administrator of the Maritime Administration, in consultation with the Commandant of the Coast Guard, shall design and deploy a near real-time large whale monitoring and mitigation program (in this section referred to as the Program) informed by the technologies, monitoring methods, and mitigation protocols developed pursuant to the pilot program required under section 50702.*

(b) PURPOSE.—*The purpose of the Program will be to reduce the risk to large whales of vessel collisions and to minimize other impacts.*

(c) REQUIREMENTS.—*In designing and deploying the Program, the Administrator shall—*

(1) *prioritize species of large whales for which vessel collision impacts are of particular concern;*

(2) *prioritize areas where such vessel impacts are of particular concern;*

(3) *develop technologies capable of detecting and alerting individuals and enforcement agencies of the probable location of large whales on a near real-time basis, to include real time data whenever possible;*

(4) *inform sector-specific mitigation protocols to effectively reduce takes of large whales; and*

(5) *integrate technology improvements as such improvements become available.*

(d) AUTHORITY.—*The Administrator may make grants or enter into and contracts, leases, or cooperative agreements as may be nec-*

essary to carry out the purposes of this section on such terms as the Administrator considers appropriate, consistent with Federal acquisition regulations.

**§ 50702. Pilot project**

(a) *ESTABLISHMENT.*—The Administrator of the Maritime Administration shall carry out a pilot monitoring and mitigation project for North Atlantic right whales (in this section referred to as the “Pilot Program”) for purposes of informing a cost-effective, efficient, and results-oriented near real-time monitoring and mitigation program for large whales under 50701.

(b) *PILOT PROJECT REQUIREMENTS.*—In carrying out the pilot program, the Administrator, in coordination with the Commandant of the Coast Guard, using best available scientific information, shall identify and ensure coverage of—

(1) core foraging habitats of North Atlantic right whales, including—

- (A) the South of the Islands core foraging habitat;
- (B) the Cape Cod Bay Area core foraging habitat;
- (C) the Great South Channel core foraging habitat; and
- (D) the Gulf of Maine; and

(2) important feeding, breeding, calving, rearing, or migratory habitats of North Atlantic right whales that co-occur with areas of high risk of mortality, serious injury, or other impacts to such whales, including from vessels or vessel strikes.

(c) *PILOT PROJECT COMPONENTS.*—

(1) *IN GENERAL.*—Not later than 3 years after the date of enactment of the Coast Guard Authorization Act of 2022, the Administrator, in consultation with the Commandant, Tribal governments, and with input from affected stakeholders, shall design and deploy a near real-time monitoring system for North Atlantic right whales that—

(A) comprises the best available detection and survey technologies to detect North Atlantic right whales within core foraging habitats;

(B) uses dynamic habitat suitability models to inform the likelihood of North Atlantic right whale occurrence in core foraging habitat at any given time;

(C) coordinates with the Integrated Ocean Observing System and Coast Guard vessel traffic service centers, and may coordinate with Regional Ocean Partnerships to leverage monitoring assets;

(D) integrates historical data;

(E) integrates new near real-time monitoring methods and technologies as they become available;

(F) accurately verifies and rapidly communicates detection data;

(G) creates standards for allowing ocean users to contribute data to the monitoring system using comparable near real-time monitoring methods and technologies; and

(H) communicates the risks of injury to large whales to ocean users in a way that is most likely to result in informed decision making regarding the mitigation of those risks.

(2) *NATIONAL SECURITY CONSIDERATIONS.*—All monitoring methods, technologies, and protocols under this section shall be consistent with national security considerations and interests.

(3) *ACCESS TO DATA.*—The Administrator shall provide access to data generated by the monitoring system deployed under paragraph (1) for purposes of scientific research and evaluation, and public awareness and education, including through the NOAA Right Whale Sighting Advisory System and WhaleMap or other successive public web portals, subject to review for national security considerations.

(d) *MITIGATION PROTOCOLS.*—The Administrator, in consultation with the Commandant, and with input from affected stakeholders, develop and deploy mitigation protocols that make use of the near real-time monitoring system deployed under subsection (c) to direct sector-specific mitigation measures that avoid and significantly reduce risk of serious injury and mortality to North Atlantic right whales.

(e) *REPORTING.*—

(1) *PRELIMINARY REPORT.*—Not later than 2 years after the date of the enactment of the Coast Guard Authorization Act of 2022, the Administrator, in consultation with the Commandant, shall submit to the appropriate Congressional Committees and make available to the public a preliminary report which shall include—

(A) a description of the monitoring methods and technology in use or planned for deployment;

(B) analyses of the efficacy of the methods and technology in use or planned for deployment for detecting North Atlantic right whales;

(C) how the monitoring system is directly informing and improving North American right whale management, health, and survival;

(D) a prioritized identification of technology or research gaps;

(E) a plan to communicate the risks of injury to large whales to ocean users in a way that is most likely to result in informed decision making regarding the mitigation of those risks; and

(F) additional information, as appropriate.

(2) *FINAL REPORT.*—Not later than 6 years after the date of the enactment of the Coast Guard Authorization Act of 2022, the Administrator, in consultation with the Commandant, shall submit to the appropriate congressional committees and make available to the public a final report, addressing the components in subparagraph (A) and including—

(A) an assessment of the benefits and efficacy of the near real-time monitoring and mitigation program;

(B) a strategic plan to expand the pilot program to provide near real-time monitoring and mitigation measures;

(i) to additional large whale species of concern for which such measures would reduce risk of serious injury or death; and

(ii) in important feeding, breeding, calving, rearing, or migratory habitats of whales that co-occur with

- areas of high risk of mortality or serious injury of such whales from vessel strikes or disturbance;*
- (C) a prioritized plan for acquisition, deployment, and maintenance of monitoring technologies;*
- (D) the locations or species for which the plan would apply; and*
- (E) a budget and description of funds necessary to carry out the strategic plan.*

*(f) ADDITIONAL AUTHORITY.—The Administrator may make grants enter into contracts, leases, or cooperative agreements as may be necessary to carry out the purposes of this section on such terms as the Administrator considers appropriate, consistent with Federal acquisition regulations.*

*(g) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section \$17,000,000 for each of fiscal years 2022 through 2026.*

*(h) DEFINITIONS.—In this section and section 50701:*

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

*(2) CORE FORAGING HABITATS.—The term “core foraging habitats” means areas with biological and physical oceanographic features that aggregate *Calanus finmarchicus* and where North Atlantic right whales foraging aggregations have been well documented.*

*(3) NEAR REAL-TIME.—The term “near real-time” means detected activity that is visual, acoustic, or in any other form, of North Atlantic right whales that are transmitted and reported as soon as technically feasible after such detected activity has occurred.*

*(4) LARGE WHALE.—The term “large whale” means all *Mysticeti* species and species within the genera *Physeter* and *Orcinus*.*

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**PART C—FINANCIAL ASSISTANCE PROGRAMS**

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**CHAPTER 535—CAPITAL CONSTRUCTION FUNDS**

\* \* \* \* \*

**§ 53501. Definitions**

In this chapter:

- (1) AGREEMENT VESSEL.—**The term “agreement vessel” means—
  - (A)** an eligible vessel or a qualified vessel that is subject to an agreement under this chapter; and
  - (B)** a barge or container that is part of the complement of a vessel described in subparagraph (A) if provided for in the agreement.
- (2) ELIGIBLE VESSEL.—**The term “eligible vessel” means—

## (A) a vessel—

(i) constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign trade pursuant to a contract made before April 15, 1970;

(ii) documented under the laws of the United States; and

(iii) operated in the foreign or domestic trade of the United States or in the fisheries of the United States; **and**

## (B) a commercial fishing vessel—

(i) constructed in the United States and, if reconstructed, reconstructed in the United States;

(ii) of at least 2 net tons but less than 5 net tons;

(iii) owned by a citizen of the United States;

(iv) having its home port in the United States; and

(v) operated in the commercial fisheries of the United States**and**;

*(C) a ferry, as such term is defined in section 2101; and*

*(D) a passenger vessel or small passenger vessel, as such terms are defined in section 2101, that has a passenger capacity of 50 passengers or greater.*

(3) JOINT REGULATIONS.—The term “joint regulations” means regulations prescribed jointly by the Secretary and the Secretary of the Treasury under section 53502(b) of this title.

(4) NONCONTIGUOUS TRADE.—The term “noncontiguous trade” means—

## (A) trade between—

(i) one of the contiguous 48 States; and

(ii) Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States; and

## (B) trade between—

(i) a place in Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States; and

(ii) another place in Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States.

(5) QUALIFIED VESSEL.—The term “qualified vessel” means—

## (A) a vessel—

(i) constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign trade pursuant to a contract made before April 15, 1970;

(ii) documented under the laws of the United States; and

(iii) agreed, between the Secretary and the person maintaining the capital construction fund established under section 53503 of this title, to be operated in the United States foreign, Great Lakes, noncontiguous do-

mestic, or short sea transportation trade or in the fisheries of the United States; **[and]**

(B) a commercial fishing vessel—

(i) constructed in the United States and, if reconstructed, reconstructed in the United States;

(ii) of at least 2 net tons but less than 5 net tons;

(iii) owned by a citizen of the United States;

(iv) having its home port in the United States; and

(v) operated in the commercial fisheries of the United States**[.];**

(C) a ferry, as such term is defined in section 2101; and

(D) a passenger vessel or small passenger vessel, as such terms are defined in section 2101, that has a passenger capacity of 50 passengers or greater.

(6) SECRETARY.—The term “Secretary” means—

(A) the Secretary of Commerce with respect to an eligible vessel or a qualified vessel operated or to be operated in the fisheries of the United States; and

(B) the Secretary of Transportation with respect to other vessels.

(7) SHORT SEA TRANSPORTATION TRADE.—The term “short sea transportation trade” means the carriage by vessel of cargo—

(A) that is—

(i) contained in intermodal cargo containers and loaded by crane on the vessel; or

(ii) loaded on the vessel by means of wheeled technology; and

(B) that is—

(i) loaded at a port in the United States and unloaded either at another port in the United States or at a port in Canada located in the Great Lakes Saint Lawrence Seaway System; or

(ii) loaded at a port in Canada located in the Great Lakes Saint Lawrence Seaway System and unloaded at a port in the United States.

(8) UNITED STATES FOREIGN TRADE.—The term “United States foreign trade” includes those areas in domestic trade in which a vessel built with a construction-differential subsidy is allowed to operate under the first sentence of section 506 of the Merchant Marine Act, 1936.

(9) VESSEL.—The term “vessel” includes—

(A) cargo handling equipment that the Secretary determines is intended for use primarily on the vessel; and

(B) an ocean-going towing vessel, an ocean-going barge, or a comparable towing vessel or barge operated on the Great Lakes.

\* \* \* \* \*

### § 53503. Establishing a capital construction fund

(a) IN GENERAL.—A citizen of the United States owning or leasing an eligible vessel may make an agreement with the Secretary under this chapter to establish a capital construction fund for the vessel.

(b) ALLOWABLE PURPOSE.—The purpose of the agreement shall be to provide replacement vessels, additional vessels, or reconstructed

vessels, built in the United States and documented under the laws of the United States, for operation in the United States foreign, Great Lakes, noncontiguous domestic, or short sea transportation (*including transportation on a ferry, passenger vessel, or small passenger vessel, as such terms are defined in section 2101, that has a passenger capacity of 50 passengers or greater*) trade or in the fisheries of the United States.

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**CHAPTER 537—LOANS AND GUARANTEES**

\* \* \* \* \*

**SUBCHAPTER I—GENERAL**

\* \* \* \* \*

**§ 53706. Eligible purposes of obligations**

(a) IN GENERAL.—To be eligible for a guarantee under this chapter, an obligation must aid in any of the following:

(1)(A) Financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, or reconditioning of a vessel designed principally for research, or for commercial use—

- (i) in the coastwise or intercoastal trade;
- (ii) on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States;
- (iii) in foreign trade as defined in section 109(b) of this title;
- (iv) as an ocean thermal energy conversion facility or plantship; or
- (v) as a floating drydock in the construction, reconstruction, reconditioning, or repair of vessels.

(B) A guarantee under subparagraph (A) may not be made more than one year after delivery of the vessel (or redelivery if the vessel was reconstructed or reconditioned) unless the proceeds of the obligation are used to finance the construction, reconstruction, or reconditioning of a vessel or of facilities or equipment related to marine operations.

(2) Financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, reconditioning, or purchase of a vessel owned by citizens of the United States and designed principally for research, or for commercial use in the fishing industry.

(3) Financing the purchase, reconstruction, or reconditioning of a vessel or fishery facility—

(A) for which an obligation was guaranteed under this chapter; and

(B) that, under subchapter II of this chapter—

- (i) is a vessel or fishery facility for which an obligation was accelerated and paid;
- (ii) was acquired by the Federal Ship Financing Fund or successor account under section 53717 of this title; or
- (iii) was sold at foreclosure begun or intervened in by the Secretary or Administrator.



(4) Financing any part of the repayment to the United States Government of any amount of a construction-differential subsidy paid for a vessel.

(5) Refinancing an existing obligation (regardless of whether guaranteed under this chapter) issued for a purpose described in paragraphs (1)–(4), including a short-term obligation incurred to obtain temporary funds with the intention of refinancing.

(6) Financing or refinancing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, reconditioning, or purchase of a fishery facility.

(7) Financing or refinancing—

(A) the purchase of individual fishing quotas in accordance with section 303(d)(4) of the Magnuson-Stevens Fishery Conservation and Management Act (including the reimbursement of obligors for expenditures previously made for such a purchase);

(B) activities that assist in the transition to reduced fishing capacity; or

(C) technologies or upgrades designed to improve collection and reporting of fishery-dependent data, to reduce by-catch, to improve selectivity or reduce adverse impacts of fishing gear, or to improve safety.

(8) *Financing (including reimbursement of an obligor for expenditures previously made for) the reconstruction, reconditioning, retrofitting, repair, or similar work in a shipyard located in the United States—*

*(A) required for the vessel to be a vessel of the United States;*

*(B) required for the vessel to be issued a coastwise endorsement under chapter 121;*

*(C) to convert a civilian vessel of the United States to a more useful military configuration;*

*(D) for any vessel under contract to the Federal Government; or*

*(E) for any vessel participating in—*

*(i) the Maritime Security Program or the Emergency Preparedness Program under chapter 531;*

*(ii) the Cable Security Fleet under chapter 532;*

*(iii) the Tanker Security Fleet under chapter 534; or*

*(iv) the National Defense Reserve Fleet under section 57100.*

(b) **NON-VESSELS TREATED AS VESSELS.**—An obligation guaranteed under subsection (a)(6) or (7) shall be treated, for purposes of this chapter, in the same manner and to the same extent as an obligation that aids in financing the construction, reconstruction, reconditioning, or purchase of a vessel, except with respect to provisions that by their nature can only be applied to vessels.

(c) **PRIORITIES FOR CERTAIN VESSELS.**—

(1) **VESSELS.**—In guaranteeing or making a commitment to guarantee an obligation under this chapter, the Administrator shall give priority to—

(A) a vessel that is otherwise eligible for a guarantee and is constructed with assistance under subtitle D of the Maritime Security Act of 2003 (46 U.S.C. 53101 note);

(B) after applying subparagraph (A), a vessel that is otherwise eligible for a guarantee and that the Secretary of Defense determines—

(i) is suitable for service as a naval auxiliary in time of war or national emergency; and

(ii) meets a shortfall in sealift capacity or capability; and

(C) after applying subparagraphs (A) and (B), Vessels of National Interest.

(2) TIME FOR DETERMINATION.—The Secretary of Defense shall determine whether a vessel satisfies paragraph (1)(B) not later than 30 days after receipt of a request from the Administrator for such a determination.

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**CHAPTER 541—MISCELLANEOUS**

Sec

54101. Assistance for small shipyards.

54102. Assistance to reduce impacts of vessel strikes and noise on marine mammals.

\* \* \* \* \*

**§54102. Assistance to reduce impacts of vessel strikes and noise on marine mammals**

(a) *IN GENERAL.*—The Administrator of the Maritime Administration, in coordination with the Secretary of the department in which the Coast Guard is operating, may make grants to, or enter into contracts or cooperative agreements with, academic, public, private, and nongovernmental entities to develop and implement mitigation measures that will lead to a quantifiable reduction in—

(1) impacts to marine mammals from vessels; and

(2) underwater noise from vessels, including noise produced incidental to the propulsion of vessels.

(b) *ELIGIBLE USE.*—Assistance under this section may be used to develop, assess, and carry out activities that reduce threats to marine mammals by—

(1) reducing—

(A) stressors related to vessel traffic; and

(B) vessel strike mortality, and serious injury; or

(2) monitoring—

(A) sound; and

(B) vessel interactions with marine mammals.

(c) *PRIORITY.*—The Administrator shall prioritize assistance under this section for projects that—

(1) is based on the best available science on methods to reduce threats related to vessels traffic;

(2) collect data on the reduction of such threats;

(3) reduce—

(A) disturbances from vessel presence;

(B) mortality risk; or

(C) serious injury from vessel strikes; or

(4) conduct risk assessments, or tracks progress toward threat reduction.

(d) *BRIEFING.*—The Administrator shall provide to the Committee on Transportation and Infrastructure of the House of Representa-

*tives, and the Committee on Commerce, Science, and Transportation of the Senate, an annual briefing that includes the following:*

*(1) The name and location of each entity receiving a grant under this section.*

*(2) The amount of each such grant.*

*(3) A description of the activities carried out with assistance provided under this section.*

*(4) An estimate of the impact that a project carried out with such assistance has on the reduction of threats to marine mammals.*

*(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section \$10,000,000 for each of fiscal years 2022 through 2026, to remain available until expended.*

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**SUBTITLE VII—SECURITY AND DRUG ENFORCEMENT**

\* \* \* \* \*

**CHAPTER 700—PORTS AND WATERWAYS SAFETY**

SUBCHAPTER I—VESSEL OPERATIONS

Sec.

70001. Vessel traffic services.

\* \* \* \* \*

**【70006. Establishment by the Secretary of the department in which the Coast Guard is operating of anchorage grounds and regulations generally.】**

*70006. Anchorage grounds.*

\* \* \* \* \*

SUBCHAPTER I—VESSEL OPERATIONS

\* \* \* \* \*

**【§ 70006. Establishment by Secretary of the department in which the Coast Guard is operating of anchorage grounds and regulations generally**

**【(a) IN GENERAL.—**The Secretary of Homeland Security is authorized, empowered, and directed to define and establish anchorage grounds for vessels in all harbors, rivers, bays, and other navigable waters of the United States whenever it is manifest to the said Secretary that the maritime or commercial interests of the United States require such anchorage grounds for safe navigation and the establishment of such anchorage grounds shall have been recommended by the Chief of Engineers, and to adopt suitable rules and regulations in relation thereto; and such rules and regulations shall be enforced by the Coast Guard under the direction of the Secretary of Transportation: *Provided*, That at ports or places where there is no Coast Guard vessel available such rules and regulations may be enforced by the Chief of Engineers under the direction of the Secretary of Homeland Security. In the event of the violation of any such rules and regulations by the owner, master, or person in charge of any vessel, such owner, master, or

person in charge of such vessel shall be liable to a penalty of up to \$10,000. Each day during which a violation continues shall constitute a separate violation. The said vessel may be holden for the payment of such penalty, and may be seized and proceeded against summarily by libel for the recovery of the same in any United States district court for the district within which such vessel may be and in the name of the officer designated by the Secretary of Homeland Security.

[(b) DEFINITION.—As used in this section “navigable waters of the United States” includes all waters of the territorial sea of the United States as described in Presidential Proclamation No. 5928 of December 27, 1988.]

**§ 70006. Anchorage grounds**

(a) ANCHORAGE GROUNDS.—

(1) ESTABLISHMENT.—*The Secretary of the department in which the Coast Guard is operating shall define and establish anchorage grounds in the navigable waters of the United States for vessels operating in such waters.*

(2) RELEVANT FACTORS FOR ESTABLISHMENT.—*In carrying out paragraph (1), the Secretary shall take into account all relevant factors concerning navigational safety, protection of the marine environment, proximity to undersea pipelines and cables, safe and efficient use of Marine Transportation System, and national security.*

(b) VESSEL REQUIREMENTS.—*Vessels, of certain sizes or type determined by the Secretary, shall—*

(1) *set and maintain an anchor alarm for the duration of an anchorage;*

(2) *comply with any directions or orders issued by the Captain of the Port; and*

(3) *comply with any applicable anchorage regulations.*

(c) PROHIBITIONS.—*A vessel may not—*

(1) *anchor in any Federal navigation channel unless authorized or directed to by the Captain of the Port;*

(2) *anchor in near proximity, within distances determined by the Coast Guard, to an undersea pipeline or cable, unless authorized or directed to by the Captain of the Port; and*

(3) *anchor or remain anchored in an anchorage ground during any period in which the Captain of the Port orders closure of the anchorage ground due to inclement weather, navigational hazard, a threat to the environment, or other safety or security concern.*

(d) SAFETY EXCEPTION.—*Nothing in this section shall be construed to prevent a vessel from taking actions necessary to maintain the safety of the vessel or to prevent the loss of life or property.*

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**CHAPTER 701—PORT SECURITY**

**SUBCHAPTER I—GENERAL**

Sec.

70101. Definitions.

\* \* \* \* \*

**[70105. Transportation security cards.]**

70105. *Transportation worker identification credentials.*

\* \* \* \* \*

SUBCHAPTER I—GENERAL

\* \* \* \* \*

**§ 70105. Transportation [security cards] worker identification credentials**

(a) PROHIBITION.—(1) The Secretary shall prescribe regulations to prevent an individual from entering an area of a vessel or facility that is designated as a secure area by the Secretary for purposes of a security plan for the vessel or facility that is approved by the Secretary under section 70103 of this title unless the individual—

(A) holds a [transportation security card] *transportation worker identification credential* issued under this section and is authorized to be in the area in accordance with the plan; or

(B) is accompanied by another individual who holds a [transportation security card] *transportation worker identification credential* issued under this section and is authorized to be in the area in accordance with the plan.

(2) A person shall not admit an individual into such a secure area unless the entry of the individual into the area is in compliance with paragraph (1).

(b) ISSUANCE OF [CARDS] *CREDENTIALS*.—(1) The Secretary shall issue a biometric [transportation security card] *transportation worker identification credential* to an individual specified in paragraph (2), unless the Secretary determines under subsection (c) that the individual poses a security risk warranting denial of the [card] *credential*.

(2) This subsection applies to—

(A) an individual allowed unescorted access to a secure area designated in a vessel or facility security plan approved under section 70103 of this title;

(B) an individual issued a license, certificate of registry, or merchant mariners document under part E of subtitle II of this title allowed unescorted access to a secure area designated in a vessel security plan approved under section 70103 of this title;

(C) a vessel pilot;

(D) an individual engaged on a towing vessel that pushes, pulls, or hauls alongside a tank vessel allowed unescorted access to a secure area designated in a vessel security plan approved under section 70103 of this title;

(E) an individual with access to security sensitive information as determined by the Secretary;

(F) other individuals engaged in port security activities as determined by the Secretary;

(G) a member of the Armed Forces who—

(i) is undergoing separation, discharge, or release from the Armed Forces under honorable conditions;

(ii) applies for a [transportation security card] *transportation worker identification credential*; and

(iii) is otherwise eligible for such a [card] *credential*;

and

(H) other individuals as determined appropriate by the Secretary including individuals employed at a port not otherwise covered by this subsection.

(3) The Secretary may extend for up to one year the expiration of a biometric **[transportation security card]** *transportation worker identification credential* required by this section to align the expiration with the expiration of a license, certificate of registry, or merchant mariner document required under chapter 71 or 73.

(c) DETERMINATION OF TERRORISM SECURITY RISK.—

(1) DISQUALIFICATIONS.—

(A) PERMANENT DISQUALIFYING CRIMINAL OFFENSES.—

Except as provided under paragraph (2), an individual is permanently disqualified from being issued a biometric **[transportation security card]** *transportation worker identification credential* under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, in a civilian or military jurisdiction of any of the following felonies:

- (i) Espionage or conspiracy to commit espionage.
- (ii) Sedition or conspiracy to commit sedition.
- (iii) Treason or conspiracy to commit treason.
- (iv) A Federal crime of terrorism (as defined in section 2332b(g) of title 18), a crime under a comparable State law, or conspiracy to commit such crime.
- (v) A crime involving a transportation security incident.
- (vi) Improper transportation of a hazardous material in violation of section 5104(b) of title 49, or a comparable State law.
- (vii) Unlawful possession, use, sale, distribution, manufacture, purchase, receipt, transfer, shipment, transportation, delivery, import, export, or storage of, or dealing in, an explosive or explosive device. In this clause, an explosive or explosive device includes—
  - (I) an explosive (as defined in sections 232(5) and 844(j) of title 18);
  - (II) explosive materials (as defined in subsections (c) through (f) of section 841 of title 18); and
  - (III) a destructive device (as defined in 921(a)(4) of title 18 or section 5845(f) of the Internal Revenue Code of 1986).
- (viii) Murder.
- (ix) Making any threat, or maliciously conveying false information knowing the same to be false, concerning the deliverance, placement, or detonation of an explosive or other lethal device in or against a place of public use, a State or other government facility, a public transportation system, or an infrastructure facility.
- (x) A violation of chapter 96 of title 18, popularly known as the Racketeer Influenced and Corrupt Organizations Act, or a comparable State law, if one of the predicate acts found by a jury or admitted by the de-

fendant consists of one of the crimes listed in this subparagraph.

(xi) Attempt to commit any of the crimes listed in clauses (i) through (iv).

(xii) Conspiracy or attempt to commit any of the crimes described in clauses (v) through (x).

(B) INTERIM DISQUALIFYING CRIMINAL OFFENSES.—Except as provided under paragraph (2), an individual is disqualified from being issued a biometric **transportation security card** *transportation worker identification credential* under subsection (b) if the individual has been convicted, or found not guilty by reason of insanity, during the 7-year period ending on the date on which the individual applies for such **card** *credential*, or was released from incarceration during the 5-year period ending on the date on which the individual applies for such **card** *credential*, of any of the following felonies:

(i) Unlawful possession, use, sale, manufacture, purchase, distribution, receipt, transfer, shipment, transportation, delivery, import, export, or storage of, or dealing in, a firearm or other weapon. In this clause, a firearm or other weapon includes—

(I) firearms (as defined in section 921(a)(3) of title 18 or section 5845(a) of the Internal Revenue Code of 1986); and

(II) items contained on the U.S. Munitions Import List under section 447.21 of title 27, Code of Federal Regulations.

(ii) Extortion.

(iii) Dishonesty, fraud, or misrepresentation, including identity fraud and money laundering if the money laundering is related to a crime described in this subparagraph or subparagraph (A). In this clause, welfare fraud and passing bad checks do not constitute dishonesty, fraud, or misrepresentation.

(iv) Bribery.

(v) Smuggling.

(vi) Immigration violations.

(vii) Distribution of, possession with intent to distribute, or importation of a controlled substance.

(viii) Arson.

(ix) Kidnaping or hostage taking.

(x) Rape or aggravated sexual abuse.

(xi) Assault with intent to kill.

(xii) Robbery.

(xiii) Conspiracy or attempt to commit any of the crimes listed in this subparagraph.

(xiv) Fraudulent entry into a seaport in violation of section 1036 of title 18, or a comparable State law.

(xv) A violation of the chapter 96 of title 18 (popularly known as the Racketeer Influenced and Corrupt Organizations Act) or a comparable State law, other than any of the violations listed in subparagraph (A)(x).

(C) UNDER WANT, WARRANT, OR INDICTMENT.—An applicant who is wanted, or under indictment, in any civilian or military jurisdiction for a felony listed in paragraph (1)(A), is disqualified from being issued a biometric **[transportation security card]** *transportation worker identification credential* under subsection (b) until the want or warrant is released or the indictment is dismissed.

(D) OTHER POTENTIAL DISQUALIFICATIONS.—Except as provided under subparagraphs (A) through (C), an individual may not be denied a **[transportation security card]** *transportation worker identification credential* under subsection (b) unless the Secretary determines that individual—

(i) has been convicted within the preceding 7-year period of a felony or found not guilty by reason of insanity of a felony—

(I) that the Secretary believes could cause the individual to be a terrorism security risk to the United States; or

(II) for causing a severe transportation security incident;

(ii) has been released from incarceration within the preceding 5-year period for committing a felony described in clause (i);

(iii) may be denied admission to the United States or removed from the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.); or

(iv) otherwise poses a terrorism security risk to the United States.

(E) MODIFICATION OF LISTED OFFENSES.—The Secretary may, by rulemaking, add to or modify the list of disqualifying crimes described in paragraph (1)(B).

(2) The Secretary shall prescribe regulations that establish a waiver process for issuing a **[transportation security card]** *transportation worker identification credential* to an individual found to be otherwise ineligible for such a **[card]** *credential* under subparagraph (A), (B), or (D) of paragraph (1). In deciding to issue a **[card]** *credential* to such an individual, the Secretary shall—

(A) give consideration to the circumstances of any disqualifying act or offense, restitution made by the individual, Federal and State mitigation remedies, and other factors from which it may be concluded that the individual does not pose a terrorism risk warranting denial of the **[card]** *credential*; and

(B) issue a waiver to an individual without regard to whether that individual would otherwise be disqualified if the individual's employer establishes alternate security arrangements acceptable to the Secretary.

(3) DENIAL OF WAIVER REVIEW.—

(A) IN GENERAL.—The Secretary shall establish a review process before an administrative law judge for individuals denied a waiver under paragraph (2).

(B) SCOPE OF REVIEW.—In conducting a review under the process established pursuant to subparagraph (A), the ad-



ministrative law judge shall be governed by the standards of section 706 of title 5. The substantial evidence standard in section 706(2)(E) of title 5 shall apply whether or not there has been an agency hearing. The judge shall review all facts on the record of the agency.

(C) CLASSIFIED EVIDENCE.—The Secretary, in consultation with the Director of National Intelligence, shall issue regulations to establish procedures by which the Secretary, as part of a review conducted under this paragraph, may provide to the individual adversely affected by the determination an unclassified summary of classified evidence upon which the denial of a waiver by the Secretary was based.

(D) REVIEW OF CLASSIFIED EVIDENCE BY ADMINISTRATIVE LAW JUDGE.—

(i) REVIEW.—As part of a review conducted under this section, if the decision of the Secretary was based on classified information (as defined in section 1(a) of the Classified Information Procedures Act (18 U.S.C. App.)), such information may be submitted by the Secretary to the reviewing administrative law judge, pursuant to appropriate security procedures, and shall be reviewed by the administrative law judge *ex parte* and *in camera*.

(ii) SECURITY CLEARANCES.—Pursuant to existing procedures and requirements, the Secretary, in coordination (as necessary) with the heads of other affected departments or agencies, shall ensure that administrative law judges reviewing negative waiver decisions of the Secretary under this paragraph possess security clearances appropriate for such review.

(iii) UNCLASSIFIED SUMMARIES OF CLASSIFIED EVIDENCE.—As part of a review conducted under this paragraph and upon the request of the individual adversely affected by the decision of the Secretary not to grant a waiver, the Secretary shall provide to the individual and reviewing administrative law judge, consistent with the procedures established under clause (i), an unclassified summary of any classified information upon which the decision of the Secretary was based.

(E) NEW EVIDENCE.—The Secretary shall establish a process under which an individual may submit a new request for a waiver, notwithstanding confirmation by the administrative law judge of the Secretary's initial denial of the waiver, if the request is supported by substantial evidence that was not available to the Secretary at the time the initial waiver request was denied.

(4) The Secretary shall establish an appeals process under this section for individuals found to be ineligible for a [transportation security card] *transportation worker identification credential* that includes notice and an opportunity for a hearing.

(5) Upon application, the Secretary may issue a [transportation security card] *transportation worker identification cre-*

*dential* to an individual if the Secretary has previously determined, under section 5103a of title 49, that the individual does not pose a security risk.

(d) BACKGROUND RECORDS CHECK.—(1) On request of the Secretary, the Attorney General shall—

(A) conduct a background records check regarding the individual; and

(B) upon completing the background records check, notify the Secretary of the completion and results of the background records check.

(2) A background records check regarding an individual under this subsection shall consist of the following:

(A) A check of the relevant criminal history databases.

(B) In the case of an alien, a check of the relevant databases to determine the status of the alien under the immigration laws of the United States.

(C) As appropriate, a check of the relevant international databases or other appropriate means.

(D) Review of any other national security-related information or database identified by the Attorney General for purposes of such a background records check.

(e) RESTRICTIONS ON USE AND MAINTENANCE OF INFORMATION.—

(1) Information obtained by the Attorney General or the Secretary under this section may not be made available to the public, including the individual's employer.

(2) Any information constituting grounds for denial of a [transportation security card] *transportation worker identification credential* under this section shall be maintained confidentially by the Secretary and may be used only for making determinations under this section. The Secretary may share any such information with other Federal law enforcement agencies. An individual's employer may only be informed of whether or not the individual has been issued the [card] *credential* under this section.

(f) DEFINITION.—In this section, the term “alien” has the meaning given the term in section 101(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(3)).

(g) APPLICATIONS FOR MERCHANT MARINERS' DOCUMENTS.—The Assistant Secretary of Homeland Security for the Transportation Security Administration and the Commandant of the Coast Guard shall—

(1) develop and, no later than 2 years after the date of enactment of the Elijah E. Cummings Coast Guard Authorization Act of 2020, implement a joint application for merchant mariner's documents under chapter 73 and for a [transportation security card] *transportation worker identification credential* issued under this section; and

(2) upon receipt of a joint application developed under paragraph (1) concurrently process an application from an individual for merchant mariner's documents under chapter 73 and an application from such individual for a [transportation security card] *transportation worker identification credential* under this section.

(h) FEES.—The Secretary shall ensure that the fees charged each individual applying for a [transportation security card] *transportation worker identification credential* under this section who has

passed a background check under section 5103a(d) of title 49, United States Code, and who has a current hazardous materials endorsement in accordance with section 1572 of title 49, Code of Federal Regulations, and each individual with a current merchant mariners' document who has passed a criminal background check under section 7302(d)—

(1) are for costs associated with the issuance, production, and management of the **transportation security card** *transportation worker identification credential*, as determined by the Secretary; and

(2) do not include costs associated with performing a background check for that individual, except for any incremental costs in the event that the scope of such background checks diverge.

**[(i) IMPLEMENTATION SCHEDULE.—**In implementing the transportation security card program under this section, the Secretary shall—

**[(1)** establish a priority for each United States port based on risk, including vulnerabilities assessed under section 70102; and

**[(2)** implement the program, based upon such risk and other factors as determined by the Secretary, at all facilities regulated under this chapter at—

**[(A)** the 10 United States ports that the Secretary designates top priority not later than July 1, 2007;

**[(B)** the 40 United States ports that are next in order of priority to the ports described in subparagraph (A) not later than January 1, 2008; and

**[(C)** all other United States ports not later than January 1, 2009.]

**[(j)] (i) PRIORITY PROCESSING FOR SEPARATING SERVICE MEMBERS.—**(1) The Secretary and the Secretary of Defense shall enter into a memorandum of understanding regarding the submission and processing of applications for **transportation security cards** *transportation worker identification credentials* under subsection (b)(2)(G).

(2) Not later than 30 days after the submission of such an application by an individual who is eligible to submit such an application, the Secretary shall process and approve or deny the application unless an appeal or waiver applies or further application documentation is necessary.

**[(k)] (j) DEPLOYMENT OF TRANSPORTATION SECURITY CARD WORKER IDENTIFICATION CREDENTIAL READERS.—**

(1) PILOT PROGRAM.—

(A) IN GENERAL.—The Secretary shall conduct a pilot program to test the business processes, technology, and operational impacts required to deploy **transportation security card** *transportation worker identification credential* readers at secure areas of the marine transportation system.

(B) GEOGRAPHIC LOCATIONS.—The pilot program shall take place at not fewer than 5 distinct geographic locations, to include vessels and facilities in a variety of environmental settings.

(C) COMMENCEMENT.—The pilot program shall commence not later than 180 days after the date of the enactment of the SAFE Port Act.

(2) CORRELATION WITH TRANSPORTATION [SECURITY CARDS] WORKER IDENTIFICATION CREDENTIALS.—

(A) IN GENERAL.—The pilot program described in paragraph (1) shall be conducted concurrently with the issuance of the [transportation security cards] *transportation worker identification credentials* described in subsection (b) to ensure [card] *credential* and [card] *credential* reader interoperability.

(B) FEE.—An individual charged a fee for a [transportation security card] *transportation worker identification credential* issued under this section may not be charged an additional fee if the Secretary determines different [transportation security cards] *transportation worker identification credentials* are needed based on the results of the pilot program described in paragraph (1) or for other reasons related to the technology requirements for the [transportation security card] *transportation worker identification credential* program.

(3) REGULATIONS.—Not later than 2 years after the commencement of the pilot program under paragraph (1)(C), the Secretary, after a notice and comment period that includes at least 1 public hearing, shall promulgate final regulations that require the deployment of [transportation security card] *transportation worker identification credential* readers that are consistent with the findings of the pilot program and build upon the regulations prescribed under subsection (a).

(4) REPORT.—Not later than 120 days before the promulgation of regulations under paragraph (3), the Secretary shall submit a comprehensive report to the appropriate congressional committees (as defined in section 2(1) of SAFE Port Act) that includes—

(A) the findings of the pilot program with respect to technical and operational impacts of implementing a [transportation security card] *transportation worker identification credential* reader system;

(B) any actions that may be necessary to ensure that all vessels and facilities to which this section applies are able to comply with such regulations; and

(C) an analysis of the viability of equipment under the extreme weather conditions of the marine environment.

[(1) PROGRESS REPORTS.—Not later than 6 months after the date of the enactment of the SAFE Port Act, and every 6 months thereafter until the requirements under this section are fully implemented, the Secretary shall submit a report on progress being made in implementing such requirements to the appropriate congressional committees (as defined in section 2(1) of the SAFE Port Act).]

[(m)] (k) LIMITATION.—The Secretary may not require the placement of an electronic reader for [transportation security cards] *transportation worker identification credentials* on a vessel unless—

(1) the vessel has more individuals on the crew that are required to have a [transportation security card] *transportation*

*worker identification credential* than the number the Secretary determines, by regulation issued under [subsection (k)(3)] *subsection (j)(3)*, warrants such a reader; or

(2) the Secretary determines that the vessel is at risk of a severe transportation security incident.

[(n)] (l) The Secretary may use a secondary authentication system to verify the identification of individuals using [transportation security cards] *transportation worker identification credentials* when the individual's fingerprints are not able to be taken or read.

[(o)] (m) ESCORTING.—The Secretary shall coordinate with owners and operators subject to this section to allow any individual who has a pending application for a [transportation security card] *transportation worker identification credential* under this section or is waiting for reissuance of such [card] *credential*, including any individual whose [card] *credential* has been lost or stolen, and who needs to perform work in a secure or restricted area to have access to such area for that purpose through escorting of such individual in accordance with subsection (a)(1)(B) by another individual who holds a [transportation security card] *transportation worker identification credential*. Nothing in this subsection shall be construed as requiring or compelling an owner or operator to provide escorted access.

[(p)] (n) PROCESSING TIME.—The Secretary shall review an initial [transportation security card] *transportation worker identification credential* application and respond to the applicant, as appropriate, including the mailing of an Initial Determination of Threat Assessment letter, within 30 days after receipt of the initial application. The Secretary shall, to the greatest extent practicable, review appeal and waiver requests submitted by a [transportation security card] *transportation worker identification credential* applicant, and send a written decision or request for additional information required for the appeal or waiver determination, within 30 days after receipt of the applicant's appeal or waiver written request. For an applicant that is required to submit additional information for an appeal or waiver determination, the Secretary shall send a written decision, to the greatest extent practicable, within 30 days after receipt of all requested information.

[(q)] (o) RECEIPT AND ACTIVATION OF TRANSPORTATION [SECURITY CARD] *WORKER IDENTIFICATION CREDENTIAL*.—

(1) IN GENERAL.—Not later than one year after the date of publication of final regulations required by [subsection (k)(3)] *subsection (j)(3)* of this section the Secretary shall develop a plan to permit the receipt and activation of [transportation security cards] *transportation worker identification credentials* at any vessel or facility described in subsection (a) of this section that desires to implement this capability. [This plan shall] *Such receipt and activation shall* comply, to the extent possible, with all appropriate requirements of Federal standards for personal identity verification and credential.

(2) LIMITATION.—The Secretary may not require any such vessel or facility to provide [on-site activation capability] *on-site receipt and activation of transportation worker identification credentials*.

\* \* \* \* \*

**§ 70114. Automatic identification systems**

(a) SYSTEM REQUIREMENTS.—(1) Subject to paragraph (2), the following vessels~~],~~ while operating on the navigable waters of the United States~~,~~ shall be equipped with and operate an automatic identification system under regulations prescribed by the Secretary:

(A) *While operating on the navigable waters of the United States:*

~~[(A)]~~ (i) A self-propelled commercial vessel of at least 65 feet overall in length.

~~[(B)]~~ (ii) A vessel carrying more than a number of passengers for hire determined by the Secretary.

~~[(C)]~~ (iii) A towing vessel of more than 26 feet overall in length and 600 horsepower.

~~[(D)]~~ (iv) Any other vessel for which the Secretary decides that an automatic identification system is necessary for the safe navigation of the vessel.

(B) *A vessel of the United States that is more than 65 feet overall in length, while engaged in fishing, fish processing, or fish tendering operations on the navigable waters of the United States or in the United States exclusive economic zone.*

(2) The Secretary may—

(A) exempt a vessel from paragraph (1) if the Secretary finds that an automatic identification system is not necessary for the safe navigation of the vessel on the waters on which the vessel operates; and

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

(b) REGULATIONS.—The Secretary shall prescribe regulations implementing subsection (a), including requirements for the operation and maintenance of the automatic identification systems required under subsection (a).

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**FEDERAL WATER POLLUTION CONTROL ACT**

\* \* \* \* \*

**TITLE III—STANDARDS AND ENFORCEMENT**

\* \* \* \* \*

**OIL AND HAZARDOUS SUBSTANCE LIABILITY**

SEC. 311. (a) For the purpose of this section, the term—

(1) “oil” means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil;

(2) “discharge” includes, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying or dumping, but excludes (A) discharges in compliance with a permit under section 402 of this Act, (B) discharges resulting from cir-

cumstances identified and reviewed and made a part of the public record with respect to a permit issued or modified under section 402 of this Act, and subject to a condition in such permit,,(C) continuous or anticipated intermittent discharges from a point source, identified in a permit or permit application under section 402 of this Act, which are caused by events occurring within the scope of relevant operating or treatment systems, and (D) discharges incidental to mechanical removal authorized by the President under subsection (c) of this section;

(3) “vessel” means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water other than a public vessel;

(4) “public vessel” means a vessel owned or bareboat-chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when such vessel is engaged in commerce;

(5) “United States” means the States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands;

(6) “owner or operator” means (A) in the case of a vessel, any person owning, operating, or chartering by demise, such vessel, and (B) in the case of an onshore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

(7) “person” includes an individual, firm, corporation, association, and a partnership;

(8) “remove” or “removal” refers to containment and removal of the oil or hazardous substances from the water and shorelines or the taking of such other actions as may be necessary to prevent, minimize, or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

(9) “contiguous zone” means the entire zone established or to be established by the United States under article 24 of the Convention on the Territorial Sea and the Contiguous Zone;

(10) “onshore facility” means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

(11) “offshore facility” means any facility of any kind located in, on, or under, any of the navigable waters of the United States, any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or a public vessel, and, for the purposes of applying subsections (b), (c), (e), and (o), any foreign offshore unit (as defined in section 1001 of the Oil Pollution Act) or any other facility located seaward of the exclusive economic zone;

(12) “act of God” means an act occasioned by an unanticipated grave natural disaster;

(13) “barrel” means 42 United States gallons at 60 degrees Fahrenheit;

(14) “hazardous substance” means any substance designated pursuant to subsection (b)(2) of this section;

(15) “inland oil barge” means a non-self-propelled vessel carrying oil in bulk as cargo and certificated to operate only in the inland waters of the United States, while operating in such waters;

(16) “inland waters of the United States” means those waters of the United States lying inside the baseline from which the territorial sea is measured and those waters outside such baseline which are a part of the Gulf Intracoastal Waterway;

(17) “otherwise subject to the jurisdiction of the United States” means subject to the jurisdiction of the United States by virtue of United States citizenship, United States vessel documentation or numbering, or as provided for by international agreement to which the United States is a party;

(18) “Area Committee” means an Area Committee established under subsection (j);

(19) “Area Contingency Plan” means an Area Contingency Plan prepared under subsection (j);

(20) “Coast Guard District Response Group” means a Coast Guard District Response Group established under subsection (j);

(21) “Federal On-Scene Coordinator” means a Federal On-Scene Coordinator designated in the National Contingency Plan;

(22) “National Contingency Plan” means the National Contingency Plan prepared and published under subsection (d);

(23) “National Response Unit” means the National Response Unit established under subsection (j);

(24) “worst case discharge” means—

(A) in the case of a vessel, a discharge in adverse weather conditions of its entire cargo; and

(B) in the case of an offshore facility or onshore facility, the largest foreseeable discharge in adverse weather conditions;

(25) “removal costs” means—

(A) the costs of removal of oil or a hazardous substance that are incurred after it is discharged; and

(B) in any case in which there is a substantial threat of a discharge of oil or a hazardous substance, the costs to prevent, minimize, or mitigate that threat;

(26) “nontank vessel” means a self-propelled vessel that—

(A) is at least 400 gross tons as measured under section 14302 of title 46, United States Code, or, for vessels not measured under that section, as measured under section 14502 of that title;

(B) is not a tank vessel;

(C) carries oil of any kind as fuel for main propulsion; and

(D) operates on the navigable waters of the United States, as defined in section 2101(23) of that title;

(27) the term “best available science” means science that—



- (A) maximizes the quality, objectivity, and integrity of information, including statistical information;
- (B) uses peer-reviewed and publicly available data; and
- (C) clearly documents and communicates risks and uncertainties in the scientific basis for such projects;
- (28) the term “Chairperson” means the Chairperson of the Council;
- (29) the term “coastal political subdivision” means any local political jurisdiction that is immediately below the State level of government, including a county, parish, or borough, with a coastline that is contiguous with any portion of the United States Gulf of Mexico;
- (30) the term “Comprehensive Plan” means the comprehensive plan developed by the Council pursuant to subsection (t);
- (31) the term “Council” means the Gulf Coast Ecosystem Restoration Council established pursuant to subsection (t);
- (32) the term “Deepwater Horizon oil spill” means the blow-out and explosion of the mobile offshore drilling unit *Deepwater Horizon* that occurred on April 20, 2010, and resulting hydrocarbon releases into the environment;
- (33) the term “Gulf Coast region” means—
- (A) in the Gulf Coast States, the coastal zones (as that term is defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)), except that, in this section, the term “coastal zones” includes land within the coastal zones that is held in trust by, or the use of which is by law subject solely to the discretion of, the Federal Government or officers or agents of the Federal Government)) that border the Gulf of Mexico;
- (B) any adjacent land, water, and watersheds, that are within 25 miles of the coastal zones described in subparagraph (A) of the Gulf Coast States; and
- (C) all Federal waters in the Gulf of Mexico;
- (34) the term “Gulf Coast State” means any of the States of Alabama, Florida, Louisiana, Mississippi, and Texas; and
- (35) the term “Trust Fund” means the Gulf Coast Restoration Trust Fund established pursuant to section 1602 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

(b)(1) The Congress hereby declares that it is the policy of the United States that there should be no discharges of oil or hazardous substances into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976).

(2)(A) The Administrator shall develop, promulgate, and revise as may be appropriate, regulations designating as hazardous substances, other than oil as defined in this section, such elements and compounds which, when discharged in any quantity into or upon the navigable waters of the United States or adjoining shorelines

or the waters of the contiguous zone or in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), present an imminent and substantial danger to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, shorelines, and beaches.

(B) The Administrator shall within 18 months after the date of enactment of this paragraph, conduct a study and report to the Congress on methods, mechanisms, and procedures to create incentives to achieve a higher standard of care in all aspects of the management and movement of hazardous substances on the part of owners, operators, or persons in charge of onshore facilities, offshore facilities, or vessels. The Administrator shall include in such study (1) limits of liability, (2) liability for third party damages, (3) penalties and fees, (4) spill prevention plans, (5) current practices in the insurance and banking industries, and (6) whether the penalty enacted in subclause (bb) of clause (iii) of subparagraph (B) of subsection (b)(2) of section 311 of Public Law 92-500 should be enacted.

(3) The discharge of oil or hazardous substances (i) into or upon the navigable waters of the United States, adjoining shorelines, or into or upon the waters of the contiguous zone, or (ii) in connection with activities under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974, or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), in such quantities as may be harmful as determined by the President under paragraph (4) of this subsection, is prohibited, except (A) in the case of such discharges into the waters of the contiguous zone or which may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States (including resources under the Fishery Conservation and Management Act of 1976), where permitted under the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, and (B) where permitted in quantities and at times and locations or under such circumstances or conditions as the President may, by regulation, determine not to be harmful. Any regulations issued under this subsection shall be consistent with maritime safety and with marine and navigation laws and regulations and applicable water quality standards.

(4) The President shall by regulation determine for the purposes of this section those quantities of oil and any hazardous substances the discharge of which may be harmful to the public health or welfare or the environment of the United States, including but not limited to fish, shellfish, wildlife, and public and private property, shorelines, and beaches.

(5) Any person in charge of a vessel or of an onshore facility or an offshore facility shall, as soon as he has knowledge of any discharge of oil or a hazardous substance from such vessel or facility in violation of paragraph (3) of this subsection, immediately notify the appropriate agency of the United States Government of such discharge. The Federal agency shall immediately notify the appro-

appropriate State agency of any State which is, or may reasonably be expected to be, affected by the discharge of oil or a hazardous substance. Any such person (A) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(i) of this subsection, or (B) in charge of a vessel from which oil or a hazardous substance is discharged in violation of paragraph (3)(ii) of this subsection and who is otherwise subject to the jurisdiction of the United States at the time of the discharge, or (C) in charge of an onshore facility or an offshore facility, who fails to notify immediately such agency of such discharge shall, upon conviction, be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both. Notification received pursuant to this paragraph shall not be used against any such natural person in any criminal case, except a prosecution for perjury or for giving a false statement.

(6) ADMINISTRATIVE PENALTIES.—

(A) VIOLATIONS.—Any owner, operator, or person in charge of any vessel, onshore facility, or offshore facility—

(i) from which oil or a hazardous substance is discharged in violation of paragraph (3), or

(ii) who fails or refuses to comply with any regulation issued under subsection (j) to which that owner, operator, or person in charge is subject,

may be assessed a class I or class II civil penalty by the Secretary of the department in which the Coast Guard is operating, the Secretary of Transportation, or the Administrator.

(B) CLASSES OF PENALTIES.—

(i) CLASS I.—The amount of a class I civil penalty under subparagraph (A) may not exceed \$10,000 per violation, except that the maximum amount of any class I civil penalty under this subparagraph shall not exceed \$25,000. Before assessing a civil penalty under this clause, the Administrator or Secretary, as the case may be, shall give to the person to be assessed such penalty written notice of the Administrator's or Secretary's proposal to assess the penalty and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed penalty. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

(ii) CLASS II.—The amount of a class II civil penalty under subparagraph (A) may not exceed \$10,000 per day for each day during which the violation continues; except that the maximum amount of any class II civil penalty under this subparagraph shall not exceed \$125,000. Except as otherwise provided in this subsection, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code. The Administrator and

Secretary may issue rules for discovery procedures for hearings under this paragraph.

(C) RIGHTS OF INTERESTED PERSONS.—

(i) PUBLIC NOTICE.—Before issuing an order assessing a class II civil penalty under this paragraph the Administrator or Secretary, as the case may be, shall provide public notice of and reasonable opportunity to comment on the proposed issuance of such order.

(ii) PRESENTATION OF EVIDENCE.—Any person who comments on a proposed assessment of a class II civil penalty under this paragraph shall be given notice of any hearing held under this paragraph and of the order assessing such penalty. In any hearing held under this paragraph, such person shall have a reasonable opportunity to be heard and to present evidence.

(iii) RIGHTS OF INTERESTED PERSONS TO A HEARING.—If no hearing is held under subparagraph (B) before issuance of an order assessing a class II civil penalty under this paragraph, any person who commented on the proposed assessment may petition, within 30 days after the issuance of such order, the Administrator or Secretary, as the case may be, to set aside such order and to provide a hearing on the penalty. If the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order, the Administrator or Secretary shall immediately set aside such order and provide a hearing in accordance with subparagraph (B)(ii). If the Administrator or Secretary denies a hearing under this clause, the Administrator or Secretary shall provide to the petitioner, and publish in the Federal Register, notice of and the reasons for such denial.

(D) FINALITY OF ORDER.—An order assessing a class II civil penalty under this paragraph shall become final 30 days after its issuance unless a petition for judicial review is filed under subparagraph (G) or a hearing is requested under subparagraph (C)(iii). If such a hearing is denied, such order shall become final 30 days after such denial.

(E) EFFECT OF ORDER.—Action taken by the Administrator or Secretary, as the case may be, under this paragraph shall not affect or limit the Administrator's or Secretary's authority to enforce any provision of this Act; except that any violation—

(i) with respect to which the Administrator or Secretary has commenced and is diligently prosecuting an action to assess a class II civil penalty under this paragraph, or

(ii) for which the Administrator or Secretary has issued a final order assessing a class II civil penalty not subject to further judicial review and the violator has paid a penalty assessed under this paragraph, shall not be the subject of a civil penalty action under section 309(d), 309(g), or 505 of this Act or under paragraph (7).

(F) EFFECT OF ACTION ON COMPLIANCE.—No action by the Administrator or Secretary under this paragraph shall affect any person's obligation to comply with any section of this Act.

(G) JUDICIAL REVIEW.—Any person against whom a civil penalty is assessed under this paragraph or who commented on the proposed assessment of such penalty in accordance with subparagraph (C) may obtain review of such assessment—

(i) in the case of assessment of a class I civil penalty, in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred, or

(ii) in the case of assessment of a class II civil penalty, in United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business,

by filing a notice of appeal in such court within the 30-day period beginning on the date the civil penalty order is issued and by simultaneously sending a copy of such notice by certified mail to the Administrator or Secretary, as the case may be, and the Attorney General. The Administrator or Secretary shall promptly file in such court a certified copy of the record on which the order was issued. Such court shall not set aside or remand such order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion and shall not impose additional civil penalties for the same violation unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion.

(H) COLLECTION.—If any person fails to pay an assessment of a civil penalty—

(i) after the assessment has become final, or

(ii) after a court in an action brought under subparagraph (G) has entered a final judgment in favor of the Administrator or Secretary, as the case may be,

the Administrator or Secretary shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this subparagraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

(I) SUBPOENAS.—The Administrator or Secretary, as the case may be, may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this paragraph. In case of contumacy or refusal to obey a subpoena issued pursuant to this subparagraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(7) CIVIL PENALTY ACTION.—

(A) DISCHARGE, GENERALLY.—Any person who is the owner, operator, or person in charge of any vessel, onshore facility, or offshore facility from which oil or a hazardous substance is discharged in violation of paragraph (3), shall be subject to a civil penalty in an amount up to \$25,000 per day of violation or an amount up to \$1,000 per barrel of oil or unit of reportable quantity of hazardous substances discharged.

(B) FAILURE TO REMOVE OR COMPLY.—Any person described in subparagraph (A) who, without sufficient cause—

(i) fails to properly carry out removal of the discharge under an order of the President pursuant to subsection (c); or

(ii) fails to comply with an order pursuant to subsection (e)(1)(B);

shall be subject to a civil penalty in an amount up to \$25,000 per day of violation or an amount up to 3 times the costs incurred by the Oil Spill Liability Trust Fund as a result of such failure.

(C) FAILURE TO COMPLY WITH REGULATION.—Any person who fails or refuses to comply with any regulation issued under subsection (j) shall be subject to a civil penalty in an amount up to \$25,000 per day of violation.

(D) GROSS NEGLIGENCE.—In any case in which a violation of paragraph (3) was the result of gross negligence or willful misconduct of a person described in subparagraph (A), the person shall be subject to a civil penalty of not less than \$100,000, and not more than \$3,000 per barrel of oil or unit of reportable quantity of hazardous substance discharged.

(E) JURISDICTION.—An action to impose a civil penalty under this paragraph may be brought in the district court of the United States for the district in which the defendant is located, resides, or is doing business, and such court shall have jurisdiction to assess such penalty.

(F) LIMITATION.—A person is not liable for a civil penalty under this paragraph for a discharge if the person has

been assessed a civil penalty under paragraph (6) for the discharge.

(8) DETERMINATION OF AMOUNT.—In determining the amount of a civil penalty under paragraphs (6) and (7), the Administrator, Secretary, or the court, as the case may be, shall consider the seriousness of the violation or violations, the economic benefit to the violator, if any, resulting from the violation, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the nature, extent, and degree of success of any efforts of the violator to minimize or mitigate the effects of the discharge, the economic impact of the penalty on the violator, and any other matters as justice may require.

(9) MITIGATION OF DAMAGE.—In addition to establishing a penalty for the discharge of oil or a hazardous substance, the Administrator or the Secretary of the department in which the Coast Guard is operating may act to mitigate the damage to the public health or welfare caused by such discharge. The cost of such mitigation shall be deemed a cost incurred under subsection (c) of this section for the removal of such substance by the United States Government.

(10) RECOVERY OF REMOVAL COSTS.—Any costs of removal incurred in connection with a discharge excluded by subsection (a)(2)(C) of this section shall be recoverable from the owner or operator of the source of the discharge in an action brought under section 309(b) of this Act.

(11) LIMITATION.—Civil penalties shall not be assessed under both this section and section 309 for the same discharge.

(12) WITHHOLDING CLEARANCE.—If any owner, operator, or person in charge of a vessel is liable for a civil penalty under this subsection, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to a civil penalty under this subsection, the Secretary of the Treasury, upon the request of the Secretary of the department in which the Coast Guard is operating or the Administrator, shall with respect to such vessel refuse or revoke—

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

(B) a permit to proceed under section 4367 of the Revised Statutes of the United States (46 U.S.C. App. 313); and

(C) a permit to depart required under section 443 of the Tariff Act of 1930 (19 U.S.C. 1443);

as applicable. Clearance or a permit refused or revoked under this paragraph may be granted upon the filing of a bond or other surety satisfactory to the Secretary of the department in which the Coast Guard is operating or the Administrator.

(c) FEDERAL REMOVAL AUTHORITY.—

(1) GENERAL REMOVAL REQUIREMENT.—(A) The President shall, in accordance with the National Contingency Plan and any appropriate Area Contingency Plan, ensure effective and immediate removal of a discharge, and mitigation or prevention of a substantial threat of a discharge, of oil or a hazardous substance—

(i) into or on the navigable waters;

(ii) on the adjoining shorelines to the navigable waters;

- (iii) into or on the waters of the exclusive economic zone;
- or
- (iv) that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States.

- (B) In carrying out this paragraph, the President may—
  - (i) remove or arrange for the removal of a discharge, and mitigate or prevent a substantial threat of a discharge, at any time;
  - (ii) direct or monitor all Federal, State, and private actions to remove a discharge; and
  - (iii) remove and, if necessary, destroy a vessel discharging, or threatening to discharge, by whatever means are available.

(2) DISCHARGE POSING SUBSTANTIAL THREAT TO PUBLIC HEALTH OR WELFARE.—(A) If a discharge, or a substantial threat of a discharge, of oil or a hazardous substance from a vessel, offshore facility, or onshore facility is of such a size or character as to be a substantial threat to the public health or welfare of the United States (including but not limited to fish, shellfish, wildlife, other natural resources, and the public and private beaches and shorelines of the United States), the President shall direct all Federal, State, and private actions to remove the discharge or to mitigate or prevent the threat of the discharge.

(B) In carrying out this paragraph, the President may, without regard to any other provision of law governing contracting procedures or employment of personnel by the Federal Government—

- (i) remove or arrange for the removal of the discharge, or mitigate or prevent the substantial threat of the discharge; and
- (ii) remove and, if necessary, destroy a vessel discharging, or threatening to discharge, by whatever means are available.

(3) ACTIONS IN ACCORDANCE WITH NATIONAL CONTINGENCY PLAN.—(A) Each Federal agency, State, owner or operator, or other person participating in efforts under this subsection shall act in accordance with the National Contingency Plan or as directed by the President.

(B) An owner or operator participating in efforts under this subsection shall act in accordance with the National Contingency Plan and the applicable response plan required under subsection (j), or as directed by the President, except that the owner or operator may deviate from the applicable response plan if the President or the Federal On-Scene Coordinator determines that deviation from the response plan would provide for a more expeditious or effective response to the spill or mitigation of its environmental effects.

*(C) An owner or operator may not change salvors as part of a deviation under subparagraph (B) in cases in which the original salvor satisfies the Coast Guard requirements in accordance with the National Contingency Plan and the applicable response plan required under subsection (j).*



*(D) In any case in which the Coast Guard authorizes a deviation from the salvor as part of a deviation under subparagraph (B) from the applicable response plan required under subsection (j), the Commandant shall submit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing the deviation and the reasons for such deviation.*

(4) EXEMPTION FROM LIABILITY.—(A) A person is not liable for removal costs or damages which result from actions taken or omitted to be taken in the course of rendering care, assistance, or advice consistent with the National Contingency Plan or as otherwise directed by the President relating to a discharge or a substantial threat of a discharge of oil or a hazardous substance.

(B) Subparagraph (A) does not apply—

(i) to a responsible party;

(ii) to a response under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

(iii) with respect to personal injury or wrongful death; or

(iv) if the person is grossly negligent or engages in willful misconduct.

(C) A responsible party is liable for any removal costs and damages that another person is relieved of under subparagraph (A).

(5) OBLIGATION AND LIABILITY OF OWNER OR OPERATOR NOT AFFECTED.—Nothing in this subsection affects—

(A) the obligation of an owner or operator to respond immediately to a discharge, or the threat of a discharge, of oil; or

(B) the liability of a responsible party under the Oil Pollution Act of 1990.

(6) RESPONSIBLE PARTY DEFINED.—For purposes of this subsection, the term “responsible party” has the meaning given that term under section 1001 of the Oil Pollution Act of 1990.

(d) NATIONAL CONTINGENCY PLAN.—

(1) PREPARATION BY PRESIDENT.—The President shall prepare and publish a National Contingency Plan for removal of oil and hazardous substances pursuant to this section.

(2) CONTENTS.—The National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances, and shall include, but not be limited to, the following:

(A) Assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies and port authorities including, but not limited to, water pollution control and conservation and trusteeship of natural resources (including conservation of fish and wildlife).

(B) Identification, procurement, maintenance, and storage of equipment and supplies.

(C) Establishment or designation of Coast Guard strike teams, consisting of—

(i) personnel who shall be trained, prepared, and available to provide necessary services to carry out the National Contingency Plan;

(ii) adequate oil and hazardous substance pollution control equipment and material; and

(iii) a detailed oil and hazardous substance pollution and prevention plan, including measures to protect fisheries and wildlife.

(D) A system of surveillance and notice designed to safeguard against as well as ensure earliest possible notice of discharges of oil and hazardous substances and imminent threats of such discharges to the appropriate State and Federal agencies.

(E) Establishment of a national center to provide coordination and direction for operations in carrying out the Plan.

(F) Procedures and techniques to be employed in identifying, containing, dispersing, and removing oil and hazardous substances.

(G) A schedule, prepared in cooperation with the States, identifying—

(i) dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used in carrying out the Plan,

(ii) the waters in which such dispersants, other chemicals, and other spill mitigating devices and substances may be used, and

(iii) the quantities of such dispersant, other chemicals, or other spill mitigating device or substance which can be used safely in such waters,

which schedule shall provide in the case of any dispersant, chemical, spill mitigating device or substance, or waters not specifically identified in such schedule that the President, or his delegate, may, on a case-by-case basis, identify the dispersants, other chemicals, and other spill mitigating devices and substances which may be used, the waters in which they may be used, and the quantities which can be used safely in such waters.

(H) A system whereby the State or States affected by a discharge of oil or hazardous substance may act where necessary to remove such discharge and such State or States may be reimbursed in accordance with the Oil Pollution Act of 1990, in the case of any discharge of oil from a vessel or facility, for the reasonable costs incurred for that removal, from the Oil Spill Liability Trust Fund.

(I) Establishment of criteria and procedures to ensure immediate and effective Federal identification of, and response to, a discharge, or the threat of a discharge, that results in a substantial threat to the public health or welfare of the United States, as required under subsection (c)(2).

(J) Establishment of procedures and standards for removing a worst case discharge of oil, and for mitigating or preventing a substantial threat of such a discharge.

(K) Designation of the Federal official who shall be the Federal On-Scene Coordinator for each area for which an Area Contingency Plan is required to be prepared under subsection (j).

(L) Establishment of procedures for the coordination of activities of—

(i) Coast Guard strike teams established under subparagraph (C);

(ii) Federal On-Scene Coordinators designated under subparagraph (K);

(iii) District Response Groups established under subsection (j); and

(iv) Area Committees established under subsection (j).

(M) A fish and wildlife response plan, developed in consultation with the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and other interested parties (including State fish and wildlife conservation officials), for the immediate and effective protection, rescue, and rehabilitation of, and the minimization of risk of damage to, fish and wildlife resources and their habitat that are harmed or that may be jeopardized by a discharge.

(3) REVISIONS AND AMENDMENTS.—The President may, from time to time, as the President deems advisable, revise or otherwise amend the National Contingency Plan.

(4) ACTIONS IN ACCORDANCE WITH NATIONAL CONTINGENCY PLAN.—After publication of the National Contingency Plan, the removal of oil and hazardous substances and actions to minimize damage from oil and hazardous substance discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan.

(e) CIVIL ENFORCEMENT.—

(1) ORDERS PROTECTING PUBLIC HEALTH.—In addition to any action taken by a State or local government, when the President determines that there may be an imminent and substantial threat to the public health or welfare of the United States, including fish, shellfish, and wildlife, public and private property, shorelines, beaches, habitat, and other living and non-living natural resources under the jurisdiction or control of the United States, because of an actual or threatened discharge of oil or a hazardous substance from a vessel or facility in violation of subsection (b), the President may—

(A) require the Attorney General to secure any relief from any person, including the owner or operator of the vessel or facility, as may be necessary to abate such endangerment; or

(B) after notice to the affected State, take any other action under this section, including issuing administrative orders, that may be necessary to protect the public health and welfare.

(2) JURISDICTION OF DISTRICT COURTS.—The district courts of the United States shall have jurisdiction to grant any relief under this subsection that the public interest and the equities of the case may require.

(f)(1) Except where an owner or operator can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any vessel from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed, in the case of an inland oil barge \$125 per gross ton of such barge, or \$125,000, whichever is greater, and in the case of any other vessel, \$150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, \$250,000), whichever is greater, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. Such costs shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States for any district within which any vessel may be found. The United States may also bring an action against the owner or operator of such vessel in any court of competent jurisdiction to recover such costs.

(2) Except where an owner or operator of an onshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed \$50,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such facility in any court of competent jurisdiction to recover such costs. The Administrator is authorized, by regulation, after consultation with the Secretary of Commerce and the Small Business Administration, to establish reasonable and equitable classifications, of those onshore facilities having a total fixed storage capacity of 1,000 barrels or less which he determines because of size, type, and location do not present a substantial risk of the discharge of oil or hazardous substance in violation of subsection (b)(3) of this section, and apply with respect to such classifications differing limits of liability which may be less than the amount contained in this paragraph.

(3) Except where an owner or operator of an offshore facility can prove that a discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Gov-

ernment, or (D) an act or omission of a third party without regard to whether any such act or omission was or was not negligent, or any combination of the foregoing clauses, such owner or operator of any such facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for the removal of such oil or substance by the United States Government in an amount not to exceed \$50,000,000, except that where the United States can show that such discharge was the result of willful negligence or willful misconduct within the privity and knowledge of the owner, such owner or operator shall be liable to the United States Government for the full amount of such costs. The United States may bring an action against the owner or operator of such a facility in any court of competent jurisdiction to recover such costs.

(4) The costs of removal of oil or a hazardous substance for which the owner or operator of a vessel or onshore or offshore facility is liable under subsection (f) of this section shall include any costs or expenses incurred by the Federal Government or any State government in the restoration or replacement of natural resources damaged or destroyed as a result of a discharge of oil or a hazardous substance in violation of subsection (b) of this section.

(5) The President, or the authorized representative of any State, shall act on behalf of the public as trustee of the natural resources to recover for the costs of replacing or restoring such resources. Sums recovered shall be used to restore, rehabilitate, or acquire the equivalent of such natural resources by the appropriate agencies of the Federal Government, or the State government.

(g) Where the owner or operator of a vessel (other than an inland oil barge) carrying oil or hazardous substances as cargo or an onshore or offshore facility which handles or stores oil or hazardous substances in bulk, from which oil or a hazardous substance is discharged in violation of subsection (b) of this section, alleges that such discharge was caused solely by an act or omission of a third party, such owner or operator shall pay to the United States Government the actual costs incurred under subsection (c) for removal of such oil or substance and shall be entitled by subrogation to all rights of the United States Government to recover such costs from such third party under this subsection. In any case where an owner or operator of a vessel, of an onshore facility, or of an offshore facility, from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section, proves that such discharge of oil or hazardous substance was caused solely by an act or omission of a third party, or was caused solely by such an act or omission in combination with an act of God, an act of war, or negligence on the part of the United States Government, such third party shall, notwithstanding any other provision of law, be liable to the United States Government for the actual costs incurred under subsection (c) for removal of such oil or substance by the United States Government, except where such third party can prove that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of another party without regard to whether such act or omission was or was not negligent, or any combination of the

foregoing clauses. If such third party was the owner or operator of a vessel which caused the discharge of oil or a hazardous substance in violation of subsection (b)(3) of this section, the liability of such third party under this subsection shall not exceed, in the case of an inland oil barge \$125 per gross ton of such barge, \$125,000, whichever is greater, and in the case of any other vessel, \$150 per gross ton of such vessel (or, for a vessel carrying oil or hazardous substances as cargo, \$250,000), whichever is greater. In any other case the liability of such third party shall not exceed the limitation which would have been applicable to the owner or operator of the vessel or the onshore or offshore facility from which the discharge actually occurred if such owner or operator were liable. If the United States can show that the discharge of oil or a hazardous substance in violation of subsection (b)(3) of this section was the result of willful negligence or willful misconduct within the privity and knowledge of such third party, such third party shall be liable to the United States Government for the full amount of such removal costs. The United States may bring an action against the third party in any court of competent jurisdiction to recover such removal costs.

(h) The liabilities established by this section shall in no way affect any rights which (1) the owner or operator of a vessel or of an onshore facility or an offshore facility may have against any third party whose acts may in any way have caused or contributed to such discharge, or (2) The United States Government may have against any third party whose actions may in any way have caused or contributed to the discharge of oil or hazardous substance.

(i) In any case where an owner or operator of a vessel or an onshore facility or an offshore facility from which oil or a hazardous substance is discharged in violation of subsection (b)(3) of this section acts to remove such oil or substance in accordance with regulations promulgated pursuant to this section, such owner or operator shall be entitled to recover the reasonable costs incurred in such removal upon establishing, in a suit which may be brought against the United States Government in the United States Claims Court, that such discharge was caused solely by (A) an act of God, (B) an act of war, (C) negligence on the part of the United States Government, or (D) an act or omission of a third party without regard to whether such act or omission was or was not negligent, or of any combination of the foregoing clauses.

(j) NATIONAL RESPONSE SYSTEM.—

(1) IN GENERAL.—Consistent with the National Contingency Plan required by subsection (c)(2) of this section, as soon as practicable after the effective date of this section, and from time to time thereafter, the President shall issue regulations consistent with maritime safety and with marine and navigation laws (A) establishing methods and procedures for removal of discharged oil and hazardous substances, (B) establishing criteria for the development and implementation of local and regional oil and hazardous substance removal contingency plans, (C) establishing procedures, methods, and equipment and other requirements for equipment to prevent discharges of oil and hazardous substances from vessels and from onshore facilities and offshore facilities, and to contain such discharges, and (D) governing the inspection of vessels carrying cargoes of

oil and hazardous substances and the inspection of such cargoes in order to reduce the likelihood of discharges of oil from vessels in violation of this section.

(2) NATIONAL RESPONSE UNIT.—The Secretary of the department in which the Coast Guard is operating shall establish a National Response Unit at Elizabeth City, North Carolina. The Secretary, acting through the National Response Unit—

(A) shall compile and maintain a comprehensive computer list of spill removal resources, personnel, and equipment that is available worldwide and within the areas designated by the President pursuant to paragraph (4), and of information regarding previous spills, including data from universities, research institutions, State governments, and other nations, as appropriate, which shall be disseminated as appropriate to response groups and area committees, and which shall be available to Federal and State agencies and the public;

(B) shall provide technical assistance, equipment, and other resources requested by a Federal On-Scene Coordinator;

(C) shall coordinate use of private and public personnel and equipment to remove a worst case discharge, and to mitigate or prevent a substantial threat of such a discharge, from a vessel, offshore facility, or onshore facility operating in or near an area designated by the President pursuant to paragraph (4);

(D) may provide technical assistance in the preparation of Area Contingency Plans required under paragraph (4);

(E) shall administer Coast Guard strike teams established under the National Contingency Plan;

(F) shall maintain on file all Area Contingency Plans approved by the President under this subsection; and

(G) shall review each of those plans that affects its responsibilities under this subsection.

(3) COAST GUARD DISTRICT RESPONSE GROUPS.—(A) The Secretary of the department in which the Coast Guard is operating shall establish in each Coast Guard district a Coast Guard District Response Group.

(B) Each Coast Guard District Response Group shall consist of—

(i) the Coast Guard personnel and equipment, including firefighting equipment, of each port within the district;

(ii) additional prepositioned equipment; and

(iii) a district response advisory staff.

(C) Coast Guard district response groups—

(i) shall provide technical assistance, equipment, and other resources when required by a Federal On-Scene Coordinator;

(ii) shall maintain all Coast Guard response equipment within its district;

(iii) may provide technical assistance in the preparation of Area Contingency Plans required under paragraph (4); and

(iv) shall review each of those plans that affect its area of geographic responsibility.

(4) AREA COMMITTEES AND AREA CONTINGENCY PLANS.—(A) There is established for each area designated by the President an Area Committee comprised of members appointed by the President from qualified—

- (i) personnel of Federal, State, and local agencies; and
- (ii) members of federally recognized Indian tribes, where applicable.

(B) Each Area Committee, under the direction of the Federal On-Scene Coordinator for its area, shall—

- (i) prepare for its area the Area Contingency Plan required under subparagraph (C);
- (ii) work with State, local, and tribal officials to enhance the contingency planning of those officials and to assure preplanning of joint response efforts, including appropriate procedures for mechanical recovery, dispersal, shoreline cleanup, protection of sensitive environmental areas, and protection, rescue, and rehabilitation of fisheries and wildlife, including advance planning with respect to the closing and reopening of fishing areas following a discharge; and
- (iii) work with State, local, and tribal officials to expedite decisions for the use of dispersants and other mitigating substances and devices.

(C) Each Area Committee shall prepare and submit to the President for approval an Area Contingency Plan for its area. The Area Contingency Plan shall—

- (i) when implemented in conjunction with the National Contingency Plan, be adequate to remove a worst case discharge, and to mitigate or prevent a substantial threat of such a discharge, from a vessel, offshore facility, or onshore facility operating in or near the area;
- (ii) describe the area covered by the plan, including the areas of special economic or environmental importance that might be damaged by a discharge;
- (iii) describe in detail the responsibilities of an owner or operator and of Federal, State, and local agencies in removing a discharge, and in mitigating or preventing a substantial threat of a discharge;
- (iv) list the equipment (including firefighting equipment), dispersants or other mitigating substances and devices, and personnel available to an owner or operator, Federal, State, and local agencies, and tribal governments, to ensure an effective and immediate removal of a discharge, and to ensure mitigation or prevention of a substantial threat of a discharge;
- (v) compile a list of local scientists, both inside and outside Federal Government service, with expertise in the environmental effects of spills of the types of oil typically transported in the area, who may be contacted to provide information or, where appropriate, participate in meetings of the scientific support team convened in response to a spill, and describe the procedures to be followed for obtaining an expedited decision regarding the use of dispersants;
- (vi) describe in detail how the plan is integrated into other Area Contingency Plans and vessel, offshore facility, and onshore facility response plans approved under this



subsection, and into operating procedures of the National Response Unit;

(vii) include a framework for advance planning and decisionmaking with respect to the closing and reopening of fishing areas following a discharge, including protocols and standards for the closing and reopening of fishing areas;

(viii) include any other information the President requires; and

(ix) be updated periodically by the Area Committee.

(D) The President shall—

(i) review and approve Area Contingency Plans under this paragraph; and

(ii) periodically review Area Contingency Plans so approved.

(5) TANK VESSEL, NONTANK VESSEL, AND FACILITY RESPONSE PLANS.—(A)(i) The President shall issue regulations which require an owner or operator of a tank vessel or facility described in subparagraph (C) to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance.

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

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

(C) The tank vessels, nontank vessels, and facilities referred to in subparagraphs (A) and (B) are the following:

(i) A tank vessel, as defined under section 2101 of title 46, United States Code.

(ii) A nontank vessel.

(iii) An offshore facility.

(iv) An onshore facility that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging into or on the navigable waters, adjoining shorelines, or the exclusive economic zone.

(D) A response plan required under this paragraph shall—

(i) be consistent with the requirements of the National Contingency Plan and Area Contingency Plans;

- (ii) identify the qualified individual having full authority to implement removal actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment pursuant to clause (iii);
  - (iii) identify, and ensure by contract or other means approved by the President the availability of, private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge;
  - (iv) describe the training, equipment testing, periodic unannounced drills, and response actions of persons on the vessel or at the facility, to be carried out under the plan to ensure the safety of the vessel or facility and to mitigate or prevent the discharge, or the substantial threat of a discharge;
  - (v) be updated periodically; and
  - (vi) be resubmitted for approval of each significant change.
- (E) With respect to any response plan submitted under this paragraph for an onshore facility that, because of its location, could reasonably be expected to cause significant and substantial harm to the environment by discharging into or on the navigable waters or adjoining shorelines or the exclusive economic zone, and with respect to each response plan submitted under this paragraph for a tank vessel, nontank vessel, or offshore facility, the President shall—
- (i) promptly review such response plan;
  - (ii) require amendments to any plan that does not meet the requirements of this paragraph;
  - (iii) approve any plan that meets the requirements of this paragraph;
  - (iv) review each plan periodically thereafter; and
  - (v) in the case of a plan for a nontank vessel, consider any applicable State-mandated response plan in effect on the date of the enactment of the Coast Guard and Maritime Transportation Act of 2004 and ensure consistency to the extent practicable.
- (F) A tank vessel, nontank vessel, offshore facility, or onshore facility required to prepare a response plan under this subsection may not handle, store, or transport oil unless—
- (i) in the case of a tank vessel, nontank vessel, offshore facility, or onshore facility for which a response plan is reviewed by the President under subparagraph (E), the plan has been approved by the President; and
  - (ii) the vessel or facility is operating in compliance with the plan.
- (G) Notwithstanding subparagraph (E), the President may authorize a tank vessel, nontank vessel, offshore facility, or onshore facility to operate without a response plan approved under this paragraph, until not later than 2 years after the date of the submission to the President of a plan for the tank vessel, nontank vessel, or facility, if the owner or operator certifies that the owner or operator has ensured by contract or

other means approved by the President the availability of private personnel and equipment necessary to respond, to the maximum extent practicable, to a worst case discharge or a substantial threat of such a discharge.

(H) The owner or operator of a tank vessel, nontank vessel, offshore facility, or onshore facility may not claim as a defense to liability under title I of the Oil Pollution Act of 1990 that the owner or operator was acting in accordance with an approved response plan.

(I) The Secretary shall maintain, in the Vessel Identification System established under chapter 125 of title 46, United States Code, the dates of approval and review of a response plan under this paragraph for each tank vessel and nontank vessel that is a vessel of the United States.

*(J)(i) Except as provided in clause (iv), in any case in which the Secretary has determined that the national planning criteria established pursuant to this subsection are inappropriate for a vessel operating in the area of responsibility of Coast Guard Sector Anchorage, a response plan required under this paragraph with respect to a discharge of oil for the vessel shall comply with the planning criteria established under clause (ii), which planning criteria shall, with respect to a discharge of oil from the vessel, supercede the national planning criteria and apply in lieu of any alternative planning criteria approved for vessels operating in such area.*

*(ii) The President shall establish planning criteria for a worst case discharge of oil, and a substantial threat of such a discharge, within the area of responsibility of Coast Guard Sector Anchorage, including planning criteria for the following:*

*(I) Mechanical oil spill response resources that are required to be located within such area.*

*(II) Response times for mobilization of oil spill response resources and arrival on the scene of a worst case discharge of oil, or substantial threat of such a discharge, occurring within such area.*

*(III) Dedicated vessels for oil spill response that are capable of operating in the ocean environment and required to be located within such area.*

*(IV) Ensuring the availability of at least one oil spill removal organization that is classified by the Coast Guard and that—*

*(aa) is capable of responding in all operating environments in such area;*

*(bb) provides vessel routing measures consistent with international routing measure deviation protocols;*

*(cc) maintains real-time continuous vessel tracking, monitoring, and engagement protocols with the ability to detect and address vessel operation anomalies;*

*(dd) has the capability to manage wildlife protection and rehabilitation;*

*(ee) controls oil spill response resources of dedicated and nondedicated resource providers within such area, through ownership, contracts, agreements, or other means approved by the President, sufficient to mobilize and sustain a response to a worst case discharge of oil*

and to contain, recover, and temporarily store discharged oil; and

(ff) has pre-positioned all of its oil spill response resources in strategic locations throughout such area in a manner that ensures the ability to support response personnel, marine operations, air cargo, or other related logistics infrastructure.

(V) Temporary storage capability using both dedicated and non-dedicated assets located within such area.

(VI) Non-mechanical oil spill response resources, to be available under contracts, agreements, or other means approved by the President, capable of responding to both a discharge of persistent oil and a discharge of non-persistent oil, whether the discharged oil was carried by a vessel as fuel or cargo.

(VII) With respect to tank barges carrying non-persistent oil in bulk as cargo to be delivered to communities within such area, oil spill response resources that is required to be carried on board.

(VIII) Ensuring that oil spill response resources otherwise required to be included in a response plan for purposes of compliance with salvage and marine firefighting requirements are not used to meet the requirements of this subparagraph.

(IX) Specifying a minimum length of time that approval of a response plan under this subparagraph is valid.

(iii) The President may approve a response plan for a vessel under this subparagraph only if the owner or operator of the vessel demonstrates the availability of the oil spill response resources required to be included in the response plan under the planning criteria established under clause (ii).

(iv) Nothing in this subparagraph affects—

(I) vessels operating within the area of responsibility of the Coast Guard sector responsible for Anchorage, Alaska, with primary operations occurring within Cook Inlet, Alaska; or

(II) the requirements applicable to tank vessels subject to section 5005 of the Oil Pollution Act of 1990 (33 U.S.C. 2735).

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

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

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

(7) AREA DRILLS.—The President shall periodically conduct drills of removal capability, without prior notice, in areas for which Area Contingency Plans are required under this subsection and under relevant tank vessel, nontank vessel, and facility response plans. The drills may include participation by

Federal, State, and local agencies, the owners and operators of vessels and facilities in the area, and private industry. The President may publish annual reports on these drills, including assessments of the effectiveness of the plans and a list of amendments made to improve plans.

(8) UNITED STATES GOVERNMENT NOT LIABLE.—The United States Government is not liable for any damages arising from its actions or omissions relating to any response plan required by this section.

(1) The President is authorized to delegate the administration of this section to the heads of those Federal departments, agencies, and instrumentalities which he determines to be appropriate. Each such department, agency, and instrumentality, in order to avoid duplication of effort, shall, whenever appropriate, utilize the personnel, services, and facilities of other Federal departments, agencies, and instrumentalities.

(m) ADMINISTRATIVE PROVISIONS.—

(1) FOR VESSELS.—Anyone authorized by the President to enforce the provisions of this section with respect to any vessel may, except as to public vessels—

(A) board and inspect any vessel upon the navigable waters of the United States or the waters of the contiguous zone,

(B) with or without a warrant, arrest any person who in the presence or view of the authorized person violates the provisions of this section or any regulation issued thereunder, and

(C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

(2) FOR FACILITIES.—

(A) RECORDKEEPING.—Whenever required to carry out the purposes of this section, the Administrator, the Secretary of Transportation, or the Secretary of the Department in which the Coast Guard is operating shall require the owner or operator of a facility to which this section applies to establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment and methods, and provide such other information as the Administrator, the Secretary of Transportation, or Secretary, as the case may be, may require to carry out the objectives of this section.

(B) ENTRY AND INSPECTION.—Whenever required to carry out the purposes of this section, the Administrator, the Secretary of Transportation, or the Secretary of the Department in which the Coast Guard is operating or an authorized representative of the Administrator, the Secretary of Transportation, or Secretary, upon presentation of appropriate credentials, may—

(i) enter and inspect any facility to which this section applies, including any facility at which any records are required to be maintained under subparagraph (A); and

(ii) at reasonable times, have access to and copy any records, take samples, and inspect any monitoring

equipment or methods required under subparagraph (A).

(C) ARRESTS AND EXECUTION OF WARRANTS.—Anyone authorized by the Administrator or the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section with respect to any facility may—

(i) with or without a warrant, arrest any person who violates the provisions of this section or any regulation issued thereunder in the presence or view of the person so authorized; and

(ii) execute any warrant or process issued by an officer or court of competent jurisdiction.

(D) PUBLIC ACCESS.—Any records, reports, or information obtained under this paragraph shall be subject to the same public access and disclosure requirements which are applicable to records, reports, and information obtained pursuant to section 308.

(n) The several district courts of the United States are invested with jurisdiction for any actions, other than actions pursuant to subsection (i)(1), arising under this section. In the case of Guam and the Trust Territory of the Pacific Islands, such actions may be brought in the district court of Guam, and in the case of the Virgin Islands such actions may be brought in the district court of the 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 United States District Court for the District of the Canal Zone.

(o)(1) Nothing in this section shall affect or modify in any way the obligations of any owner or operator of any vessel, or of any owner or operator of any onshore facility or offshore facility to any person or agency under any provision of law for damages to any publicly owned or privately owned property resulting from a discharge of any oil or hazardous substance or from the removal of any such oil or hazardous substance.

(2) Nothing in this section shall be construed as preempting any State or political subdivision thereof from imposing any requirement or liability with respect to the discharge of oil or hazardous substance into any waters within such State, or with respect to any removal activities related to such discharge.

(3) Nothing in this section shall be construed as affecting or modifying any other existing authority of any Federal department, agency, or instrumentality, relative to onshore or offshore facilities under this Act or any other provision of law, or to affect any State or local law not in conflict with this section.

(q) The President is authorized to establish, with respect to any class or category of onshore or offshore facilities, a maximum limit of liability under subsections (f)(2) and (3) of this section of less than \$50,000,000, but not less than, \$8,000,000.

(r) Nothing in this section shall be construed to impose, or authorize the imposition of, any limitation on liability under the Outer Continental Shelf Lands Act or the Deepwater Port Act of 1974.

(s) The Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509) shall be available to carry out subsections (b), (c), (d), (j), and (l) as those subsections apply to discharges, and substantial threats of discharges, of oil. Any amounts received by the United States under this section shall be deposited in the Oil Spill Liability Trust Fund except as provided in subsection (t).

(t) GULF COAST RESTORATION AND RECOVERY.—

(1) STATE ALLOCATION AND EXPENDITURES.—

(A) IN GENERAL.—Of the total amounts made available in any fiscal year from the Trust Fund, 35 percent shall be available, in accordance with the requirements of this section, to the Gulf Coast States in equal shares for expenditure for ecological and economic restoration of the Gulf Coast region in accordance with this subsection.

(B) USE OF FUNDS.—

(i) ELIGIBLE ACTIVITIES IN THE GULF COAST REGION.—Subject to clause (iii), amounts provided to the Gulf Coast States under this subsection may only be used to carry out 1 or more of the following activities in the Gulf Coast region:

(I) Restoration and protection of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region.

(II) Mitigation of damage to fish, wildlife, and natural resources.

(III) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan, including fisheries monitoring.

(IV) Workforce development and job creation.

(V) Improvements to or on State parks located in coastal areas affected by the Deepwater Horizon oil spill.

(VI) Infrastructure projects benefitting the economy or ecological resources, including port infrastructure.

(VII) Coastal flood protection and related infrastructure.

(VIII) Planning assistance.

(IX) Administrative costs of complying with this subsection.

(ii) ACTIVITIES TO PROMOTE TOURISM AND SEAFOOD IN THE GULF COAST REGION.—Amounts provided to the Gulf Coast States under this subsection may be used to carry out 1 or more of the following activities:

(I) Promotion of tourism in the Gulf Coast Region, including recreational fishing.

(II) Promotion of the consumption of seafood harvested from the Gulf Coast Region.

(iii) LIMITATION.—

(I) IN GENERAL.—Of the amounts received by a Gulf Coast State under this subsection, not more than 3 percent may be used for administrative costs eligible under clause (i)(IX).

- (II) CLAIMS FOR COMPENSATION.—Activities funded under this subsection may not be included in any claim for compensation paid out by the Oil Spill Liability Trust Fund after the date of enactment of this subsection.
- (C) COASTAL POLITICAL SUBDIVISIONS.—
- (i) DISTRIBUTION.—In the case of a State where the coastal zone includes the entire State—
- (I) 75 percent of funding shall be provided directly to the 8 disproportionately affected counties impacted by the Deepwater Horizon oil spill; and
- (II) 25 percent shall be provided directly to non-disproportionately impacted counties within the State.
- (ii) NONDISPROPORTIONATELY IMPACTED COUNTIES.—The total amounts made available to coastal political subdivisions in the State of Florida under clause (i)(II) shall be distributed according to the following weighted formula:
- (I) 34 percent based on the weighted average of the population of the county.
- (II) 33 percent based on the weighted average of the county per capita sales tax collections estimated for fiscal year 2012.
- (III) 33 percent based on the inverse proportion of the weighted average distance from the Deepwater Horizon oil rig to each of the nearest and farthest points of the shoreline.
- (D) LOUISIANA.—
- (i) IN GENERAL.—Of the total amounts made available to the State of Louisiana under this paragraph:
- (I) 70 percent shall be provided directly to the State in accordance with this subsection.
- (II) 30 percent shall be provided directly to parishes in the coastal zone (as defined in section 304 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1453)) of the State of Louisiana according to the following weighted formula:
- (aa) 40 percent based on the weighted average of miles of the parish shoreline oiled.
- (bb) 40 percent based on the weighted average of the population of the parish.
- (cc) 20 percent based on the weighted average of the land mass of the parish.
- (ii) CONDITIONS.—
- (I) LAND USE PLAN.—As a condition of receiving amounts allocated under this paragraph, the chief executive of the eligible parish shall certify to the Governor of the State that the parish has completed a comprehensive land use plan.
- (II) OTHER CONDITIONS.—A coastal political subdivision receiving funding under this paragraph shall meet all of the conditions in subparagraph (E).



(E) CONDITIONS.—As a condition of receiving amounts from the Trust Fund, a Gulf Coast State, including the entities described in subparagraph (F), or a coastal political subdivision shall—

(i) agree to meet such conditions, including audit requirements, as the Secretary of the Treasury determines necessary to ensure that amounts disbursed from the Trust Fund will be used in accordance with this subsection;

(ii) certify in such form and in such manner as the Secretary of the Treasury determines necessary that the project or program for which the Gulf Coast State or coastal political subdivision is requesting amounts—

(I) is designed to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, or economy of the Gulf Coast;

(II) carries out 1 or more of the activities described in clauses (i) and (ii) of subparagraph (B);

(III) was selected based on meaningful input from the public, including broad-based participation from individuals, businesses, and nonprofit organizations; and

(IV) in the case of a natural resource protection or restoration project, is based on the best available science;

(iii) certify that the project or program and the awarding of a contract for the expenditure of amounts received under this paragraph are consistent with the standard procurement rules and regulations governing a comparable project or program in that State, including all applicable competitive bidding and audit requirements; and

(iv) develop and submit a multiyear implementation plan for the use of such amounts, which may include milestones, projected completion of each activity, and a mechanism to evaluate the success of each activity in helping to restore and protect the Gulf Coast region impacted by the Deepwater Horizon oil spill.

(F) APPROVAL BY STATE ENTITY, TASK FORCE, OR AGENCY.—The following Gulf Coast State entities, task forces, or agencies shall carry out the duties of a Gulf Coast State pursuant to this paragraph:

(i) ALABAMA.—

(I) IN GENERAL.—In the State of Alabama, the Alabama Gulf Coast Recovery Council, which shall be comprised of only the following:

(aa) The Governor of Alabama, who shall also serve as Chairperson and preside over the meetings of the Alabama Gulf Coast Recovery Council.

(bb) The Director of the Alabama State Port Authority, who shall also serve as Vice Chairperson and preside over the meetings of the

Alabama Gulf Coast Recovery Council in the absence of the Chairperson.

(cc) The Chairman of the Baldwin County Commission.

(dd) The President of the Mobile County Commission.

(ee) The Mayor of the city of Bayou La Batre.

(ff) The Mayor of the town of Dauphin Island.

(gg) The Mayor of the city of Fairhope.

(hh) The Mayor of the city of Gulf Shores.

(ii) The Mayor of the city of Mobile.

(jj) The Mayor of the city of Orange Beach.

(II) VOTE.—Each member of the Alabama Gulf Coast Recovery Council shall be entitled to 1 vote.

(III) MAJORITY VOTE.—All decisions of the Alabama Gulf Coast Recovery Council shall be made by majority vote.

(IV) LIMITATION ON ADMINISTRATIVE EXPENSES.—Administrative duties for the Alabama Gulf Coast Recovery Council may only be performed by public officials and employees that are subject to the ethics laws of the State of Alabama.

(ii) LOUISIANA.—In the State of Louisiana, the Coastal Protection and Restoration Authority of Louisiana.

(iii) MISSISSIPPI.—In the State of Mississippi, the Mississippi Department of Environmental Quality.

(iv) TEXAS.—In the State of Texas, the Office of the Governor or an appointee of the Office of the Governor.

(G) COMPLIANCE WITH ELIGIBLE ACTIVITIES.—If the Secretary of the Treasury determines that an expenditure by a Gulf Coast State or coastal political subdivision of amounts made available under this subsection does not meet one of the activities described in clauses (i) and (ii) of subparagraph (B), the Secretary shall make no additional amounts from the Trust Fund available to that Gulf Coast State or coastal political subdivision until such time as an amount equal to the amount expended for the unauthorized use—

(i) has been deposited by the Gulf Coast State or coastal political subdivision in the Trust Fund; or

(ii) has been authorized by the Secretary of the Treasury for expenditure by the Gulf Coast State or coastal political subdivision for a project or program that meets the requirements of this subsection.

(H) COMPLIANCE WITH CONDITIONS.—If the Secretary of the Treasury determines that a Gulf Coast State or coastal political subdivision does not meet the requirements of this paragraph, including the conditions of subparagraph (E), where applicable, the Secretary of the Treasury shall make no amounts from the Trust Fund available to that Gulf

Coast State or coastal political subdivision until all conditions of this paragraph are met.

(I) PUBLIC INPUT.—In meeting any condition of this paragraph, a Gulf Coast State may use an appropriate procedure for public consultation in that Gulf Coast State, including consulting with one or more established task forces or other entities, to develop recommendations for proposed projects and programs that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.

(J) PREVIOUSLY APPROVED PROJECTS AND PROGRAMS.—A Gulf Coast State or coastal political subdivision shall be considered to have met the conditions of subparagraph (E) for a specific project or program if, before the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012—

(i) the Gulf Coast State or coastal political subdivision has established conditions for carrying out projects and programs that are substantively the same as the conditions described in subparagraph (E); and

(ii) the applicable project or program carries out 1 or more of the activities described in clauses (i) and (ii) of subparagraph (B).

(K) LOCAL PREFERENCE.—In awarding contracts to carry out a project or program under this paragraph, a Gulf Coast State or coastal political subdivision may give a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in the State of project execution.

(L) UNUSED FUNDS.—Funds allocated to a State or coastal political subdivision under this paragraph shall remain in the Trust Fund until such time as the State or coastal political subdivision develops and submits a plan identifying uses for those funds in accordance with subparagraph (E)(iv).

(M) JUDICIAL REVIEW.—If the Secretary of the Treasury determines that a Gulf Coast State or coastal political subdivision does not meet the requirements of this paragraph, including the conditions of subparagraph (E), the Gulf Coast State or coastal political subdivision may obtain expedited judicial review within 90 days after that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking the review.

(N) COST-SHARING.—

(i) IN GENERAL.—A Gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available under this paragraph to that Gulf Coast State or coastal political subdivision to satisfy the non-Federal share of the cost of any project or program authorized by Federal law that is an eligible activity described in clauses (i) and (ii) of subparagraph (B).

(ii) EFFECT ON OTHER FUNDS.—The use of funds made available from the Trust Fund to satisfy the non-Federal share of the cost of a project or program that meets the requirements of clause (i) shall not affect the priority in which other Federal funds are allocated or awarded.

(2) COUNCIL ESTABLISHMENT AND ALLOCATION.—

(A) IN GENERAL.—Of the total amount made available in any fiscal year from the Trust Fund, 30 percent shall be disbursed to the Council to carry out the Comprehensive Plan.

(B) COUNCIL EXPENDITURES.—

(i) IN GENERAL.—In accordance with this paragraph, the Council shall expend funds made available from the Trust Fund to undertake projects and programs, using the best available science, that would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, coastal wetlands, and economy of the Gulf Coast.

(ii) ALLOCATION AND EXPENDITURE PROCEDURES.—The Secretary of the Treasury shall develop such conditions, including audit requirements, as the Secretary of the Treasury determines necessary to ensure that amounts disbursed from the Trust Fund to the Council to implement the Comprehensive Plan will be used in accordance with this paragraph.

(iii) ADMINISTRATIVE EXPENSES.—Of the amounts received by the Council under this paragraph, not more than 3 percent may be used for administrative expenses, including staff.

(C) GULF COAST ECOSYSTEM RESTORATION COUNCIL.—

(i) ESTABLISHMENT.—There is established as an independent entity in the Federal Government a council to be known as the “Gulf Coast Ecosystem Restoration Council”.

(ii) MEMBERSHIP.—The Council shall consist of the following members, or in the case of a Federal agency, a designee at the level of the Assistant Secretary or the equivalent:

- (I) The Secretary of the Interior.
- (II) The Secretary of the Army.
- (III) The Secretary of Commerce.
- (IV) The Administrator of the Environmental Protection Agency.
- (V) The Secretary of Agriculture.
- (VI) The head of the department in which the Coast Guard is operating.
- (VII) The Governor of the State of Alabama.
- (VIII) The Governor of the State of Florida.
- (IX) The Governor of the State of Louisiana.
- (X) The Governor of the State of Mississippi.
- (XI) The Governor of the State of Texas.

(iii) ALTERNATE.—A Governor appointed to the Council by the President may designate an alternate

to represent the Governor on the Council and vote on behalf of the Governor.

(iv) CHAIRPERSON.—From among the Federal agency members of the Council, the representatives of States on the Council shall select, and the President shall appoint, 1 Federal member to serve as Chairperson of the Council.

(v) PRESIDENTIAL APPOINTMENT.—All Council members shall be appointed by the President.

(vi) COUNCIL ACTIONS.—

(I) IN GENERAL.—The following actions by the Council shall require the affirmative vote of the Chairperson and a majority of the State members to be effective:

(aa) Approval of a Comprehensive Plan and future revisions to a Comprehensive Plan.

(bb) Approval of State plans pursuant to paragraph (3)(B)(iv).

(cc) Approval of reports to Congress pursuant to clause (vii)(VII).

(dd) Approval of transfers pursuant to subparagraph (E)(ii)(I).

(ee) Other significant actions determined by the Council.

(II) QUORUM.—A majority of State members shall be required to be present for the Council to take any significant action.

(III) AFFIRMATIVE VOTE REQUIREMENT CONSIDERED MET.—For approval of State plans pursuant to paragraph (3)(B)(iv), the certification by a State member of the Council that the plan satisfies all requirements of clauses (i) and (ii) of paragraph (3)(B), when joined by an affirmative vote of the Federal Chairperson of the Council, shall be considered to satisfy the requirements for affirmative votes under subclause (I).

(IV) PUBLIC TRANSPARENCY.—Appropriate actions of the Council, including significant actions and associated deliberations, shall be made available to the public via electronic means prior to any vote.

(vii) DUTIES OF COUNCIL.—The Council shall—

(I) develop the Comprehensive Plan and future revisions to the Comprehensive Plan;

(II) identify as soon as practicable the projects that—

(aa) have been authorized prior to the date of enactment of this subsection but not yet commenced; and

(bb) if implemented quickly, would restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, barrier islands, dunes, and coastal wetlands of the Gulf Coast region;

(III) establish such other 1 or more advisory committees as may be necessary to assist the Council, including a scientific advisory committee and a committee to advise the Council on public policy issues;

(IV) collect and consider scientific and other research associated with restoration of the Gulf Coast ecosystem, including research, observation, and monitoring carried out pursuant to sections 1604 and 1605 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012;

(V) develop standard terms to include in contracts for projects and programs awarded pursuant to the Comprehensive Plan that provide a preference to individuals and companies that reside in, are headquartered in, or are principally engaged in business in a Gulf Coast State;

(VI) prepare an integrated financial plan and recommendations for coordinated budget requests for the amounts proposed to be expended by the Federal agencies represented on the Council for projects and programs in the Gulf Coast States; and

(VII) submit to Congress an annual report that—

(aa) summarizes the policies, strategies, plans, and activities for addressing the restoration and protection of the Gulf Coast region;

(bb) describes the projects and programs being implemented to restore and protect the Gulf Coast region, including—

(AA) a list of each project and program;

(BB) an identification of the funding provided to projects and programs identified in subitem (AA);

(CC) an identification of each recipient for funding identified in subitem (BB); and

(DD) a description of the length of time and funding needed to complete the objectives of each project and program identified in subitem (AA);

(cc) makes such recommendations to Congress for modifications of existing laws as the Council determines necessary to implement the Comprehensive Plan;

(dd) reports on the progress on implementation of each project or program—

(AA) after 3 years of ongoing activity of the project or program, if applicable; and

(BB) on completion of the project or program;

(ee) includes the information required to be submitted under section 1605(c)(4) of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012; and

(ff) submits the reports required under item (dd) to—

(AA) the Committee on Science, Space, and Technology, the Committee on Natural Resources, the Committee on Transportation and Infrastructure, and the Committee on Appropriations of the House of Representatives; and

(BB) the Committee on Environment and Public Works, the Committee on Commerce, Science, and Transportation, the Committee on Energy and Natural Resources, and the Committee on Appropriations of the Senate.

(viii) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The Council, or any other advisory committee established under this subparagraph, shall not be considered an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.).

(ix) SUNSET.—The authority for the Council, and any other advisory committee established under this subparagraph, shall terminate on the date all funds in the Trust Fund have been expended.

(D) COMPREHENSIVE PLAN.—

(i) PROPOSED PLAN.—

(I) IN GENERAL.—Not later than 180 days after the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012, the Chairperson, on behalf of the Council and after appropriate public input, review, and comment, shall publish a proposed plan to restore and protect the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region.

(II) INCLUSIONS.—The proposed plan described in subclause (I) shall include and incorporate the findings and information prepared by the President's Gulf Coast Restoration Task Force.

(ii) PUBLICATION.—

(I) INITIAL PLAN.—Not later than 1 year after the date of enactment of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012 and after notice and opportunity for public comment, the Chairperson, on behalf of the Council and after approval by the Council, shall publish in the Federal Register the initial Comprehensive Plan to restore and protect the natural resources, ecosystems, fisheries, marine and wild-

life habitats, beaches, and coastal wetlands of the Gulf Coast region.

(II) COOPERATION WITH GULF COAST RESTORATION TASK FORCE.—The Council shall develop the initial Comprehensive Plan in close coordination with the President’s Gulf Coast Restoration Task Force.

(III) CONSIDERATIONS.—In developing the initial Comprehensive Plan and subsequent updates, the Council shall consider all relevant findings, reports, or research prepared or funded under section 1604 or 1605 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

(IV) CONTENTS.—The initial Comprehensive Plan shall include—

(aa) such provisions as are necessary to fully incorporate in the Comprehensive Plan the strategy, projects, and programs recommended by the President’s Gulf Coast Restoration Task Force;

(bb) a list of any project or program authorized prior to the date of enactment of this subsection but not yet commenced, the completion of which would further the purposes and goals of this subsection and of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012;

(cc) a description of the manner in which amounts from the Trust Fund projected to be made available to the Council for the succeeding 10 years will be allocated; and

(dd) subject to available funding in accordance with clause (iii), a prioritized list of specific projects and programs to be funded and carried out during the 3-year period immediately following the date of publication of the initial Comprehensive Plan, including a table that illustrates the distribution of projects and programs by the Gulf Coast State.

(V) PLAN UPDATES.—The Council shall update—

(aa) the Comprehensive Plan every 5 years in a manner comparable to the manner established in this subparagraph for each 5-year period for which amounts are expected to be made available to the Gulf Coast States from the Trust Fund; and

(bb) the 3-year list of projects and programs described in subclause (IV)(dd) annually.

(iii) RESTORATION PRIORITIES.—Except for projects and programs described in clause (ii)(IV)(bb), in selecting projects and programs to include on the 3-year list described in clause (ii)(IV)(dd), based on the best avail-



able science, the Council shall give highest priority to projects that address 1 or more of the following criteria:

(I) Projects that are projected to make the greatest contribution to restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region, without regard to geographic location within the Gulf Coast region.

(II) Large-scale projects and programs that are projected to substantially contribute to restoring and protecting the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast ecosystem.

(III) Projects contained in existing Gulf Coast State comprehensive plans for the restoration and protection of natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands of the Gulf Coast region.

(IV) Projects that restore long-term resiliency of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches, and coastal wetlands most impacted by the Deepwater Horizon oil spill.

(E) IMPLEMENTATION.—

(i) IN GENERAL.—The Council, acting through the Federal agencies represented on the Council and Gulf Coast States, shall expend funds made available from the Trust Fund to carry out projects and programs adopted in the Comprehensive Plan.

(ii) ADMINISTRATIVE RESPONSIBILITY.—

(I) IN GENERAL.—Primary authority and responsibility for each project and program included in the Comprehensive Plan shall be assigned by the Council to a Gulf Coast State represented on the Council or a Federal agency.

(II) TRANSFER OF AMOUNTS.—Amounts necessary to carry out each project or program included in the Comprehensive Plan shall be transferred by the Secretary of the Treasury from the Trust Fund to that Federal agency or Gulf Coast State as the project or program is implemented, subject to such conditions as the Secretary of the Treasury, in consultation with the Secretary of the Interior and the Secretary of Commerce, established pursuant to section 1602 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Revived Economies of the Gulf Coast States Act of 2012.

(III) LIMITATION ON TRANSFERS.—

(aa) GRANTS TO NONGOVERNMENTAL ENTITIES.—In the case of funds transferred to a Federal or State agency under subclause (II), the agency shall not make 1 or more grants or cooperative agreements to a nongovernmental

entity if the total amount provided to the entity would equal or exceed 10 percent of the total amount provided to the agency for that particular project or program, unless the 1 or more grants have been reported in accordance with item (bb).

(bb) REPORTING OF GRANTEES.—At least 30 days prior to making a grant or entering into a cooperative agreement described in item (aa), the name of each grantee, including the amount and purpose of each grant or cooperative agreement, shall be published in the Federal Register and delivered to the congressional committees listed in subparagraph (C)(vii)(VII)(ff).

(cc) ANNUAL REPORTING OF GRANTEES.—Annually, the name of each grantee, including the amount and purposes of each grant or cooperative agreement, shall be published in the Federal Register and delivered to Congress as part of the report submitted pursuant to subparagraph (C)(vii)(VII).

(IV) PROJECT AND PROGRAM LIMITATION.—The Council, a Federal agency, or a State may not carry out a project or program funded under this paragraph outside of the Gulf Coast region.

(F) COORDINATION.—The Council and the Federal members of the Council may develop memoranda of understanding establishing integrated funding and implementation plans among the member agencies and authorities.

(3) OIL SPILL RESTORATION IMPACT ALLOCATION.—

(A) IN GENERAL.—

(i) DISBURSEMENT.—Of the total amount made available from the Trust Fund, 30 percent shall be disbursed pursuant to the formula in clause (ii) to the Gulf Coast States on the approval of the plan described in subparagraph (B)(i).

(ii) FORMULA.—Subject to subparagraph (B), for each Gulf Coast State, the amount disbursed under this paragraph shall be based on a formula established by the Council by regulation that is based on a weighted average of the following criteria:

(I) 40 percent based on the proportionate number of miles of shoreline in each Gulf Coast State that experienced oiling on or before April 10, 2011, compared to the total number of miles of shoreline that experienced oiling as a result of the Deepwater Horizon oil spill.

(II) 40 percent based on the inverse proportion of the average distance from the mobile offshore drilling unit *Deepwater Horizon* at the time of the explosion to the nearest and farthest point of the shoreline that experienced oiling of each Gulf Coast State.

(III) 20 percent based on the average population in the 2010 decennial census of coastal counties bordering the Gulf of Mexico within each Gulf Coast State.

(iii) MINIMUM ALLOCATION.—The amount disbursed to a Gulf Coast State for each fiscal year under clause (ii) shall be at least 5 percent of the total amounts made available under this paragraph.

(B) DISBURSEMENT OF FUNDS.—

(i) IN GENERAL.—The Council shall disburse amounts to the respective Gulf Coast States in accordance with the formula developed under subparagraph (A) for projects, programs, and activities that will improve the ecosystems or economy of the Gulf Coast region, subject to the condition that each Gulf Coast State submits a plan for the expenditure of amounts disbursed under this paragraph that meets the following criteria:

(I) All projects, programs, and activities included in the plan are eligible activities pursuant to clauses (i) and (ii) of paragraph (1)(B).

(II) The projects, programs, and activities included in the plan contribute to the overall economic and ecological recovery of the Gulf Coast.

(III) The plan takes into consideration the Comprehensive Plan and is consistent with the goals and objectives of the Plan, as described in paragraph (2)(B)(i).

(ii) FUNDING.—

(I) IN GENERAL.—Except as provided in subclause (II), the plan described in clause (i) may use not more than 25 percent of the funding made available for infrastructure projects eligible under subclauses (VI) and (VII) of paragraph (1)(B)(i).

(II) EXCEPTION.—The plan described in clause (i) may propose to use more than 25 percent of the funding made available for infrastructure projects eligible under subclauses (VI) and (VII) of paragraph (1)(B)(i) if the plan certifies that—

(aa) ecosystem restoration needs in the State will be addressed by the projects in the proposed plan; and

(bb) additional investment in infrastructure is required to mitigate the impacts of the Deepwater Horizon Oil Spill to the ecosystem or economy.

(iii) DEVELOPMENT.—The plan described in clause (i) shall be developed by—

(I) in the State of Alabama, the Alabama Gulf Coast Recovery Council established under paragraph (1)(F)(i);

(II) in the State of Florida, a consortia of local political subdivisions that includes at a minimum 1 representative of each affected county;

(III) in the State of Louisiana, the Coastal Protection and Restoration Authority of Louisiana;

(IV) in the State of Mississippi, the Office of the Governor or an appointee of the Office of the Governor; and

(V) in the State of Texas, the Office of the Governor or an appointee of the Office of the Governor.

(iv) APPROVAL.—Not later than 60 days after the date on which a plan is submitted under clause (i), the Council shall approve or disapprove the plan based on the conditions of clause (i).

(C) DISAPPROVAL.—If the Council disapproves a plan pursuant to subparagraph (B)(iv), the Council shall—

(i) provide the reasons for disapproval in writing; and

(ii) consult with the State to address any identified deficiencies with the State plan.

(D) FAILURE TO SUBMIT ADEQUATE PLAN.—If a State fails to submit an adequate plan under this paragraph, any funds made available under this paragraph shall remain in the Trust Fund until such date as a plan is submitted and approved pursuant to this paragraph.

(E) JUDICIAL REVIEW.—If the Council fails to approve or take action within 60 days on a plan, as described in subparagraph (B)(iv), the State may obtain expedited judicial review within 90 days of that decision in a district court of the United States, of appropriate jurisdiction and venue, that is located within the State seeking the review.

(F) COST-SHARING.—

(i) IN GENERAL.—A Gulf Coast State or coastal political subdivision may use, in whole or in part, amounts made available to that Gulf Coast State or coastal political subdivision under this paragraph to satisfy the non-Federal share of any project or program that—

(I) is authorized by other Federal law; and

(II) is an eligible activity described in clause (i) or (ii) of paragraph (1)(B).

(ii) EFFECT ON OTHER FUNDS.—The use of funds made available from the Trust Fund under this paragraph to satisfy the non-Federal share of the cost of a project or program described in clause (i) shall not affect the priority in which other Federal funds are allocated or awarded.

(4) AUTHORIZATION OF INTEREST TRANSFERS.—Of the total amount made available for any fiscal year from the Trust Fund that is equal to the interest earned by the Trust Fund and proceeds from investments made by the Trust Fund in the preceding fiscal year—

(A) 50 percent shall be divided equally between—

(i) the Gulf Coast Ecosystem Restoration Science, Observation, Monitoring, and Technology program authorized in section 1604 of the Resources and Ecosystems Sustainability, Tourist Opportunities, and Re-

vived Economies of the Gulf Coast States Act of 2012;  
 and  
 (ii) the centers of excellence research grants author-  
 ized in section 1605 of that Act; and  
 (B) 50 percent shall be made available to the Gulf Coast  
 Ecosystem Restoration Council to carry out the Com-  
 prehensive Plan pursuant to paragraph (2).

\* \* \* \* \*

**NONINDIGENOUS AQUATIC NUISANCE PREVENTION  
 AND CONTROL ACT OF 1990**

**TITLE I—AQUATIC NUISANCE  
 PREVENTION AND CONTROL**

**Subtitle A—General Provisions**

\* \* \* \* \*

**SEC. 1002. FINDINGS AND PURPOSES.**

(a) FINDINGS.—The Congress finds that—

(1) the discharge of untreated water in the ballast tanks of vessels and through other means results in unintentional introductions of nonindigenous species to fresh, brackish, and saltwater environments;

(2) when environmental conditions are favorable, nonindigenous species become established, may compete with or prey upon native species of plants, fish, and wildlife, may carry diseases or parasites that affect native species, and may disrupt the aquatic environment and economy of affected nearshore areas;

(3) the zebra mussel was unintentionally introduced into the Great Lakes and has infested—

(A) waters south of the Great Lakes, into a good portion of the Mississippi River drainage;

(B) waters west of the Great Lakes, into the Arkansas River in Oklahoma; and

(C) waters east of the Great Lakes, into the Hudson River and Lake Champlain;

(4) the potential economic disruption to communities affected by the zebra mussel due to its colonization of water pipes, boat hulls and other hard surfaces has been estimated at \$5,000,000,000 by the year 2000, and the potential disruption to the diversity and abundance of native fish and other species by the zebra mussel and ruffe, round goby, and other nonindigenous species could be severe;

(5) the zebra mussel was discovered on Lake Champlain during 1993 and the opportunity exists to act quickly to establish zebra mussel controls before Lake Champlain is further infested and management costs escalate;

(6) in 1992, the zebra mussel was discovered at the northernmost reaches of the Chesapeake Bay watershed;

(7) the zebra mussel poses an imminent risk of invasion in the main waters of the Chesapeake Bay;

(8) since the Chesapeake Bay is the largest recipient of foreign ballast water on the East Coast, there is a risk of further invasions of other nonindigenous species;

(9) the zebra mussel is only one example of thousands of nonindigenous species that have become established in waters of the United States and may be causing economic and ecological degradation with respect to the natural resources of waters of the United States;

(10) since their introduction in the early 1980's in ballast water discharges, ruffe—

(A) have caused severe declines in populations of other species of fish in Duluth Harbor (in Minnesota and Wisconsin);

(B) have spread to Lake Huron; and

(C) are likely to spread quickly to most other waters in North America if action is not taken promptly to control their spread;

(11) examples of nonindigenous species that, as of the date of enactment of the National Invasive Species Act of 1996, infest coastal waters of the United States and that have the potential for causing adverse economic and ecological effects include—

(A) the mitten crab (*Eriocheir sinensis*) that has become established on the Pacific Coast;

(B) the green crab (*Carcinus maenas*) that has become established in the coastal waters of the Atlantic Ocean;

(C) the brown mussel (*Perna perna*) that has become established along the Gulf of Mexico; and

(D) certain shellfish pathogens;

(12) many aquatic nuisance vegetation species, such as Eurasian watermilfoil, hydrilla, water hyacinth, and water chestnut, have been introduced to waters of the United States from other parts of the world causing or having a potential to cause adverse environmental, ecological, and economic effects;

(13) if preventive management measures are not taken nationwide to prevent and control unintentionally introduced nonindigenous aquatic species in a timely manner, further introductions and infestations of species that are as destructive as, or more destructive than, the zebra mussel or the ruffe infestations may occur;

(14) once introduced into waters of the United States, aquatic nuisance species are unintentionally transported and introduced into inland lakes and rivers by recreational boaters, commercial barge traffic, and a variety of other pathways; and

(15) resolving the problems associated with aquatic nuisance species will require the participation and cooperation of the Federal Government and State governments, and investment in the development of prevention technologies.

(b) PURPOSES.—The purposes of this Act are—

(1) to prevent unintentional introduction and dispersal of nonindigenous species into waters of the United States through ballast water management and other requirements;

(2) to coordinate federally conducted, funded, or authorized research, prevention control, information dissemination and other activities regarding the zebra mussel and other aquatic nuisance species;

(3) to develop and carry out environmentally sound control methods to prevent, monitor and control unintentional introductions of nonindigenous species from pathways other than ballast water exchange;

(4) to understand and minimize economic and ecological impacts of nonindigenous aquatic nuisance species that become established, including the zebra mussel; and

(5) to establish a program of research and technology development and assistance to States in the management and removal of zebra mussels.

**SEC. 1003. DEFINITIONS.**

As used in this Act, the term—

(1) “aquatic nuisance species” means a nonindigenous species that threatens the diversity or abundance of native species or the ecological stability of infested waters, or commercial, agricultural, aquacultural or recreational activities dependent on such waters;

(2) “Assistant Secretary” means the Assistant Secretary of the Army (Civil Works);

(3) “ballast water” means any water and associated sediments used to manipulate the trim and stability of a vessel;

(4) “Director” means the Director of the United States Fish and Wildlife Service;

(5) “exclusive economic zone” means the Exclusive Economic Zone of the United States established by Proclamation Number 5030, dated March 10, 1983, and the equivalent zone of Canada;

(6) “environmentally sound” methods, efforts, actions or programs means methods, efforts, actions or programs to prevent introductions or control infestations of aquatic nuisance species that minimize adverse impacts to the structure and function of an ecosystem and adverse effects on non-target organisms and ecosystems and emphasize integrated pest management techniques and nonchemical measures;

(7) “Great Lakes” means Lake Ontario, Lake Erie, Lake Huron (including Lake St. Clair), Lake Michigan, Lake Superior, and the connecting channels (Saint Mary’s River, Saint Clair River, Detroit River, Niagara River, and Saint Lawrence River to the [Canadian] *Canadian* Border), and includes all other bodies of water within the drainage basin of such lakes and connecting channels.

(8) “Great Lakes region” means the 8 States that border on the Great Lakes;

(9) “Indian tribe” means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation (as defined in or established pursuant to the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.)) that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

(10) “interstate organization” means an entity—

- (A) established by—
  - (i) an interstate compact that is approved by Congress;
  - (ii) a Federal statute; or
  - (iii) a treaty or other international agreement with respect to which the United States is a party; and
- (B)(i) that represents 2 or more—
  - (I) States or political subdivisions thereof; or
  - (II) Indian tribes; or
- (ii) that represents—
  - (I) 1 or more States or political subdivisions thereof; and
  - (II) 1 or more Indian tribes; or
- (iii) that represents the Federal Government and 1 or more foreign governments; and
- (C) has jurisdiction over, serves as forum for coordinating, or otherwise has a role or responsibility for the management of, any land or other natural resource;

(11) “nonindigenous species” means any species or other viable biological material that enters an ecosystem beyond its historic range, including any such organism transferred from one country into another;

(12) “Secretary” means the Secretary of the department in which the Coast Guard is operating;

(13) “State” means each of the several States, the District of Columbia, American Samoa, Guam, Puerto Rico, the Northern Mariana Islands, and the Virgin Islands of the United States;

(14) “recreational vessel” has the meaning given that term in section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362);

[(13)] (15) “Task Force” means the Aquatic Nuisance Species Task Force established under section 1201 of this Act;

[(14)] (16) “territorial sea” means the belt of the sea measured from the baseline of the United States determined in accordance with international law, as set forth in Presidential Proclamation Number 5928, dated December 27, 1988;

[(15)] (17) “Under Secretary” means the Under Secretary of Commerce for Oceans and Atmosphere;

[(16)] (18) “waters of the United States” means the navigable waters and the territorial sea of the United States; and

[(17)] (19) “unintentional introduction” means an introduction of nonindigenous species that occurs as the result of activities other than the purposeful or intentional introduction of the species involved, such as the transport of nonindigenous species in ballast or in water used to transport fish, mollusks or crustaceans for aquaculture or other purposes.

\* \* \* \* \*



## Subtitle C—Prevention and Control of Aquatic Nuisance Species Dispersal

### SEC. 1201. ESTABLISHMENT OF TASK FORCE.

(a) **TASK FORCE.**—There is hereby established an “Aquatic Nuisance Species Task Force”.

(b) **MEMBERSHIP.**—Membership of the Task Force shall consist of—

- (1) the Director;
- (2) the Under Secretary;
- (3) the Administrator of the Environmental Protection Agency;
- (4) the Commandant of the United States Coast Guard;
- (5) the Assistant Secretary;
- (6) the Secretary of Agriculture; **[and]**
- (7) *the Director of the National Park Service;*
- (8) *the Director of the Bureau of Land Management;*
- (9) *the Commissioner of Reclamation; and*
- [(7)] (10)** the head of any other Federal agency that the chairpersons designated under subsection (d) deem appropriate.

(c) **EX OFFICIO MEMBERS.**—The chairpersons designated under subsection (d) shall invite representatives of the Great Lakes Commission, the Lake Champlain Basin Program, the Chesapeake Bay Program, the San Francisco Bay-Delta Estuary Program, and State agencies and other governmental entities to participate as ex officio members of the Task Force.

(d) **CHAIRPERSONS.**—The Director and the Under Secretary shall serve as co-chairpersons of the Task Force and shall be jointly responsible, and are authorized to undertake such activities as may be necessary, for carrying out this subtitle in consultation and cooperation with the other members of the Task Force.

(e) **MEMORANDUM OF UNDERSTANDING.**—Within six months of the date of enactment of this Act, the Director and the Under Secretary shall develop a memorandum of understanding that describes the role of each in jointly carrying out this subtitle.

(f) **COORDINATION.**—Each Task Force member shall coordinate any action to carry out this subtitle with any such action by other members of the Task Force, and regional, State and local entities.

(g) **OBSERVERS.**—*The chairpersons designated under subsection (d) may invite representatives of nongovernmental entities to participate as observers of the Task Force.*

### SEC. 1202. AQUATIC NUISANCE SPECIES PROGRAM.

(a) **IN GENERAL.**—The Task Force shall develop and implement a program for waters of the United States to prevent introduction and dispersal of aquatic nuisance species; to monitor, control and study such species; and to disseminate related information.

(b) **CONTENT.**—The program developed under subsection (a) shall—

- (1) identify the goals, priorities, and approaches for aquatic nuisance species prevention, monitoring, control, education and research to be conducted or funded by the Federal Government;

(2) describe the specific prevention, monitoring, control, education and research activities to be conducted by each Task Force member;

(3) coordinate aquatic nuisance species programs and activities of Task Force members and affected State agencies;

(4) describe the role of each Task Force member in implementing the elements of the program as set forth in this subtitle;

(5) include recommendations for funding to implement elements of the program; and

(6) develop a demonstration program of prevention, monitoring, control, education and research for the zebra mussel, to be implemented in the Great Lakes and any other waters infested, or likely to become infested in the near future, by the zebra mussel.

(c) PREVENTION.—

(1) IN GENERAL.—The Task Force shall establish and implement measures, within the program developed under subsection (a), to minimize the risk of introduction of aquatic nuisance species to waters of the United States, including—

(A) identification of pathways by which aquatic organisms are introduced to waters of the United States;

(B) assessment of the risk that an aquatic organism carried by an identified pathway may become an aquatic nuisance species; and

(C) evaluation of whether measures to prevent introductions of aquatic nuisance species are effective and environmentally sound.

(2) IMPLEMENTATION.—Whenever the Task Force determines that there is a substantial risk of unintentional introduction of an aquatic nuisance species by an identified pathway and that the adverse consequences of such an introduction are likely to be substantial, the Task Force shall, acting through the appropriate Federal agency, and after an opportunity for public comment, carry out cooperative, environmentally sound efforts with regional, State and local entities to minimize the risk of such an introduction.

(d) MONITORING.—The Task Force shall establish and implement monitoring measures, within the program developed under subsection (a), to—

(1) detect unintentional introductions of aquatic nuisance species;

(2) determine the dispersal of aquatic nuisance species after introduction; and

(3) provide for the early detection and prevention of infestations of aquatic nuisance species in unaffected drainage basins.

(e) CONTROL.—

(1) IN GENERAL.—The Task Force may develop cooperative efforts, within the program established under subsection (a), to control established aquatic nuisance species to minimize the risk of harm to the environment and the public health and welfare. For purposes of this Act, control efforts include eradication of infestations, reductions of populations, development of means of adapting human activities and public facilities to accommodate infestations, and prevention of the spread of aquat-

ic nuisance species from infested areas. Such control efforts shall be developed in consultation with affected Federal agencies, States, Indian Tribes, local governments, interjurisdictional organizations, and other appropriate entities. Control actions authorized by this section shall be based on the best available scientific information and shall be conducted in an environmentally sound manner.

(2) DECISIONS.—The Task Force or any other affected agency or entity may recommend that the Task Force initiate a control effort. In determining whether a control program is warranted, the Task Force shall evaluate the need for control (including the projected consequences of no control and less than full control); the technical and biological feasibility and cost-effectiveness of alternative control strategies and actions; whether the benefits of control, including costs avoided, exceed the costs of the program; the risk of harm to non-target organisms and ecosystems, public health and welfare; and such other considerations the Task Force determines appropriate. The Task Force shall also determine the nature and extent of control of target aquatic nuisance species that is feasible and desirable.

(3) PROGRAMS.—If the Task Force determines in accordance with paragraph (2) that control of an aquatic nuisance species is warranted, the Task Force shall develop a proposed control program to achieve the target level of control. A notice summarizing the proposed action and soliciting comments shall be published in the Federal Register, in major newspapers in the region affected, and in principal trade publications of the industries affected. Within 180 days of proposing a control program, and after consultation with affected governmental and other appropriate entities and taking into consideration other comments received, the Task Force shall complete development of the proposed control program.

(4) TECHNICAL ASSISTANCE AND RECOMMENDATIONS.—*The Task Force may provide technical assistance and recommendations for best practices to an agency or entity engaged in vessel inspections or decontaminations for the purpose of—*

(A) *effectively managing and controlling the movement of aquatic nuisance species into, within, or out of water of the United States; and*

(B) *inspecting recreational vessels in a manner that minimizes disruptions to public access for boating and recreation in non-contaminated vessels.*

(5) CONSULTATION.—*In carrying out paragraph (4), including the development of recommendations, the Task Force may consult with—*

(A) *State fish and wildlife management agencies;*

(B) *other State agencies that manage fishery resources of the State or sustain fishery habitat; and*

(C) *relevant nongovernmental entities.*

(f) RESEARCH.—

(1) PRIORITIES.—The Task Force shall, within the program developed under subsection (a), conduct research concerning—

(A) the environmental and economic risks and impacts associated with the introduction of aquatic nuisance species into the waters of the United States;

(B) the principal pathways by which aquatic nuisance species are introduced and dispersed;

(C) possible methods for the prevention, monitoring and control of aquatic nuisance species; and

(D) the assessment of the effectiveness of prevention, monitoring and control methods.

(2) **PROTOCOL.**—Within 90 days of the date of enactment of this Act, the Task Force shall establish and follow a protocol to ensure that research activities carried out under this subtitle do not result in the introduction of aquatic nuisance species to waters of the United States.

(3) **GRANTS FOR RESEARCH.**—The Task Force shall allocate funds authorized under this Act for competitive research grants to study all aspects of aquatic nuisance species, which shall be administered through the National Sea Grant College Program and the Cooperative Fishery and Wildlife Research Units. Grants shall be conditioned to ensure that any recipient of funds follows the protocol established under paragraph (2) of this subsection.

(g) **TECHNICAL ASSISTANCE.**—The Task Force shall, within the program developed under subsection (a), provide technical assistance to State and local governments and persons to minimize the environmental, public health, and safety risks associated with aquatic nuisance species, including an early warning system for advance notice of possible infestations and appropriate responses.

(h) **EDUCATION.**—The Task Force shall, with the program developed under subsection (a), establish and implement educational programs through Sea Grant Marine Advisory Services and any other available resources that it determines to be appropriate to inform the general public, State governments, governments of political subdivisions of States, and industrial and recreational users of aquatic resources in connection with matters concerning the identification of aquatic nuisance species, and control methods for such species, including the prevention of the further distribution of such species.

(i) **ZEBRA MUSSEL DEMONSTRATION PROGRAM.**—

(1) **ZEBRA MUSSEL.**—

(A) **IN GENERAL.**—The Task Force shall, within the program developed under subsection (a), undertake a program of prevention, monitoring, control, education and research for the zebra mussel to be implemented in the Great Lakes and any other waters of the United States infested or likely to become infested by the zebra mussel, including—

(i) research and development concerning the species life history, environmental tolerances and impacts on fisheries and other ecosystem components, and the efficacy of control mechanisms and means of avoiding or minimizing impacts;

(ii) tracking the dispersal of the species and establishment of an early warning system to alert likely areas of future infestations;

(iii) development of control plans in coordination with regional, State and local entities; and

(iv) provision of technical assistance to regional, State and local entities to carry out this section.

(B) PUBLIC FACILITY RESEARCH AND DEVELOPMENT.—The Assistant Secretary, in consultation with the Task Force, shall develop a program of research, technology development, and demonstration for the environmentally sound control of zebra mussels in and around public facilities. The Assistant Secretary shall collect and make available, through publications and other appropriate means, information pertaining to such control methods.

(C) VOLUNTARY GUIDELINES.—Not later than 1 year after the date of enactment of this subparagraph, the Task Force shall develop and submit to the Secretary voluntary guidelines for controlling the spread of the zebra mussel and, if appropriate, other aquatic nuisance species through recreational activities, including boating and fishing. Not later than 4 months after the date of such submission, and after providing notice and an opportunity for public comment, the Secretary shall issue voluntary guidelines that are based on the guidelines developed by the Task Force under this subparagraph.

(2) DISPERSAL CONTAINMENT ANALYSIS.—

(A) RESEARCH.—The Administrator of the Environmental Protection Agency, in cooperation with the National Science Foundation and the Task Force, shall provide research grants on a competitive basis for projects that—

- (i) identify environmentally sound methods for controlling the dispersal of aquatic nuisance species, such as the zebra mussel; and
- (ii) adhere to research protocols developed pursuant to subsection (f)(2).

(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Environmental Protection Agency to carry out this paragraph, \$500,000.

(3) DISPERSAL BARRIER DEMONSTRATION.—

(A) IN GENERAL.—The Assistant Secretary, in consultation with the Task Force, shall investigate and identify environmentally sound methods for preventing and reducing the dispersal of aquatic nuisance species between the Great Lakes-Saint Lawrence drainage and the Mississippi River drainage through the Chicago River Ship and Sanitary Canal, including any of those methods that could be incorporated into the operation or construction of the lock system of the Chicago River Ship and Sanitary Canal.

(B) REPORT.—Not later than 18 months after the date of enactment of this paragraph, the Assistant Secretary shall issue a report to the Congress that includes recommendations concerning—

- (i) which of the methods that are identified under the study conducted under this paragraph are most promising with respect to preventing and reducing the dispersal of aquatic nuisance species; and
- (ii) ways to incorporate those methods into ongoing operations of the United States Army Corps of Engineers that are conducted at the Chicago River Ship and Sanitary Canal.

(C) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of the Army such sums as are necessary to carry out the dispersal barrier demonstration project directed by this paragraph.

(4) CONTRIBUTIONS.—To the extent allowable by law, in carrying out the studies under paragraphs (2) and (3), the Administrator of the Environmental Protection Agency and the Secretary of the Army may enter into an agreement with an interested party under which that party provides in kind or monetary contributions for the study.

(5) TECHNICAL ASSISTANCE.—The Great Lakes Environmental Research Laboratory of the National Oceanic and Atmospheric Administration shall provide technical assistance to appropriate entities to assist in the research conducted pursuant to this subsection.

(j) IMPLEMENTATION.—

(1) REGULATIONS.—The Director, the Secretary, and the Under Secretary may issue such rules and regulations as may be necessary to implement this section.

(2) PARTICIPATION OF OTHERS.—The Task Force shall provide opportunities for affected Federal agencies which are not part of the Task Force, State and local government agencies, and regional and other entities with the necessary expertise to participate in control programs. If these other agencies or entities have sufficient authority or jurisdiction and expertise and where this will be more efficient or effective, responsibility for implementing all or a portion of a control program may be delegated to such agencies or entities.

(k) REPORTS.—

(1) Not later than 12 months after the date of enactment of this Act, the Task Force shall submit a report describing the program developed under subsection (a), including the research protocol required under subsection (f)(2), to the Congress.

(2) On an annual basis after the submission of the report under paragraph (1), the Task Force shall submit a report to the Congress detailing progress in carrying out this section.

(3) *Not later than 90 days after the date of enactment of the Coast Guard Authorization Act of 2022, the Task Force shall submit a report to Congress recommending legislative, programmatic, or regulatory changes to eliminate remaining gaps in authorities between members of the Task Force to effectively manage and control the movement of aquatic nuisance species.*

#### **SEC. 1203. REGIONAL COORDINATION.**

(a) GREAT LAKES PANEL.—

(1) IN GENERAL.—Not later than 30 days following the date of enactment of this Act, the Task Force shall request that the Great Lakes Commission (established under Article IV of the Great Lakes Compact to which the Congress granted consent in the Act of July 24, 1968, P.L. 90–419) convene a panel of Great Lakes region representatives from Federal, State and local agencies and from private environmental and commercial interests to—

(A) identify priorities for the Great Lakes region with respect to aquatic nuisance species;

- (B) make recommendations to the Task Force regarding programs to carry out section 1202(i) of this Act;
  - (C) assist the Task Force in coordinating Federal aquatic nuisance species program activities in the Great Lakes region;
  - (D) coordinate, where possible, aquatic nuisance species program activities in the Great Lakes region that are not conducted pursuant to this Act;
  - (E) provide advice to public and private individuals and entities concerning methods of controlling aquatic nuisance species; and
  - (F) submit annually a report to the Task Force describing activities within the Great Lakes region related to aquatic nuisance species prevention, research, *and* control.
- (2) CONSULTATION.—The Task Force shall request that the Great Lakes Fishery Commission provide information to the panel convened under this subsection on technical and policy matters related to the international fishery resources of the Great Lakes.
- (3) CANADIAN PARTICIPATION.—The panel convened under this subsection is [encourage] *encouraged* to invite representatives from the Federal, provincial or territorial governments of Canada to participate as observers.
- (b) WESTERN REGIONAL PANEL.—Not later than 30 days after the date of enactment of the National Invasive Species Act of 1996, the Task Force shall request a Western regional panel, comprised of Western region representatives from Federal, State, and local agencies and from private environmental and commercial interests, to—
- (1) identify priorities for the Western region with respect to aquatic nuisance species;
  - (2) make recommendations to the Task Force regarding an education, monitoring (including inspection), prevention, and control program to prevent the spread of the zebra mussel west of the 100th Meridian pursuant to section 1202(i) of this Act;
  - (3) coordinate, where possible, other aquatic nuisance species program activities in the Western region that are not conducted pursuant to this Act;
  - (4) develop an emergency response strategy for Federal, State, and local entities for stemming new invasions of aquatic nuisance species in the region;
  - (5) provide advice to public and private individuals and entities concerning methods of preventing and controlling aquatic nuisance species infestations; and
  - (6) submit annually a report to the Task Force describing activities within the Western region related to aquatic nuisance species prevention, research, and control.
- (c) ADDITIONAL REGIONAL PANELS.—The Task Force shall—
- (1) encourage the development and use of regional panels and other similar entities in regions in addition to the Great Lakes and Western regions (including providing financial assistance for the development and use of such entities) to carry out, with respect to those regions, activities that are similar to the activities described in subsections (a) and (b); and
  - (2) cooperate with regional panels and similar entities that carry out the activities described in paragraph (1).

**SEC. 1204. STATE AQUATIC NUISANCE SPECIES MANAGEMENT PLANS.****(a) STATE OR INTERSTATE INVASIVE SPECIES MANAGEMENT PLANS.—**

(1) **IN GENERAL.**—After providing notice and opportunity for public comment, the Governor of each State may prepare and submit, or the Governors of the States and the governments of the Indian tribes involved in an interstate organization, may jointly prepare and submit—

(A) a comprehensive management plan to the Task Force for approval which identifies those areas or activities within the State or within the interstate region involved, other than those related to public facilities, for which technical, enforcement, or financial assistance (or any combination thereof) is needed to eliminate or reduce the environmental, public health, and safety risks associated with aquatic nuisance species, particularly the zebra mussel; and

(B) a public facility management plan to the Assistant Secretary for approval which is limited solely to identifying those public facilities within the State or within the interstate region involved for which technical and financial assistance is needed to reduce infestations of zebra mussels.

(2) **CONTENT.**—Each plan shall, to the extent possible, identify the management practices and measures that will be undertaken to reduce infestations of aquatic nuisance species. Each plan shall—

(A) identify and describe State and local programs for environmentally sound prevention and control of the target aquatic nuisance species;

(B) identify Federal activities that may be needed for environmentally sound prevention and control of aquatic nuisance species and a description of the manner in which those activities should be coordinated with State and local government activities;

(C) identify any authority that the State (or any State or Indian tribe involved in the interstate organization) does not have at the time of the development of the plan that may be necessary for the State (or any State or Indian tribe involved in the interstate organization) to protect public health, property, and the environment from harm by aquatic nuisance species; and

(D) a schedule of implementing the plan, including a schedule of annual objectives, and enabling legislation.

(3) **CONSULTATION.**—

(A) In developing and implementing a management plan, the State or interstate organization should, to the maximum extent practicable, involve local governments and regional entities, Indian tribes, and public and private organizations that have expertise in the control of aquatic nuisance species.

(B) Upon the request of a State or the appropriate official of an interstate organization, the Task Force or the Assistant Secretary, as appropriate under paragraph (1),



may provide technical assistance in developing and implementing a management plan.

(4) PLAN APPROVAL.—Within 90 days after the submission of a management plan, the Task Force or the Assistant Secretary in consultation with the Task Force, as appropriate under paragraph (1), shall review the proposed plan and approve it if it meets the requirements of this subsection or return the plan to the Governor or the interstate organization with recommended modifications.

(b) GRANT PROGRAM.—

(1) STATE GRANTS.—The Director may, at the recommendation of the Task Force, make grants to States with management plans approved under subsection (a) for the implementation of those plans.

(2) APPLICATION.—An application for a grant under this subsection shall include an identification and description of the best management practices and measures which the State proposes to utilize in implementing an approved management plan with any Federal assistance to be provided under the grant.

(3) FEDERAL SHARE.—

(A) The Federal share of the cost of each comprehensive management plan implemented with Federal assistance under this section in any fiscal year shall not exceed 75 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided from non-Federal sources.

(B) The Federal share of the cost of each public facility management plan implemented with Federal assistance under this section in any fiscal year shall not exceed 50 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided from non-Federal sources.

(4) **[ADMINISTRATIVE]** ADMINISTRATIVE COSTS.—For the purposes of this section, administrative costs for activities and programs carried out with a grant in any fiscal year shall not exceed 5 percent of the amount of the grant in that year.

(5) IN-KIND CONTRIBUTIONS.—In addition to cash outlays and payments, in-kind contributions of property or personnel services by non-Federal interests for activities under this section may be used for the non-Federal share of the cost of those activities.

(c) ENFORCEMENT ASSISTANCE.—Upon request of a State or Indian tribe, the Director or the Under Secretary, to the extent allowable by law and in a manner consistent with section 141 of title 14, United States Code, may provide assistance to a State or Indian tribe in enforcing an approved State or interstate invasive species management plan.

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**SEC. 1209. BROWN TREE SNAKE CONTROL PROGRAM.**

The Task Force shall, within the program developed under **[subsection (a)] section 1202(a)**, undertake a comprehensive, environmentally sound program in coordination with regional, territorial, State and local entities to control the brown tree snake (*Boiga*

irregularis) in Guam and other areas where the species is established outside of its historic range.

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**COAST GUARD AUTHORIZATION ACT OF 2016**

\* \* \* \* \*

**TITLE V—CONVEYANCES**

\* \* \* \* \*

**Subtitle C—Conveyance of Coast Guard Property at Point Spencer, Alaska**

\* \* \* \* \*

**SEC. 541. PORT COORDINATION COUNCIL FOR POINT SPENCER.**

(a) ESTABLISHMENT.—There is established a Port Coordination Council for the Port of Point Spencer.

(b) MEMBERSHIP.—The Council shall consist of a representative appointed by each of the following:

[(1) The State.

[(2) BSNC.]

(1) *BSNC (to serve as Council Chair).*

(2) *The Secretary of Homeland Security.*

(3) *An Oil Spill Response Organization that serves the area in which such Port is located.*

(c) DUTIES.—The duties of the Council are as follows:

(1) To develop a Port Management Coordination Plan to help coordinate infrastructure development and operations at the Port of Point Spencer, that includes plans for—

(A) construction;

(B) funding eligibility; and

[(C) land use planning and development; and

[(D) public interest use and access, emergency preparedness, law enforcement, protection of Alaska Native archaeological and cultural resources, and other matters that are necessary for public and private entities to function in proximity together in a remote location.]

(C) *land use planning and development on the Bering Sea, the Chukchi Sea, and the Arctic Ocean, in support of—*

- (i) *search and rescue;*
- (ii) *shipping safety;*
- (iii) *economic development;*
- (iv) *oil spill prevention and response;*
- (v) *national security;*
- (vi) *major marine casualties;*
- (vii) *protection of Alaska Native archaeological and cultural resources; and*
- (viii) *port of refuge, arctic research, and maritime law enforcement.*

(2) Update the Plan annually for the first 5 years after the date of the enactment of this Act and biennially thereafter.

【(3) Facilitate coordination among BSNC, the State, and the Coast Guard, on the development and use of the land and coastline as such development relates to activities at the Port of Point Spencer.】

*(3) Facilitate coordination among members of the Council on the development and use of the land and coastline of Point Spencer, as such development and use relate to activities of the Council at the Port of Point Spencer.*

(4) Assess the need, benefits, efficacy, and desirability of establishing in the future a port authority at Point Spencer under State law and act upon that assessment, as appropriate, including taking steps for the potential formation of such a port authority.

(d) PLAN.—In addition to the requirements under subsection (c)(1) to the greatest extent practicable, the Plan developed by the Council shall facilitate and support the statutory missions and duties of the Coast Guard and operations of the Coast Guard in the Arctic.

(e) COSTS.—【Operations and management costs】

*(1) DETERMINATION OF COSTS.—Operations and management costs for airstrips, runways, and taxiways at Point Spencer shall be determined pursuant to provisions of the Plan, as negotiated by the Council.*

*(2) FUNDING.—To facilitate the mooring buoy system in Port Clarence and to assist the Council in the development of other oil spill prevention and response infrastructure, including reactivating the airstrip at Point Spencer with appropriate technology and safety equipment in support of response operations, there is authorized to be made available \$5,000,000 for each of fiscal years 2023 through 2025 from the interest generated from the Oil Spill Liability Trust Fund.*

\* \* \* \* \*

**ACT OF JUNE 21, 1940 (POPULARLY KNOWN AS THE TRUMAN-HOBBS ACT)**

AN ACT To provide for the alteration of certain bridges over navigable waters of the United States, for the apportionment of the cost of such alterations between the United States and the owners of such bridges, and for other purposes.

\* \* \* \* \*

[Note: Section 603 of H.R. 6865 (as reported) provides to retroactively restore section 12(a) of the Act of June 21, 1940, redesignate as section 12 of such Act, and amend such section. Such section 12 (as so restored and amended) reads as follows:]

*SEC. 12. The first sentence of section 4 of the Act entitled “An Act to regulate the construction of bridges over navigable waters”, approved March 23, 1906 (U. S. C., 1934 edition, title 33, sec. 494), and section 18 of the Act entitled “An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes”, approved March 3, 1899 (U. S. C., 1934 edition, title 33, sec. 502), shall be inapplicable*

*with respect to any bridge to which the provisions of this Act are applicable.*

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