

COAST GUARD AUTHORIZATION ACT FOR FISCAL YEAR
1996

MAY 1, 1995.—Committed to the Committee of the Whole House on the State of the
Union and ordered to be printed

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

R E P O R T

[To accompany H.R. 1361]

[Including cost estimate of the Congressional Budget Office]

The Committee on Transportation and Infrastructure, to whom
was referred the bill (H.R. 1361) to authorize appropriations for fis-
cal year 1996 for the Coast Guard, and for other purposes, having
considered the same, report favorably thereon with an amendment
and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof
the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act For Fiscal Year
1996".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.

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- Sec. 102. Authorized levels of military strength and training.
- Sec. 103. Quarterly reports on drug interdiction.
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TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

- Sec. 201. Hurricane Andrew relief.
- Sec. 202. Exclude certain reserves from end-of-year strength.
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- Sec. 301. Foreign passenger vessel user fees.
- Sec. 302. Florida Avenue Bridge.
- Sec. 303. Renewal of Houston-Galveston Navigation Safety Advisory Committee and Lower Mississippi River Waterway Advisory Committee.
- Sec. 304. Renewal of the Navigation Safety Advisory Council.
- Sec. 305. Renewal of Commercial Fishing Industry Vessel Advisory Committee.
- Sec. 306. Nondisclosure of port security plans.
- Sec. 307. Maritime drug and alcohol testing program civil penalty.
- Sec. 308. Withholding vessel clearance for violation of certain Acts.
- Sec. 309. Increased civil penalties.
- Sec. 310. Amendment to require emergency position indicating radio beacons on the Great Lakes.

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- Sec. 401. Transfer of Coast Guard property in Traverse City, Michigan.
- Sec. 402. Transfer of Coast Guard property in Ketchikan, Alaska.
- Sec. 403. Electronic filing of commercial instruments.
- Sec. 404. Board for correction of military records deadline.
- Sec. 405. Judicial sale of certain documented vessels to aliens.
- Sec. 406. Improved authority to sell recyclable material.
- Sec. 407. Recruitment of women and minorities.
- Sec. 408. Limitation of certain State authority over vessels.
- Sec. 409. Vessel financing.
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- Sec. 602. Vessel documentation for charity cruises.
- Sec. 603. Extension of deadline for conversion of vessel M/V TWIN DRILL.
- Sec. 604. Documentation of vessel RAINBOW'S END.
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- Sec. 701. Amendment of inland navigation rules.
- Sec. 702. Measurement of vessels.
- Sec. 703. Longshore and harbor workers compensation.
- Sec. 704. Radiotelephone requirements.
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- Sec. 706. Merchant Marine Act, 1920.
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- Sec. 708. Maritime education and training.
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- Sec. 801. Administration of the Coast Guard Auxiliary.
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TITLE I—AUTHORIZATIONS

SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1996, as follows:

(1) For the operation and maintenance of the Coast Guard, \$2,618,316,000, of which \$25,000,000 shall be derived from the Oil Spill Liability Trust Fund.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$428,200,000, to remain available until expended, of which \$32,500,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, oceanographic research, and defense readiness, \$22,500,000, to remain available until expended, of which \$3,150,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$582,022,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, and for personnel and administrative costs associated with the Bridge Alteration Program, \$16,200,000, to remain available until expended.

(6) For necessary expenses to carry out the Coast Guard's environmental compliance and restoration functions, other than parts and equipment associated with operations and maintenance, under chapter 19 of title 14, United States Code, at Coast Guard facilities, \$25,000,000, to remain available until expended.

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

(a) **ACTIVE DUTY STRENGTH.**—The Coast Guard is authorized an end-of-year strength for active duty personnel of 38,400 as of September 30, 1996.

(b) **MILITARY TRAINING STUDENT LOADS.**—For fiscal year 1996, the Coast Guard is authorized average military training student loads as follows:

(1) For recruit and special training, 1604 student years.

(2) For flight training, 85 student years.

(3) For professional training in military and civilian institutions, 330 student years.

(4) For officer acquisition, 874 student years.

SEC. 103. QUARTERLY REPORTS ON DRUG INTERDICTION.

Not later than 30 days after the end of each fiscal year quarter, the Secretary of Transportation shall submit to the Committee on Transportation and Infrastruc-

ture of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on all expenditures related to drug interdiction activities of the Coast Guard during that quarter.

SEC. 104. SAFETY DETERMINATION FOR SMALL BOAT CLOSURES.

None of the funds authorized to be appropriated under this Act may be used to close Coast Guard multimission small boat stations unless the Secretary of Transportation determines that maritime safety will not be diminished by the closures.

TITLE II—PERSONNEL MANAGEMENT IMPROVEMENT

SEC. 201. HURRICANE ANDREW RELIEF.

Section 2856 of the National Defense Authorization Act for Fiscal Year 1993 (Public Law 102-484) applies to the military personnel of the Coast Guard who were assigned to, or employed at or in connection with, any Federal facility or installation in the vicinity of Homestead Air Force Base, Florida, including the areas of Broward, Collier, Dade, and Monroe Counties, on or before August 24, 1992, except that—

- (1) funds available to the Coast Guard, not to exceed a total of \$25,000, shall be used; and
- (2) the Secretary of Transportation shall administer that section with respect to Coast Guard personnel.

SEC. 202. EXCLUDE CERTAIN RESERVES FROM END-OF-YEAR STRENGTH.

Section 712 of title 14, United States Code, is amended by adding at the end the following:

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

SEC. 203. PROVISION OF CHILD DEVELOPMENT SERVICES.

Section 93 of title 14, United States Code, is amended by striking “and” after the semicolon at the end of paragraph (t)(2), by striking the period at the end of paragraph (u) and inserting “; and”, and by adding at the end the following new paragraph:

“(v) make child development services available to members of the armed forces and Federal civilian employees under terms and conditions comparable to those under the Military Child Care Act of 1989 (10 U.S.C. 113 note).”.

SEC. 204. ACCESS TO NATIONAL DRIVER REGISTER INFORMATION ON CERTAIN COAST GUARD PERSONNEL.

(a) AMENDMENT TO TITLE 14.—Section 93 of title 14, United States Code, as amended by section 203, is further amended—

- (1) by striking “and” after the semicolon at the end of paragraph (u);
- (2) by striking the period at the end of paragraph (v) and inserting “; and”; and
- (3) by adding at the end the following new paragraph:

“(w) require that any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment to any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) request that all information contained in the National Driver Register pertaining to the individual, as described in section 30304(a) of title 49, be made available to the Commandant under section 30305(a) of title 49, may receive that information, and upon receipt, shall make the information available to the individual.”.

(b) AMENDMENT TO TITLE 49.—Section 30305(b) of title 49, United States Code, is amended by redesignating paragraph (7) as paragraph (8) and inserting after paragraph (6) the following new paragraph:

“(7) An individual who is an officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Commandant of the Coast Guard. The Commandant may receive the information and shall make the information available to the individual. Information may not be obtained from the Register under this paragraph if the in-

formation was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.”.

SEC. 205. OFFICER RETENTION UNTIL RETIREMENT ELIGIBLE.

Section 283(b) of title 14, United States Code, is amended—

- (1) by inserting “(1)” after “(b)”;
- (2) by striking the last sentence; and
- (3) by adding at the end the following:

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

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

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

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

TITLE III—NAVIGATION SAFETY AND WATERWAY SERVICES MANAGEMENT

SEC. 301. FOREIGN PASSENGER VESSEL USER FEES.

Section 3303 of title 46, United States Code, is amended—

- (1) in subsection (a) by striking “(a) Except as” and inserting “Except as”; and
- (2) by striking subsection (b).

SEC. 302. FLORIDA AVENUE BRIDGE.

For purposes of the alteration of the Florida Avenue Bridge (located approximately 1.63 miles east of the Mississippi River on the Gulf Intracoastal Waterway in Orleans Parish, Louisiana) ordered by the Secretary of Transportation under the Act of June 21, 1940 (33 U.S.C. 511 et seq.; popularly known as the Truman-Hobbs Act), the Secretary of Transportation shall treat the drainage siphon that is adjacent to the bridge as an appurtenance of the bridge, including with respect to apportionment and payment of costs for the removal of the drainage siphon in accordance with that Act.

SEC. 303. RENEWAL OF HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE AND LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

The Coast Guard Authorization Act of 1991 (Public Law 102–241, 105 Stat. 2208–2235) is amended—

- (1) in section 18 by adding at the end the following:
“(h) The Committee shall terminate on October 1, 2000.”; and
- (2) in section 19 by adding at the end the following:
“(g) The Committee shall terminate on October 1, 2000.”.

SEC. 304. RENEWAL OF THE NAVIGATION SAFETY ADVISORY COUNCIL.

(a) RENEWAL.—Section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking “September 30, 1995” and inserting “September 30, 2000”.

(b) CLERICAL AMENDMENT.—The section heading for section 5(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2073) is amended by striking “Rules of the Road Advisory Council” and inserting “Navigation Safety Advisory Council”.

SEC. 305. RENEWAL OF COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE.

Subsection (e)(1) of section 4508 of title 46, United States Code, is amended by striking “September 30, 1994” and inserting “October 1, 2000”.

SEC. 306. NONDISCLOSURE OF PORT SECURITY PLANS.

Section 7 of the Ports and Waterways Safety Act (33 U.S.C. 1226), is amended by adding at the end the following new subsection (c):

“(c) NONDISCLOSURE OF PORT SECURITY PLANS.—Notwithstanding any other provision of law, information related to security plans, procedures, or programs for passenger vessels or passenger terminals authorized under this Act is not required to be disclosed to the public.”.

SEC. 307. MARITIME DRUG AND ALCOHOL TESTING PROGRAM CIVIL PENALTY.

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

“§2115. Civil penalty to enforce alcohol and dangerous drug testing

“Any person who fails to comply with or otherwise violates the requirements prescribed by the Secretary under this subtitle for chemical testing for dangerous drugs or for evidence of alcohol use is liable to the United States Government for a civil penalty of not more than \$1,000 for each violation. Each day of a continuing violation shall constitute a separate violation.”

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 21 of title 46, United States Code, is amended by inserting after the item relating to section 2114 the following new item:

“2115. Civil penalty to enforce alcohol and dangerous drug testing.”

SEC. 308. WITHHOLDING VESSEL CLEARANCE FOR VIOLATION OF CERTAIN ACTS.

(a) TITLE 49, UNITED STATES CODE.—Section 5122 of title 49, United States Code, is amended by adding at the end the following new subsection:

“(c) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or person in charge of a vessel is liable for a civil penalty under section 5123 of this title or for a fine under section 5124 of this title, or if reasonable cause exists to believe that such owner, operator, or person in charge may be subject to such a civil penalty or fine, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

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

(b) PORT AND WATERWAYS SAFETY ACT.—Section 13(f) of the Ports and Waterways Safety Act (33 U.S.C. 1232(f)) is amended to read as follows:

“(f) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or person in charge of a vessel is liable for a penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to a penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

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

(c) INLAND NAVIGATION RULES ACT OF 1980.—Section 4(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2072(d)) is amended to read as follows:

“(d) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or person in charge of a vessel is liable for a penalty under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to a penalty under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

“(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.”

(d) TITLE 46, UNITED STATES CODE.—Section 3718(e) of title 46, United States Code, is amended to read as follows:

“(e)(1) If any owner, operator, or person in charge of a vessel is liable for any penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to any penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

“(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.”

SEC. 309. INCREASED CIVIL PENALTIES.

(a) PENALTY FOR FAILURE TO REPORT A CASUALTY.—Section 6103(a) of title 46, United States Code, is amended by striking “\$1,000” and inserting “not more than \$25,000”.

(b) OPERATION OF UNINSPECTED VESSEL IN VIOLATION OF MANNING REQUIREMENTS.—Section 8906 of title 46, United States Code, is amended by striking “\$1,000” and inserting “not more than \$25,000”.

SEC. 310. AMENDMENT TO REQUIRE EMERGENCY POSITION INDICATING RADIO BEACONS ON THE GREAT LAKES.

Paragraph (7) of section 4502(a) of title 46, United States Code, is amended by inserting "or beyond three nautical miles from the coastline of the Great Lakes" after "high seas".

TITLE IV—MISCELLANEOUS

SEC. 401. TRANSFER OF COAST GUARD PROPERTY IN TRAVERSE CITY, MICHIGAN.

(a) **REQUIREMENT.**—The Secretary of Transportation (or any other official having control over the property described in subsection (b)) shall expeditiously convey to the Traverse City Area Public School District in Traverse City, Michigan, without consideration, all right, title, and interest of the United States in and to the property described in subsection (b), subject to all easements and other interests in the property held by any other person.

(b) **PROPERTY DESCRIBED.**—The property referred to in subsection (a) is real property located in the city of Traverse City, Grand Traverse County, Michigan, and consisting of that part of the southeast $\frac{1}{4}$ of Section 12, Township 27 North, Range 11 West, described as: Commencing at the southeast $\frac{1}{4}$ corner of said Section 12, thence north 03 degrees 05 minutes 25 seconds east along the East line of said Section, 1074.04 feet, thence north 86 degrees 36 minutes 50 seconds west 207.66 feet, thence north 03 degrees 06 minutes 00 seconds east 572.83 feet to the point of beginning, thence north 86 degrees 54 minutes 00 seconds west 1,751.04 feet, thence north 03 degrees 02 minutes 38 seconds east 330.09 feet, thence north 24 degrees 04 minutes 40 seconds east 439.86 feet, thence south 86 degrees 56 minutes 15 seconds east 116.62 feet, thence north 03 degrees 08 minutes 45 seconds east 200.00 feet, thence south 87 degrees 08 minutes 20 seconds east 68.52 feet, to the southerly right-of-way of the C & O Railroad, thence south 65 degrees 54 minutes 20 seconds east along said right-of-way 1508.75 feet, thence south 03 degrees 06 minutes 00 seconds west 400.61 to the point of beginning, consisting of 27.10 acres of land, and all improvements located on that property including buildings, structures, and equipment.

(c) **REVERSIONARY INTEREST.**—In addition to any term or condition established pursuant to subsection (a), any conveyance of property described in subsection (b) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the Traverse City School District.

SEC. 402. TRANSFER OF COAST GUARD PROPERTY IN KETCHIKAN, ALASKA.

(a) **CONVEYANCE REQUIREMENT.**—The Secretary of Transportation shall convey to the Ketchikan Indian Corporation in Ketchikan, Alaska, without reimbursement and by no later than 120 days after the date of enactment of this Act, all right, title, and interest of the United States in and to the property known as the "Former Marine Safety Detachment" as identified in Report of Excess Number CG-689 (GSA Control Number 9-U-AK-0747) and described in subsection (b), for use by the Ketchikan Indian Corporation as a health or social services facility.

(b) **PROPERTY DESCRIBED.**—The property referred to in subsection (a) is real property located in the city of Ketchikan, Township 75 south, range 90 east, Copper River Meridian, First Judicial District, State of Alaska, and commencing at corner numbered 10, United States Survey numbered 1079, the true point of beginning for this description: Thence north 24 degrees 04 minutes east, along the 10-11 line of said survey a distance of 89.76 feet to corner numbered 1 of lot 5B; thence south 65 degrees 56 minutes east a distance of 345.18 feet to corner numbered 2 of lot 5B; thence south 24 degrees 04 minutes west a distance of 101.64 feet to corner numbered 3 of lot 5B; thence north 64 degrees 01 minute west a distance of 346.47 feet to corner numbered 10 of said survey, to the true point of beginning, consisting of 0.76 acres (more or less), and all improvements located on that property, including buildings, structures, and equipment.

(c) **REVERSIONARY INTEREST.**—In addition to any term or condition established pursuant to subsection (a), any conveyance of property described in subsection (b) shall be subject to the condition that all right, title, and interest in and to the property so conveyed shall immediately revert to the United States if the property, or any part thereof, ceases to be used by the Ketchikan Indian Corporation as a health or social services facility.

SEC. 403. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS.

Section 31321(a) of title 46, United States Code, is amended by adding at the end the following new paragraph:

“(4)(A) A bill of sale, conveyance, mortgage, assignment, or related instrument may be filed electronically under regulations prescribed by the Secretary.

“(B) A filing made electronically under subparagraph (A) shall not be effective after the 10-day period beginning on the date of the filing unless the original instrument is provided to the Secretary within that 10-day period.”.

SEC. 404. BOARD FOR CORRECTION OF MILITARY RECORDS DEADLINE.

(a) **REMEDIES DEEMED EXHAUSTED.**—Ten months after a complete application for correction of military records is received by the Board for Correction of Military Records of the Coast Guard, administrative remedies are deemed to have been exhausted, and—

(1) if the Board has rendered a recommended decision, its recommendation shall be final agency action and not subject to further review or approval within the Department of Transportation; or

(2) if the Board has not rendered a recommended decision, agency action is deemed to have been unreasonably delayed or withheld and the applicant is entitled to—

(A) an order under section 706(1) of title 5, United States Code, directing final action be taken within 30 days from the date the order is entered; and

(B) from amounts appropriated to the Department of Transportation, the costs of obtaining the order, including a reasonable attorney’s fee.

(b) **EXISTING DEADLINE MANDATORY.**—The 10-month deadline established in section 212 of the Coast Guard Authorization Act of 1989 (Public Law 101–225, 103 Stat. 1914) is mandatory.

(c) **APPLICATION.**—This section applies to all applications filed with or pending before the Board or the Secretary of Transportation on or after June 12, 1990. For applications that were pending on June 12, 1990, the 10-month deadline referred to in subsection (b) shall be calculated from June 12, 1990.

SEC. 405. JUDICIAL SALE OF CERTAIN DOCUMENTED VESSELS TO ALIENS.

Section 31329 of title 46, United States Code, is amended by adding at the end the following new subsection:

“(f) This section does not apply to a documented vessel that has been operated only—

“(1) as a fishing vessel, fish processing vessel, or fish tender vessel; or

“(2) for pleasure.”.

SEC. 406. IMPROVED AUTHORITY TO SELL RECYCLABLE MATERIAL.

Section 641(c)(2) of title 14, United States Code, is amended by inserting before the period the following: “, except that the Commandant may conduct sales of materials for which the proceeds of sale will not exceed \$5,000 under regulations prescribed by the Commandant”.

SEC. 407. RECRUITMENT OF WOMEN AND MINORITIES.

Not later than January 31, 1996, the Commandant of the Coast Guard shall report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the status of and the problems in recruitment of women and minorities into the Coast Guard. The report shall contain specific plans to increase the recruitment of women and minorities and legislative recommendations needed to increase the recruitment of women and minorities.

SEC. 408. LIMITATION OF CERTAIN STATE AUTHORITY OVER VESSELS.

(a) **SHORT TITLE.**—This section may be cited as the “California Cruise Industry Revitalization Act”.

(b) **LIMITATION.**—Section 5(b)(2) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(2)), commonly referred to as the “Johnson Act”, is amended by adding at the end the following:

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

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

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

and

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

SEC. 409. VESSEL FINANCING.

(a) **ELIMINATION OF MORTGAGEE RESTRICTIONS.**—Section 31322(a) of title 46, United States Code, is amended to read as follows:

“(a) A preferred mortgage is a mortgage, whenever made, that—

“(1) includes the whole of the vessel;

“(2) is filed in substantial compliance with section 31321 of this title; and

“(3)(A) covers a documented vessel; or

“(B) covers a vessel for which an application for documentation is filed that is in substantial compliance with the requirements of chapter 121 of this title and the regulations prescribed under that chapter.”.

(b) **ELIMINATION OF TRUSTEE RESTRICTIONS.**—

(1) **REPEAL.**—Section 31328 of title 46, United States Code, is repealed.

(2) **CONFORMING AMENDMENTS.**—Section 31330(b) of title 46, United States Code, is amended in paragraphs (1), (2), and (3) by striking “31328 or” each place it appears.

(3) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 313 of title 46, United States Code, is amended by striking the item relating to section 31328.

(c) **REMOVAL OF MORTGAGE RESTRICTIONS.**—Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808) is amended—

(1) in subsection (c)—

(A) by striking “31328” and inserting “12106(e)”; and

(B) in paragraph (1) by striking “mortgage,” each place it appears; and

(2) in subsection (d)—

(A) in paragraph (1) by striking “transfer, or mortgage” and inserting “or transfer”;

(B) in paragraph (2) by striking “transfers, or mortgages” and inserting “or transfers”;

(C) in paragraph (3)(B) by striking “transfers, or mortgages” and inserting “or transfers”; and

(D) in paragraph (4) by striking “transfers, or mortgages” and inserting “or transfers”.

(d) **LEASE FINANCING.**—Section 12106 of title 46, United States Code, is amended by adding at the end the following new subsections:

“(e)(1) A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—

“(A) the vessel is eligible for documentation under section 12102;

“(B) the vessel is otherwise qualified under this section to be employed in the coastwise trade;

“(C) the person that owns the vessel, a parent entity of that person, or a subsidiary of a parent entity of that person, is engaged in leasing;

“(D) the vessel is under a demise charter to a person qualifying as a citizen of the United States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916; and

“(E) the demise charter is for—

“(i) a period of at least 3 years; or

“(ii) such shorter period as may be prescribed by the Secretary.

“(2) On termination of a demise charter required under paragraph (1)(D), the coastwise endorsement may be continued for a period not to exceed 6 months on any terms and conditions that the Secretary of Transportation may prescribe.

“(f) For purposes of the first proviso of section 27 of the Merchant Marine Act, 1920, section 2 of the Shipping Act, 1916, and section 12102(a) of this title, a vessel meeting the criteria of subsection (d) or (e) is deemed to be owned exclusively by citizens of the United States.”.

SEC. 410. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE.

(a) **PURCHASE OF AMERICAN-MADE EQUIPMENT AND PRODUCTS.**—It is the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Act should be American-made.

(b) **NOTICE TO RECIPIENTS OF ASSISTANCE.**—In providing financial assistance under this Act, the official responsible for providing the assistance, to the greatest extent practicable, shall provide to each recipient of the assistance a notice describing the statement made in subsection (a) by the Congress.

SEC. 411. SPECIAL SELECTION BOARDS.

(a) **REQUIREMENT.**—Chapter 21 of title 14, United States Code, is amended by adding at the end the following new section:

“§ 747. Special selection boards

“(a) The Secretary shall provide for special selection boards to consider the case of any officer who is eligible for promotion who—

“(1) was not considered for selection for promotion by a selection board because of administrative error; or

“(2) was considered for selection for promotion by a selection board but not selected because—

“(A) the action of the board that considered the officer was contrary to law or involved a material error of fact or material administrative error; or

“(B) the board that considered the officer did not have before it for its consideration material information.

“(b) Not later than 6 months after the date of the enactment of the Coast Guard Authorization Act For Fiscal Year 1996, the Secretary shall issue regulations to implement this section. The regulations shall conform, as appropriate, to the regulations and procedures issued by the Secretary of Defense for special selection boards under section 628 of title 10, United States Code.”.

(b) CLERICAL AMENDMENT.—The table of sections for chapter 21 of title 14, United States Code, is amended by adding after the item for section 746 the following:

“747. Special selection boards.”.

SEC. 412. AVAILABILITY OF EXTRAJUDICIAL REMEDIES FOR DEFAULT ON PREFERRED MORTGAGE LIENS ON VESSELS.

(a) AVAILABILITY OF EXTRAJUDICIAL REMEDIES.—Section 31325(b) of title 46, United States Code, is amended—

(1) in the matter preceding paragraph (1) by striking “mortgage may” and inserting “mortgagee may”;

(2) in paragraph (1) by—

(A) striking “perferred” and inserting “preferred”; and

(B) striking “; and” and inserting a semicolon; and

(3) by adding at the end the following:

“(3) enforce the preferred mortgage lien or a claim for the outstanding indebtedness secured by the mortgaged vessel, or both, by exercising any other remedy (including an extrajudicial remedy) against a documented vessel, a vessel for which an application for documentation is filed under chapter 121 of this title, a foreign vessel, or a mortgagor, maker, comaker, or guarantor for the amount of the outstanding indebtedness or any deficiency in full payment of that indebtedness, if—

“(A) the remedy is allowed under applicable law; and

“(B) the exercise of the remedy will not result in a violation of section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 808, 835).”.

(b) NOTICE.—Section 31325 of title 46, United States Code, is further amended by adding at the end the following:

“(f)(1) Before title to the documented vessel or vessel for which an application for documentation is filed under chapter 121 is transferred by an extrajudicial remedy, the person exercising the remedy shall give notice of the proposed transfer to the Secretary, to the mortgagee of any mortgage on the vessel filed in substantial compliance with section 31321 of this title before notice of the proposed transfer is given to the Secretary, and to any person that recorded a notice of a claim of an undischarged lien on the vessel under section 31343(a) or (d) of this title before notice of the proposed transfer is given to the Secretary.

“(2) Failure to give notice as required by this subsection shall not affect the transfer of title to a vessel. However, the rights of any holder of a maritime lien or a preferred mortgage on the vessel shall not be affected by a transfer of title by an extrajudicial remedy exercised under this section, regardless of whether notice is required by this subsection or given.

“(3) The Secretary shall prescribe regulations establishing the time and manner for providing notice under this subsection.”.

(c) RULE OF CONSTRUCTION.—The amendments made by subsections (a) and (b) may not be construed to imply that remedies other than judicial remedies were not available before the date of enactment of this section to enforce claims for outstanding indebtedness secured by mortgaged vessels.

SEC. 413. IMPLEMENTATION OF WATER POLLUTION LAWS WITH RESPECT TO VEGETABLE OIL.

(a) DIFFERENTIATION AMONG FATS, OILS, AND GREASES.—

(1) IN GENERAL.—In issuing or enforcing a regulation, an interpretation, or a guideline relating to a fat, oil, or grease under a Federal law related to water pollution control, the head of a Federal agency shall—

- (A) differentiate between and establish separate classes for—
- (i) (I) animal fats; and
 - (II) vegetable oils; and
 - (ii) other oils, including petroleum oil; and
- (B) apply different standards to different classes of fat and oil as provided in paragraph (2).
- (2) CONSIDERATIONS.—In differentiating between the classes of animal fats and vegetable oils referred to in paragraph (1)(A)(i) and the classes of oils described in paragraph (1)(A)(ii), the head of a Federal agency shall consider differences in physical, chemical, biological, and other properties, and in the environmental effects, of the classes.
- (b) FINANCIAL RESPONSIBILITY.—
- (1) LIMITS ON LIABILITY.—Section 1004(a)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2704(a)(1)) is amended by striking “for a tank vessel,” and inserting “for a tank vessel carrying oil in bulk as cargo (unless the only oil carried is an animal fat or vegetable oil, as those terms are defined in section 413(c) of the Coast Guard Authorization Act For Fiscal Year 1996).”.
- (2) FINANCIAL RESPONSIBILITY.—The first sentence of section 1016(a) of the Act (33 U.S.C. 2716(a)) is amended by striking “in the case of a tank vessel,” and inserting “in the case of a tank vessel carrying oil in bulk as cargo (unless the only oil carried is an animal fat or vegetable oil, as those terms are defined in section 413(c) of the Coast Guard Authorization Act for Fiscal Year 1996).”.
- (c) DEFINITIONS.—In this section, the following definitions apply:
- (1) ANIMAL FAT.—The term “animal fat” means each type of animal fat, oil, or grease, including fat, oil, or grease from fish or a marine mammal and any fat, oil, or grease referred to in section 61(a)(2) of title 13, United States Code.
- (2) VEGETABLE OIL.—The term “vegetable oil” means each type of vegetable oil, including vegetable oil from a seed, nut, or kernel and any vegetable oil referred to in section 61(a)(1) of title 13, United States Code.

SEC. 414. CERTAIN INFORMATION FROM MARINE CASUALTY INVESTIGATIONS BARRED IN LEGAL PROCEEDINGS.

(a) IN GENERAL.—Title 46, United States Code, is amended by inserting after section 6307 the following new section:

“§ 6308. Information barred in legal proceedings

“(a) Notwithstanding any other provision of law, any opinion, recommendation, deliberation, or conclusion contained in a report of a marine casualty investigation conducted under section 6301 of this title with respect to the cause of, or factors contributing to, the casualty set forth in the report of the investigation is not admissible as evidence or subject to discovery in any civil, administrative, or State criminal proceeding arising from a marine casualty, other than with the permission and consent of the Secretary of Transportation, in his or her sole discretion. Any employee of the United States or military member of the Coast Guard investigating a marine casualty or assisting in any such investigation conducted pursuant to section 6301 of this title, shall not be subject to deposition or other discovery, or otherwise testify or give information in such proceedings relevant to a marine casualty investigation, without the permission and consent of the Secretary of Transportation in his or her sole discretion. In exercising this discretion in cases where the United States is a party, the Secretary shall not withhold permission for an employee to testify solely on factual matters where the information is not available elsewhere or is not obtainable by other means. Nothing in this section prohibits the United States from calling an employee as an expert witness to testify on its behalf.

“(b) The information referred to in subsection (a) of this section shall not be considered an admission of liability by the United States or by any person referred to in those conclusions or statements.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 46, United States Code, is amended by adding after the item related to section 6307 the following:

“6308. Information barred in legal proceedings.”.

SEC. 415. REPORT ON LORAN-C REQUIREMENTS.

Not later than 6 months after the date of the enactment of this Act, the Secretary of Transportation shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives, and the Committee on Commerce, Science and Transportation of the Senate, prepared in consultation with users of the LORAN-C radionavigation system, defining the future use of and funding for operations, maintenance, and upgrades of the LORAN-C radionavigation system. The report shall address the following:

(1) An appropriate timetable for transition from ground-based radionavigation technology after it is determined that satellite-based technology is available as a sole means of safe and efficient navigation.

(2) The need to ensure that LORAN-C technology purchased by the public before the year 2000 has a useful economic life.

(3) The benefits of fully utilizing the compatibilities of LORAN-C technology and satellite-based technology by all modes of transportation.

(4) The need for all agencies in the Department of Transportation and other relevant Federal agencies to share the Federal Government's costs related to LORAN-C technology.

SEC. 416. LIMITED DOUBLE HULL EXEMPTIONS.

Section 3703a(b) of title 46, United States Code, is amended by—

(1) striking “or” at the end of paragraph (2);

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

(3) adding at the end the following new paragraphs:

“(4) a vessel equipped with a double hull before August 12, 1992; or

“(5) a barge of less than 2,000 gross tons that is primarily used to carry deck cargo and bulk fuel to Native villages (as that term is defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1601)) located on or adjacent to bays or rivers above 58 degrees north latitude.”.

SEC. 417. OIL SPILL RESPONSE VESSELS.

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

(1) by redesignating paragraph (20a) as paragraph (20b); and

(2) by inserting after paragraph (20) the following new paragraph:

“(20a) ‘oil spill response vessel’ means a vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material.”.

(b) EXEMPTION FROM LIQUID BULK CARRIAGE REQUIREMENTS.—Section 3702 of title 46, United States Code, is amended by adding at the end the following new subsection:

“(f) This chapter does not apply to an oil spill response vessel if—

“(1) the vessel is used only in response-related activities; or

“(2) the vessel is—

“(A) not more than 500 gross tons;

“(B) designated in its certificate of inspection as an oil spill response vessel; and

“(C) engaged in response-related activities.”.

(c) MANNING.—Section 8104(p) of title 46, United States Code, is amended to read as follows:

“(p) The Secretary may prescribe the watchstanding requirements for an oil spill response vessel.”.

(d) MINIMUM NUMBER OF LICENSED INDIVIDUALS.—Section 8301(e) of title 46, United States Code, is amended to read as follows:

“(e) The Secretary may prescribe the minimum number of licensed individuals for an oil spill response vessel.”.

(e) MERCHANT MARINER DOCUMENT REQUIREMENTS.—Section 8701(a) of title 46, United States Code, is amended by striking “and” after the semicolon at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting “; and”, and by adding at the end the following new paragraph:

“(9) the Secretary may prescribe the individuals required to hold a merchant mariner's document serving onboard an oil spill response vessel.”.

(f) EXEMPTION FROM TOWING VESSEL REQUIREMENT.—Section 8905 of title 46, United States Code, is amended by adding at the end the following new subsection:

“(c) Section 8904 of this title does not apply to an oil spill response vessel while engaged in oil spill response or training activities.”.

(g) INSPECTION REQUIREMENT.—Section 3301 of title 46, United States Code, is amended by adding at the end the following new paragraph:

“(14) oil spill response vessels.”.

SEC. 418. OFFSHORE FACILITY FINANCIAL RESPONSIBILITY REQUIREMENTS.

(a) DEFINITION OF RESPONSIBLE PARTY.—Section 1001(32)(C) of the Oil Pollution Act of 1990 (33 U.S.C. 2701(32)(C)) is amended by striking “applicable State law or” and inserting “applicable State law relating to exploring for, producing, or transporting oil on submerged lands on the Outer Continental Shelf in accordance with a license or permit issued for such purpose, or under”.

(b) AMOUNT OF FINANCIAL RESPONSIBILITY.—Section 1016(c)(1) of the Oil Pollution Act of 1990 (33 U.S.C. 2716(c)(1)) is amended to read as follows:

“(1) IN GENERAL.—

“(A) EVIDENCE OF FINANCIAL RESPONSIBILITY REQUIRED.—Except as provided in paragraph (2), each responsible party with respect to an offshore facility described in section 1001(32)(C) located seaward of the line of mean high tide that is—

“(i) used for drilling for, producing, or processing oil; and

“(ii) has the capacity to transport, store, transfer, or otherwise handle more than 1,000 barrels of oil at any one time, shall establish and maintain evidence of financial responsibility in the amount required under subparagraph (B) or (C), applicable.

“(B) AMOUNT REQUIRED GENERALLY.—Except as provided in subparagraph (C), for purposes of subparagraph (A) the amount of financial responsibility required is \$35,000,000.

“(C) GREATER AMOUNT.—If the President determines that an amount of financial responsibility greater than the amount required by subparagraph (B) is necessary for an offshore facility, based on an assessment of the risk posed by the facility that includes consideration of the relative operational, environmental, human health, and other risks posed by the quantity or quality of oil that is transported, stored, transferred, or otherwise handled by the facility, the amount of financial responsibility required shall not exceed \$150,000,000 determined by the President on the basis of clear and convincing evidence that the risks posed justify the greater amount.

“(D) MULTIPLE FACILITIES.—In a case in which a person is responsible for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the amount applicable to the facility having the greatest financial responsibility requirement under this subsection.

“(E) GUARANTEE METHOD.—Except with respect of financial responsibility established by the guarantee method, subsection (f) shall not apply with respect to this subsection.”.

SEC. 419. MANNING AND WATCH REQUIREMENTS ON TOWING VESSELS ON THE GREAT LAKES.

(a) Section 8104(c) of title 46, United States Code, is amended—

(1) by striking “or permitted”; and

(2) by inserting after “day” the following: “or permitted to work more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period”.

(b) Section 8104(e) of title 46, United States Code, is amended by striking “subsections (c) and (d)” and inserting “subsection (d)”.

(c) Section 8104(g) of title 46, United States Code, is amended by striking “(except a vessel to which subsection (c) of this section applies)”.

SEC. 420. LIMITATION ON APPLICATION OF CERTAIN LAWS TO LAKE TEXOMA.

(a) LIMITATION.—The laws administered by the Coast Guard relating to documentation or inspection of vessels or licensing or documentation of vessel operators do not apply to any small passenger vessel operating on Lake Texoma.

(b) DEFINITIONS.—In this section:

(1) The term “Lake Texoma” means the impoundment by that name on the Red River, located on the border between Oklahoma and Texas.

(2) The term “small passenger vessel” has the meaning given that term in section 2101 of title 46, United States Code.

TITLE V—COAST GUARD REGULATORY REFORM

SEC. 501. SHORT TITLE.

This title may be cited as the “Coast Guard Regulatory Reform Act of 1995”.

SEC. 502. SAFETY MANAGEMENT.

(a) MANAGEMENT OF VESSELS.—Title 46, United States Code, is amended by adding after chapter 31 the following new chapter:

“CHAPTER 32—MANAGEMENT OF VESSELS

“Sec.

“3201. Definitions.

“3202. Application.

“3203. Safety management system.

“3204. Implementation of safety management system.

“3205. Certification.

“§ 3201. Definitions

“In this chapter—

“(1) ‘International Safety Management Code’ has the same meaning given that term in chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974;

“(2) ‘responsible person’ means—

“(A) the owner of a vessel to which this chapter applies; or

“(B) any other person that has—

“(i) assumed the responsibility for operation of a vessel to which this chapter applies from the owner; and

“(ii) agreed to assume with respect to the vessel responsibility for complying with all the requirements of this chapter and the regulations prescribed under this chapter;

“(3) ‘vessel engaged on a foreign voyage’ means a vessel to which this chapter applies—

“(A) arriving at a place under the jurisdiction of the United States from a place in a foreign country;

“(B) making a voyage between places outside the United States; or

“(C) departing from a place under the jurisdiction of the United States for a place in a foreign country.

“§ 3202. Application

“(a) MANDATORY APPLICATION.—This chapter applies to the following vessels engaged on a foreign voyage:

“(1) Beginning July 1, 1998—

“(A) a vessel transporting more than 12 passengers described in section 2101(21)(A) of this title; and

“(B) a tanker, bulk freight vessel, or high-speed freight vessel, of at least 500 gross tons.

“(2) Beginning July 1, 2002, a freight vessel and a mobile offshore drilling unit of at least 500 gross tons.

“(b) VOLUNTARY APPLICATION.—This chapter applies to a vessel not described in subsection (a) of this section if the owner of the vessel requests the Secretary to apply this chapter to the vessel.

“(c) EXCEPTION.—Except as provided in subsection (b) of this section, this chapter does not apply to—

“(1) a barge;

“(2) a recreational vessel not engaged in commercial service;

“(3) a fishing vessel;

“(4) a vessel operating on the Great Lakes or its tributary and connecting waters; or

“(5) a public vessel.

“§ 3203. Safety management system

“(a) IN GENERAL.—The Secretary shall prescribe regulations which establish a safety management system for responsible persons and vessels to which this chapter applies, including—

“(1) a safety and environmental protection policy;

“(2) instructions and procedures to ensure safe operation of those vessels and protection of the environment in compliance with international and United States law;

“(3) defined levels of authority and lines of communications between, and among, personnel on shore and on the vessel;

“(4) procedures for reporting accidents and nonconformities with this chapter;

“(5) procedures for preparing for and responding to emergency situations; and

“(6) procedures for internal audits and management reviews of the system.

“(b) COMPLIANCE WITH CODE.—Regulations prescribed under this section shall be consistent with the International Safety Management Code with respect to vessels engaged on a foreign voyage.

“§ 3204. Implementation of safety management system

“(a) SAFETY MANAGEMENT PLAN.—Each responsible person shall establish and submit to the Secretary for approval a safety management plan describing how that person and vessels of the person to which this chapter applies will comply with the regulations prescribed under section 3203(a) of this title.

“(b) APPROVAL.—Upon receipt of a safety management plan submitted under subsection (a), the Secretary shall review the plan and approve it if the Secretary determines that it is consistent with and will assist in implementing the safety management system established under section 3203.

“(c) PROHIBITION ON VESSEL OPERATION.—A vessel to which this chapter applies under section 3202(a) may not be operated without having on board a Safety Management Certificate and a copy of a Document of Compliance issued for the vessel under section 3205 of this title.

“§ 3205. Certification

“(a) ISSUANCE OF CERTIFICATE AND DOCUMENT.—After verifying that the responsible person for a vessel to which this chapter applies and the vessel comply with the applicable requirements under this chapter, the Secretary shall issue for the vessel, on request of the responsible person, a Safety Management Certificate and a Document of Compliance.

“(b) MAINTENANCE OF CERTIFICATE AND DOCUMENT.—A Safety Management Certificate and a Document of Compliance issued for a vessel under this section shall be maintained by the responsible person for the vessel as required by the Secretary.

“(c) VERIFICATION OF COMPLIANCE.—The Secretary shall—

“(1) periodically review whether a responsible person having a safety management plan approved under section 3204(b) and each vessel to which the plan applies is complying with the plan; and

“(2) revoke the Secretary’s approval of the plan and each Safety Management Certificate and Document of Compliance issued to the person for a vessel to which the plan applies, if the Secretary determines that the person or a vessel to which the plan applies has not complied with the plan.

“(d) ENFORCEMENT.—At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) of a vessel that is subject to this chapter under section 3202(a) of this title or to the International Safety Management Code, if the vessel does not have on board a Safety Management Certificate and a copy of a Document of Compliance for the vessel. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.”.

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of subtitle II of title 46, United States Code, is amended by inserting after the item relating to chapter 31 the following:

“32. Management of vessels 3201”.

(c) STUDY.—

(1) STUDY.—The Secretary of Transportation shall conduct, in cooperation with the owners, charterers, and managing operators of vessels documented under chapter 121 of title 46, United States Code, and other interested persons, a study of the methods that may be used to implement and enforce the International Management Code for the Safe Operation of Ships and for Pollution Prevention under chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974.

(2) REPORT.—The Secretary shall submit to the Congress a report of the results of the study required under paragraph (1) before the earlier of—

- (A) the date that final regulations are prescribed under section 3203 of title 46, United States Code (as enacted by subsection (a)); or
- (B) the date that is 1 year after the date of enactment of this Act.

SEC. 503. USE OF REPORTS, DOCUMENTS, RECORDS, AND EXAMINATIONS OF OTHER PERSONS.

(a) REPORTS, DOCUMENTS, AND RECORDS.—Chapter 31 of title 46, United States Code, is amended by adding the following new section:

“§ 3103. Use of reports, documents, and records

“The Secretary may rely, as evidence of compliance with this subtitle, on—

“(1) reports, documents, and records of other persons who have been determined by the Secretary to be reliable; and

“(2) other methods the Secretary has determined to be reliable.”.

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

“3103. Use of reports, documents, and records.”.

(c) EXAMINATIONS.—Section 3308 of title 46, United States Code, is amended by inserting “or have examined” after “examine”.

SEC. 504. EQUIPMENT APPROVAL.

(a) IN GENERAL.—Section 3306(b) of title 46, United States Code, is amended to read as follows:

“(b)(1) Equipment and material subject to regulation under this section may not be used on any vessel without prior approval of the Secretary.

“(2) Except with respect to use on a public vessel, the Secretary may treat an approval of equipment or materials by a foreign government as approval by the Secretary for purposes of paragraph (1) if the Secretary determines that—

“(A) the design standards and testing procedures used by that government meet the requirements of the International Convention for the Safety of Life at Sea, 1974;

“(B) the approval of the equipment or material by the foreign government will secure the safety of individuals and property on board vessels subject to inspection; and

“(C) for lifesaving equipment, the foreign government—

“(i) has given equivalent treatment to approvals of lifesaving equipment by the Secretary; and

“(ii) otherwise ensures that lifesaving equipment approved by the Secretary may be used on vessels that are documented and subject to inspection under the laws of that country.”.

(b) FOREIGN APPROVALS.—The Secretary of Transportation, in consultation with other interested Federal agencies, shall work with foreign governments to have those governments approve the use of the same equipment and materials on vessels documented under the laws of those countries that the Secretary requires on United States documented vessels.

(c) TECHNICAL AMENDMENT.—Section 3306(a)(4) of title 46, United States Code, is amended by striking “clauses (1)–(3)” and inserting “paragraphs (1), (2), and (3)”.

SEC. 505. FREQUENCY OF INSPECTION.

(a) FREQUENCY OF INSPECTION, GENERALLY.—Section 3307 of title 46, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking “nautical school vessel” and inserting “, nautical school vessel, and small passenger vessel allowed to carry more than 12 passengers on a foreign voyage”; and

(B) by adding “and” after the semicolon at the end;

(2) by striking paragraph (2) and redesignating paragraph (3) as paragraph (2); and

(3) in paragraph (2) (as so redesignated), by striking “2 years” and inserting “5 years”.

(b) CONFORMING AMENDMENT.—Section 3710(b) of title 46, United States Code, is amended by striking “24 months” and inserting “5 years”.

SEC. 506. CERTIFICATE OF INSPECTION.

Section 3309(c) of title 46, United States Code, is amended by striking “(but not more than 60 days)”.

SEC. 507. DELEGATION OF AUTHORITY OF SECRETARY TO CLASSIFICATION SOCIETIES.

(a) AUTHORITY TO DELEGATE.—Section 3316 of title 46, United States Code, is amended—

(1) by striking subsections (a) and (d);

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

(3) in subsection (b), as so redesignated, by—

(A) redesignating paragraph (2) as paragraph (3); and

(B) striking so much of the subsection as precedes paragraph (3), as so redesignated, and inserting the following:

“(b)(1) The Secretary may delegate to the American Bureau of Shipping or another classification society recognized by the Secretary as meeting acceptable standards for such a society, for a vessel documented or to be documented under chapter 121 of this title, the authority to—

“(A) review and approve plans required for issuing a certificate of inspection required by this part;

“(B) conduct inspections and examinations; and

“(C) issue a certificate of inspection required by this part and other related documents.

“(2) The Secretary may make a delegation under paragraph (1) to a foreign classification society only—

“(A) to the extent that the government of the foreign country in which the society is headquartered delegates authority and provides access to the American Bureau of Shipping to inspect, certify, and provide related services to vessels documented in that country; and

“(B) if the foreign classification society has offices and maintains records in the United States.”.

(b) CONFORMING AMENDMENTS.—

(1) The heading for section 3316 of title 46, United States Code, is amended to read as follows:

“§ 3316. Classification societies”.

(2) The table of sections for chapter 33 of title 46, United States Code, is amended by striking the item relating to section 3316 and inserting the following:

“3316. Classification societies.”.

TITLE VI—DOCUMENTATION OF VESSELS

SEC. 601. AUTHORITY TO ISSUE COASTWISE ENDORSEMENTS.

Section 12106 of title 46, United States Code, is further amended by adding at the end the following new subsection:

“(g) A coastwise endorsement may be issued for a vessel that—

- “(1) is less than 200 gross tons;
- “(2) is eligible for documentation;
- “(3) was built in the United States; and
- “(4) was—
 - “(A) sold foreign in whole or in part; or
 - “(B) placed under foreign registry.”.

SEC. 602. VESSEL DOCUMENTATION FOR CHARITY CRUISES.

(a) AUTHORITY TO DOCUMENT VESSELS.—

(1) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, and subject to paragraph (2), the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for each of the following vessels:

(A) GALLANT LADY (Feadship hull number 645, approximately 130 feet in length).

(B) GALLANT LADY (Feadship hull number 651, approximately 172 feet in length).

(2) LIMITATION ON OPERATION.—Coastwise trade authorized under a certificate of documentation issued for a vessel under this section shall be limited to carriage of passengers in association with contributions to charitable organizations no portion of which is received, directly or indirectly, by the owner of the vessel.

(3) CONDITION.—The Secretary may not issue any certificate of documentation under paragraph (1) unless the owner of the vessel referred to in paragraph (1)(A) (in this section referred to as the “owner”), within 90 days after the date of the enactment of this Act, submits to the Secretary a letter expressing the intent of the owner to enter into a contract before October 1, 1996, for construction in the United States of a passenger vessel of at least 130 feet in length.

(4) EFFECTIVE DATE OF CERTIFICATES.—A certificate of documentation issued under paragraph (1)—

(A) for the vessel referred to in paragraph (1)(A), shall take effect on the date of issuance of the certificate; and

(B) for the vessel referred to in paragraph (1)(B), shall take effect on the date of delivery of the vessel to the owner.

(b) TERMINATION OF EFFECTIVENESS OF CERTIFICATES.—A certificate of documentation issued for a vessel under section (a)(1) shall expire—

- (1) on the date of the sale of the vessel by the owner;
- (2) on October 1, 1996, if the owner has not entered into a contract for construction of a vessel in accordance with the letter of intent submitted to the Secretary under subsection (a)(3); and
- (3) on any date on which such a contract is breached, rescinded, or terminated (other than for completion of performance of the contract) by the owner.

SEC. 603. EXTENSION OF DEADLINE FOR CONVERSION OF VESSEL M/V TWIN DRILL.

Section 601(d) of Public Law 103–206 (107 Stat. 2445) is amended—
 (1) in paragraph (3), by striking “1995” and inserting “1996”; and
 (2) in paragraph (4), by striking “12” and inserting “24”.

SEC. 604. DOCUMENTATION OF VESSEL RAINBOW'S END.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and sections 12106, 12107, and 12108 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsements for employment in the coastwise trade, Great Lakes trade, and the fisheries for the vessel RAINBOW'S END (official number 1026899; hull identification number MY13708C787).

SEC. 605. DOCUMENTATION OF VESSEL GLEAM.

Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade for the vessel GLEAM (United States official number 921594).

SEC. 606. DOCUMENTATION OF VARIOUS VESSELS.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), the Act of May 28, 1906 (46 App. U.S.C. 292), and sections 12106, 12107, and 12108 of title 46, United States Code, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation with appropriate endorsements for each of the vessels listed in subsection (b).

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

- (1) ANNAPOLIS (United States official number 999008).
- (2) CHESAPEAKE (United States official number 999010).
- (3) CONSORT (United States official number 999005).
- (4) CURTIS BAY (United States official number 999007).
- (5) HAMPTON ROADS (United States official number 999009).
- (6) JAMESTOWN (United States official number 999006).

SEC. 607. DOCUMENTATION OF 4 BARGES.

(a) IN GENERAL.—Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), section 1 of the Act of May 28, 1906 (46 App. U.S.C. 292), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with appropriate endorsements for each of the vessels listed in subsection (b).

(b) VESSELS DESCRIBED.—The vessels referred to in subsection (a) are 4 barges owned by McLean Contracting Company (a corporation organized under the laws of the State of Maryland) and numbered by that company as follows:

- (1) Barge 76 (official number 1030612).
- (2) Barge 77 (official number 1030613).
- (3) Barge 78 (official number 1030614).
- (4) Barge 100 (official number 1030615).

TITLE VII—TECHNICAL AND CONFORMING AMENDMENTS

SEC. 701. AMENDMENT OF INLAND NAVIGATION RULES.

Section 2 of the Inland Navigational Rules Act of 1980 is amended—

(1) by amending Rule 9(e)(i) (33 U.S.C. 2009(e)(i)) to read as follows:

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

(2) in Rule 15(b) (33 U.S.C. 2015(b)) by inserting “power-driven” after “Secretary, a”;

(3) in Rule 23(a)(i) (33 U.S.C. 2023(a)(i)) after “masthead light forward”; by striking “except that a vessel of less than 20 meters in length need not exhibit

this light forward of amidships but shall exhibit it as far forward as is practicable.”;

(4) by amending Rule 24(f) (33 U.S.C. 2024(f)) to read as follows:

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

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

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

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

(5) in Rule 26 (33 U.S.C. 2026)—

(A) in each of subsections (b)(i) and (c)(i) by striking “a vessel of less than 20 meters in length may instead of this shape exhibit a basket.”; and

(B) by amending subsection (d) to read as follows:

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

(6) by amending Rule 34(h) (33 U.S.C. 2034) to read as follows:

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

SEC. 702. MEASUREMENT OF VESSELS.

Section 14104 of title 46, United States Code, is amended by redesignating the existing text after the section heading as subsection (a) and by adding at the end the following new subsection:

“(b) If a statute allows for an alternate tonnage to be prescribed under this section, the Secretary may prescribe it by regulation. The alternate tonnage shall, to the maximum extent possible, be equivalent to the statutorily established tonnage. Until an alternate tonnage is prescribed, the statutorily established tonnage shall apply to vessels measured under chapter 143 or chapter 145 of this title.”.

SEC. 703. LONGSHORE AND HARBOR WORKERS COMPENSATION.

Section 3(d)(3)(B) of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 903(d)(3)(B)) is amended by inserting after “1,600 tons gross” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 704. RADIOTELEPHONE REQUIREMENTS.

Section 4(a)(2) of the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1203(a)(2)) is amended by inserting after “one hundred gross tons” the following “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title.”.

SEC. 705. VESSEL OPERATING REQUIREMENTS.

Section 4(a)(3) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)(3)) is amended by inserting after “300 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 706. MERCHANT MARINE ACT, 1920.

Section 27A of the Merchant Marine Act, 1920 (46 U.S.C. App. 883–1), is amended by inserting after “five hundred gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title.”.

SEC. 707. MERCHANT MARINE ACT, 1956.

Section 2 of the Act of June 14, 1956 (46 U.S.C. App. 883a), is amended by inserting after “five hundred gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 708. MARITIME EDUCATION AND TRAINING.

Section 1302(4)(A) of Merchant Marine Act, 1936 (46 U.S.C. App. 1295a(4)(a)) is amended by inserting after "1,000 gross tons or more" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 709. GENERAL DEFINITIONS.

Section 2101 of title 46, United States Code, is amended—

(1) in paragraph (13), by inserting after "15 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in paragraph (13a), by inserting after "3,500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in paragraph (19), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(4) in paragraph (22), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(5) in paragraph (30)(A), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(6) in paragraph (32), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(7) in paragraph (33), by inserting after "300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(8) in paragraph (35), by inserting after "100 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(9) in paragraph (42), by inserting after "100 gross tons" each place it appears, the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 710. AUTHORITY TO EXEMPT CERTAIN VESSELS.

Section 2113 of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after "at least 100 gross tons but less than 300 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title"; and

(2) in paragraph (5), by inserting after "at least 100 gross tons but less than 500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title".

SEC. 711. INSPECTION OF VESSELS.

Section 3302 of title 46, United States Code, is amended—

(1) in subsection (c)(1), by inserting after "5,000 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(2) in subsection (c)(2), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title";

(3) in subsection (c)(3), by inserting after "500 gross tons" the following: "as measured under section 14502 of title 46, United States Code, or an alternate

tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(4) in subsection (c)(4)(A), by inserting after “500 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(5) in subsection (d)(1), by inserting after “150 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(6) in subsection (i)(1)(A), by inserting after “300 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”; and

(7) in subsection (j), by inserting after “15 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 712. REGULATIONS.

Section 3306 of title 46, United States Code, is amended—

(1) in subsection (h), by inserting after “at least 100 gross tons but less than 300 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”; and

(2) in subsection (i), by inserting after “at least 100 gross tons but less than 500 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 713. PENALTIES—INSPECTION OF VESSELS.

Section 3318 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after “100 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”; and

(2) in subsection (j)(1), by inserting after “1,600 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 714. APPLICATION—TANK VESSELS.

Section 3702 of title 46, United States Code, is amended—

(1) in subsection (b)(1), by inserting after “500 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(2) in subsection (c), by inserting after “500 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”; and

(3) in subsection (d), by inserting after “5,000 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 715. TANK VESSEL CONSTRUCTION STANDARDS.

Section 3703a of title 46, United States Code, is amended—

(1) in subsection (b)(2), by inserting after “5,000 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(2) in subsection (c)(2), by inserting after “5,000 gross tons” each place it appears the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(3) in subsection (c)(3)(A), by inserting after “15,000 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alter-

nate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(4) in subsection (c)(3)(B), by inserting after “30,000 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”; and

(5) in subsection (c)(3)(C), by inserting after “30,000 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 716. TANKER MINIMUM STANDARDS.

Section 3707 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after “10,000 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”; and

(2) in subsection (b), by inserting after “10,000 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 717. SELF-PROPELLED TANK VESSEL MINIMUM STANDARDS.

Section 3708 of title 46, United States Code, is amended by inserting after “10,000 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 718. DEFINITION—ABANDONMENT OF BARGES.

Section 4701(1) of title 46, United States Code, is amended by inserting after “100 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 719. APPLICATION—LOAD LINES.

Section 5102(b) of title 46, United States Code, is amended—

(1) in paragraph (4), by inserting after “5,000 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(2) in paragraph (5), by inserting after “500 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”; and

(3) in paragraph (10), by inserting after “150 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 720. LICENSING OF INDIVIDUALS.

Section 7101(e)(3) of title 46, United States Code, is amended by inserting after “1,600 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 721. ABLE SEAMEN—LIMITED.

Section 7308 of title 46, United States Code, is amended by inserting after “100 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 722. ABLE SEAMEN—OFFSHORE SUPPLY VESSELS.

Section 7310 of title 46, United States Code, is amended by inserting after “500 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 723. SCALE OF EMPLOYMENT—ABLE SEAMEN.

Section 7312 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after “1,600 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate

tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(2) in subsection (c)(1), by inserting after “500 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(3) in subsection (d), by inserting after “500 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(4) in subsection (f)(1), by inserting after “5,000 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”; and

(5) in subsection (f)(2), by inserting after “5,000 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 724. GENERAL REQUIREMENTS—ENGINE DEPARTMENT.

Section 7313(a) of title 46, United States Code, is amended by inserting after “100 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 725. COMPLEMENT OF INSPECTED VESSELS.

Section 8101(h) of title 46, United States Code, is amended by inserting after “100 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 726. WATCHMEN.

Section 8102(b) of title 46, United States Code, is amended by inserting after “100 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 727. CITIZENSHIP AND NAVAL RESERVE REQUIREMENTS.

Section 8103(b)(3)(A) of title 46, United States Code, is amended by inserting after “1,600 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 728. WATCHES.

Section 8104 of title 46, United States Code, is amended—

(1) in subsection (b), by inserting after “100 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(2) in subsection (d), by inserting after “100 gross tons” and after “5,000 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(3) in subsection (l)(1), by inserting after “1,600 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(4) in subsection (m)(1), by inserting after “1,600 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(5) in subsection (o)(1), by inserting after “500 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”; and

(6) in subsection (o)(2), by inserting after “500 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 729. MINIMUM NUMBER OF LICENSED INDIVIDUALS.

Section 8301 of title 46, United States Code, is amended—

(1) in subsection (a)(2), by inserting after “1,000 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(2) in subsection (a)(3), by inserting after “at least 200 gross tons but less than 1,000 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(3) in subsection (a)(4), by inserting after “at least 100 gross tons but less than 200 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”;

(4) in subsection (a)(5), by inserting after “300 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”; and

(5) in subsection (b), by inserting after “200 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 730. OFFICERS' COMPETENCY CERTIFICATES CONVENTION.

Section 8304(b)(4) of title 46, United States Code, is amended by inserting after “200 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 731. MERCHANT MARINERS' DOCUMENTS REQUIRED.

Section 8701 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after “100 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”; and

(2) in subsection (a)(6), by inserting after “1,600 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 732. CERTAIN CREW REQUIREMENTS.

Section 8702 of title 46, United States Code, is amended—

(1) in subsection (a), by inserting after “100 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”; and

(2) in subsection (a)(6), by inserting after “1,600 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 733. FREIGHT VESSELS.

Section 8901 of title 46, United States Code, is amended by inserting after “100 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 734. EXEMPTIONS.

Section 8905(b) of title 46, United States Code, is amended by inserting after “200 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 735. UNITED STATES REGISTERED PILOT SERVICE.

Section 9303(a)(2) of title 46, United States Code, is amended by inserting after “4,000 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 736. DEFINITIONS—MERCHANT SEAMEN PROTECTION.

Section 10101(4)(B) of title 46, United States Code, is amended by inserting after “1,600 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 737. APPLICATION—FOREIGN AND INTERCOASTAL VOYAGES.

Section 10301(a)(2) of title 46, United States Code, is amended by inserting after “75 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 738. APPLICATION—COASTWISE VOYAGES.

Section 10501(a) of title 46, United States Code, is amended by inserting after “50 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 739. FISHING AGREEMENTS.

Section 10601(a)(1) of title 46, United States Code, is amended by inserting after “20 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 740. ACCOMMODATIONS FOR SEAMEN.

Section 11101(a) of title 46, United States Code, is amended by inserting after “100 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 741. MEDICINE CHESTS.

Section 11102(a) of title 46, United States Code, is amended by inserting after “75 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 742. LOGBOOK AND ENTRY REQUIREMENTS.

Section 11301(a)(2) of title 46, United States Code, is amended by inserting after “100 gross tons” the following: “as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 743. COASTWISE ENDORSEMENTS.

Section 12106(c)(1) of title 46, United States Code, is amended by striking “two hundred gross tons” and inserting “200 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 744. FISHERY ENDORSEMENTS.

Section 12108(c)(1) of title 46, United States Code, is amended by striking “two hundred gross tons” and inserting “200 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title”.

SEC. 745. CLERICAL AMENDMENT.

Chapter 121 of title 46, United States Code, is amended—

(1) by striking the first section 12123; and

(2) in the table of sections at the beginning of the chapter by striking the first item relating to section 12123.

SEC. 746. REPEAL OF GREAT LAKES ENDORSEMENTS.

(a) REPEAL.—Section 12107 of title 46, United States Code, is repealed.

(b) CONFORMING AMENDMENTS.—

(1) The analysis at the beginning of chapter 121 of title 46, United States Code, is amended by striking the item relating to section 12107.

(2) Section 12101(b)(3) of title 46, United States Code, is repealed.

(3) Section 4370(a) of the Revised Statutes of the United States (46 App. U.S.C. 316(a)) is amended by striking “or 12107”.

(4) Section 2793 of the Revised Statutes of the United States (46 App. U.S.C. 111, 123) is amended—

(A) by striking “coastwise, Great Lakes endorsement” and all that follows through “foreign ports,” and inserting “registry endorsement, engaged in

foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada.”; and

(B) by striking “, as if from or to foreign ports”.

SEC. 747. CONVENTION TONNAGE FOR LICENSES, CERTIFICATES, AND DOCUMENTS.

(a) **AUTHORITY TO USE CONVENTION TONNAGE.**—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

“§ 7506. Convention tonnage for licenses, certificates, and documents

“Notwithstanding any provision of section 14302(c) or 14305 of this title, the Secretary may—

“(1) evaluate the service of an individual who is applying for a license, a certificate of registry, or a merchant mariner’s document by using the tonnage as measured under chapter 143 of this title for the vessels on which that service was acquired, and

“(2) issue the license, certificate, or document based on that service.”

(b) **CLERICAL AMENDMENT.**—The analysis to chapter 75 of title 46, United States Code, is amended by adding a new item as follows:

“7506. Convention tonnage for licenses, certificates, and documents.”.

TITLE VIII—COAST GUARD AUXILIARY AMENDMENTS

SEC. 801. ADMINISTRATION OF THE COAST GUARD AUXILIARY.

(a) **IN GENERAL.**—Section 821 of title 14, United States Code, is amended to read as follows:

“§ 821. Administration of the Coast Guard Auxiliary

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

“(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section 822, at all times be deemed to be an instrumentality of the United States, for purposes of—

“(1) chapter 26 of title 28 (popularly known as the Federal Tort Claims Act);

“(2) section 2733 of title 10 (popularly known as the Military Claims Act);

“(3) the Act of March 3, 1925 (46 App. U.S.C. 781–790; popularly known as the Public Vessels Act);

“(4) the Act of March 9, 1920 (46 App. U.S.C. 741–752; popularly known as the Suits in Admiralty Act);

“(5) the Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act); and

“(6) other matters related to noncontractual civil liability.

“(c) The national board of the Auxiliary, and any Auxiliary district or region, may form a corporation under State law in accordance with policies established by the Commandant.”.

(b) **CLERICAL AMENDMENT.**—The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended by striking the item relating to section 821, and inserting the following:

“821. Administration of the Coast Guard Auxiliary.”.

SEC. 802. PURPOSE OF THE COAST GUARD AUXILIARY.

(a) **IN GENERAL.**—Section 822 of title 14, United States Code, is amended to read as follows:

“§ 822. Purpose of the Coast Guard Auxiliary

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

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended by striking the item relating to section 822 and inserting the following:

“822. Purpose of the Coast Guard Auxiliary.”.

SEC. 803. MEMBERS OF THE AUXILIARY; STATUS.

(a) IN GENERAL.—Section 823 of title 14, United States Code, is amended—

(1) in the heading by adding “, **and status**” after “**enrollments**”;

(2) by inserting “(a)” before “The Auxiliary”; and

(3) by adding at the end the following new subsections:

“(b) A member of the Coast Guard Auxiliary is not a Federal employee except for the following purposes:

“(1) Chapter 26 of title 28 (popularly known as the Federal Tort Claims Act).

“(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

“(3) The Act of March 3, 1925 (46 App. U.S.C. 781–790; popularly known as the Public Vessel Act).

“(4) The Act of March 9, 1920 (46 App. U.S.C. 741–752; popularly known as the Suits in Admiralty Act).

“(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).

“(6) Other matters related to noncontractual civil liability.

“(7) Compensation for work injuries under chapter 81 of title 5.

“(8) The resolution of claims relating to damage to or loss of personal property of the member incident to service under section 3721 of title 31 (popularly known as the Military Personnel and Civilian Employees’ Claims Act of 1964).

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

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 23 of title 14, United States Code, is amended by striking the item relating to section 823 and inserting the following:

“823. Eligibility, enrollments, and status.”.

SEC. 804. ASSIGNMENT AND PERFORMANCE OF DUTIES.

(a) TRAVEL AND SUBSISTENCE EXPENSE.—Section 830(a) of title 14, United States Code, is amended by striking “specific”.

(b) ASSIGNMENT OF GENERAL DUTIES.—Section 831 of title 14, United States Code, is amended by striking “specific” each place it appears.

(c) BENEFITS FOR INJURY OR DEATH.—Section 832 of title 14, United States Code, is amended by striking “specific” each place it appears.

SEC. 805. COOPERATION WITH OTHER AGENCIES, STATES, TERRITORIES, AND POLITICAL SUBDIVISIONS.

(a) IN GENERAL.—Section 141 of title 14, United States Code, is amended—

(1) by striking the section heading and inserting the following:

“§ 141. Cooperation with other agencies, States, territories, and political subdivisions”;

(2) in the first sentence of subsection (a), by inserting after “personnel and facilities” the following: “(including members of the Auxiliary and facilities governed under chapter 23)”; and

(3) by adding at the end of subsection (a) the following new sentence: “The Commandant may prescribe conditions, including reimbursement, under which personnel and facilities may be provided under this subsection.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 7 of title 14, United States Code, is amended by striking the item relating to section 141 and inserting the following:

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

SEC. 806. VESSEL DEEMED PUBLIC VESSEL.

Section 827 of title 14, United States Code, is amended to read as follows:

“§ 827. Vessel deemed public vessel

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

within the meaning of sections 646 and 647 of this title and other applicable provisions of law.”.

SEC. 807. AIRCRAFT DEEMED PUBLIC AIRCRAFT.

Section 828 of title 14, United States Code, is amended to read as follows:

“§ 828. Aircraft deemed public aircraft

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

SEC. 808. DISPOSAL OF CERTAIN MATERIAL.

Section 641(a) of title 14, United States Code, is amended—

- (1) by inserting after “with or without charge,” the following: “to the Coast Guard Auxiliary, including any incorporated unit thereof.”; and
- (2) by striking “to any incorporated unit of the Coast Guard Auxiliary.”.

PURPOSE OF THE BILL

The primary purpose of H.R. 1361 is to authorize funds for the United States Coast Guard for fiscal year 1996. Funding is authorized for the following accounts within the Coast Guard’s budget: Operations and Maintenance; Acquisition, Construction and Improvements; Research and Development; Retired Pay; Alteration of Bridges; and Environmental Compliance.

H.R. 1361 also:

Sets end-of-year strength levels for active duty military personnel and establishes military training levels;

Requires the Secretary of Transportation to submit to Congress quarterly reports on Coast Guard drug interdiction expenditures;

Prohibits the closure of Coast Guard multimission small boat stations unless the Secretary of Transportation determines that maritime safety will not be diminished by the closures;

Provides financial relief to Coast Guard families affected by Hurricane Andrew;

Excludes certain reservists from end-of-year strength levels;

Authorizes the Coast Guard to provide child development services for Coast Guard employees;

Authorizes the Commandant of the Coast Guard to require that Coast Guard military personnel have their National Driver Register records furnished directly to the Commandant;

Allows Coast Guard officers with at least 18 years of service, and who have been passed over for promotion twice, to continue on active duty until they are eligible for retirement after 20 years of service;

Authorizes the Coast Guard to charge for the full cost of inspecting foreign passenger vessels;

Designates the siphon adjacent to the Florida Avenue Bridge in Orleans Parish, Louisiana, as an appurtenance under the Truman-Hobbs Act;

Establishes a termination date of October 1, 2000, for the Houston-Galveston Navigation Safety Advisory Committee, the Lower Mississippi River Waterway Advisory Committee, the Navigation Safety Advisory Council, and the Commercial Fishing Industry Vessel Advisory Committee;

Exempts any information regarding passenger vessel or terminal security plans, established by the Coast Guard, from the public disclosure requirements of any law;

Provides for a civil penalty of not more than \$1,000 per day for marine employers who violate the Coast Guard's drug and alcohol testing regulations;

Authorizes the Secretary of the Treasury, at the request of the Secretary of Transportation, to refuse or revoke a vessel's clearance when that vessel is liable for a penalty under laws related to navigation safety;

Increases the civil penalty from \$1,000 to not more than \$25,000 for failing to report a marine casualty, and increases the civil penalty for failing to operate certain vessels without a licensed operator from \$1,000 to not more than \$25,000;

Requires Emergency Position Indicating Radio Beacons (EPIRBs) on uninspected commercial fishing industry vessels operating more than three miles from the coastline of the Great Lakes;

Transfers approximately 27.10 acres of excess property, located in Traverse City, Michigan, from the Coast Guard to the Traverse City Area Public School District;

Transfers $\frac{3}{4}$ of an acre of excess property in Ketchikan, Alaska, from the Coast Guard to the Ketchikan Indian Corporation;

Allows the public to file a bill of sale, conveyance, mortgage, assignment, or related instrument with the Coast Guard electronically;

Mandates that action be completed on applications for correction of military records received by the Board for Corrections of Military Records of the Coast Guard within 10 months;

Conforms the requirements for a judicial sale of documented fishing and recreational vessels to the requirements for the sale of vessels under section 808 of title 46, United States Code;

Exempts the Coast Guard from current Federal excess property disposal requirements for small sales of recyclable materials;

Requires the Coast Guard to submit a report to Congress on its efforts to recruit women and minorities;

Prohibits a state from regulating gambling in international waters during the intrastate segment of a voyage that begins or ends in the same state or U.S. possession and is part of a voyage to another state or country;

Eliminates restrictions on persons that may be a mortgagee for a U.S.-flag vessel and eliminates citizenship requirements for leasing companies;

Expresses the sense of Congress that, to the greatest extent practicable, all equipment and products purchased by the Coast Guard should be American-made;

Requires the Secretary of Transportation to establish special Coast Guard selection boards;

Allows marine lenders to use methods other than pursuing their rights in the Federal Courts when they foreclose loans secured by federally mortgaged vessels;

Requires the Coast Guard and other Federal agencies to differentiate in their regulations between the transportation of vegetable oils and petroleum oils, and lowers the amount of financial responsibility requirements for vessels carrying only animal fats or vegetable oils;

Limits the use of Coast Guard marine casualty investigation reports as evidence in civil, administrative, and state criminal proceedings;

Requires the Secretary of Transportation to submit a report to Congress on the future use and funding for operations, maintenance, and upgrades of the LORAN-C radionavigation system;

Deems those double-hulled vessels delivered before August 12, 1992, to be in compliance with the double-hull requirement of the Oil Pollution Act of 1990 (OPA 90), and exempts barges of less than 2,000 gross tons that are primarily used to carry deck cargo and bulk fuel to Alaska Native villages from the double-hull requirement;

Defines an oil spill response vessel (OSRV) as a vessel used to respond to a discharge of oil or a hazardous substance, and specifically exempts an OSRV from the tank vessel definition in OPA 90;

Exempts marinas from the requirement under OPE 90 to obtain \$150 million in financial responsibility; lowers the financial responsibility requirement for offshore oil facilities to the "pre-OPA 90" level of \$35 million, with Presidential authority to raise the requirement back to \$150 million based on a risk assessment; establishes a 1,000 barrel production exception to the financial responsibility requirement for offshore oil facilities; and discontinues the requirement that financial responsibility providers for offshore facility operators also be guarantors under OPE 90;

Conforms the manning requirements for Great Lakes towing vessels to the requirements for towing vessels operating in other parts of the country, and allows crewmen to work in both the deck and engine departments of a Great Lakes vessel;

Exempts any small passenger vessel operating on Lake Texoma, located on the Texas-Oklahoma border, from Federal laws relating to the documentation on inspection of vessels or licensing or documentation of vessel operators;

Authorizes the Coast Guard: to implement the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code) adopted in chapter IX of the International Convention for the Safety of Life at Sea (SOLAS); to rely on reports and documents of third parties to carry out its responsibilities and to allow model companies to conduct self-inspections of their vessels; to approve equipment and material for use on U.S. vessels that certain foreign governments, consistent with SOLAS standards, have approved; to issue a certificate of inspection for five (versus two) years' duration, in accordance with international standards; and to allow recognized foreign classification societies to conduct inspections and examinations;

Allows a vessel to obtain a certificate of documentation with a coastwise endorsement if it is less than 200 gross tons (as measured under the International Tonnage Convention), is eligible for documentation, was built in the United States, and was sold to a foreign individual or placed under a foreign registry;

Authorizes the Secretary of Transportation to issue a limited authorization to engage in the coastwise trade to the 130-foot *Gallant Lady*;

Extends the deadline for the conversion of the vessel M/V *Twin Drill* until June 30, 1996, and allows the vessel to engage in the coastwise trade;

Authorizes the Secretary of Transportation to issue certificates of documentation with coastwise endorsements for the vessel *Rainbow's End* and the vessel *Gleam* to engage in the coastwise trade;

Authorizes the Secretary of Transportation to issue certificates of documentation with coastwise endorsements for the vessels *Annapolis*, *Chesapeake*, *Consort*, *Curtis Bay*, *Hampton Roads*, *Jamestown*, and for four additional barges to be used in dredging operations;

Amends the Inland Navigational Rules, as recommended by the Navigation Safety Advisory Council, to clarify ambiguities in the practical applications of the Rules of the Road on the inland waterways;

Allows the Secretary of Transportation to establish alternate International Tonnage Convention (ITC) tonnage thresholds under statutes that contain tonnage limitations for application of vessel regulatory requirements;

Permits U.S.-flag vessels to trade between the United States and Canada with a certificate of documentation with a registry endorsement;

Allows the Secretary of Transportation to issue a merchant mariner's license, certificate, or document, based on an equivalent International Tonnage Convention tonnage measurement;

Defines the legal status of the Coast Guard Auxiliary, and designates the Auxiliary as an "instrumentality of the United States";

Provides flexibility for the activities of the Auxiliary as a voluntary support organization of the Coast Guard;

Clarifies the status of individual members of the Coast Guard Auxiliary, and affords an Auxiliarist, while acting within the scope of official duties, the same degree of protection from legal liability as is provided to Coast Guard personnel;

Allows the Auxiliary to assist states in non-traditional uses of the Auxiliary;

Clarifies that Auxiliary vessels and planes, while on authorized Coast Guard duty, constitute property of the United States for purposes of resolving claims for damage; and

Allows the Auxiliary to acquire property through a corporation formed for purposes of acquiring, owning, and disposing of property.

BACKGROUND AND NEED FOR LEGISLATION

The United States Coast Guard, established in 1915 as part of the Department of the Treasury, is responsible for performing Federal functions that trace their beginnings back to the founding of this country. The Coast Guard assumed the duties of five previously established agencies; the Lighthouse Service, established in 1789; the Revenue Cutter Service, established in 1790; the Steamboat Inspection Service, established in 1838; the Life-Saving Service, established in 1848; and the Bureau of Navigation, established in 1884.

The Coast Guard remained a part of the Department of Treasury until 1967, when it was transferred to the newly created Department of Transportation.

Today's Coast Guard has primary responsibility for the promotion of safety of life and property at sea; the enforcement of all applicable Federal laws on, over, and under the high seas and United States waters; the maintenance of aids to navigation, the protection of the marine environment; icebreaking activities; and the safety and security of vessels, ports, waterways, and their related facilities.

As a military service and a branch of the Armed Forces, the Coast Guard also maintains a readiness to operate as a specialized service in the Navy upon the declaration of war or when the President directs. The Coast Guard has defended our Nation in every war since 1790, including the 1990-1991 conflict in the Persian Gulf.

The Coast Guard's legal responsibilities have expanded enormously over the past 20 years. Many of the laws the Coast Guard administers are codified in subtitle II of title 46, United States Code. Beyond the broad responsibilities described above, the Coast Guard enforces the following laws:

The Anti-Drug Abuse Acts of 1986 and 1988, which expand the Coast Guard's role in waterborne and airborne marine drug interdiction.

The Maritime Drug Law Enforcement Act, which authorizes the Coast Guard to search and seize any vessel that is manufacturing, distributing, or possessing with the intent to manufacturer or distribute, any controlled substance in the United States.

The Deepwater Port Act of 1974, which directs the Coast Guard to oversee offshore oil port operation and construction.

The Port and Waterways Safety Act of 1972, which requires the Coast Guard to ensure port and merchant vessel safety.

The Port and Tanker Safety Act of 1978, which authorizes the Coast Guard to inspect foreign tankers, evaluate crew standards, and monitor offshore lightering activities in U.S. waters.

The Omnibus Diplomatic Security and Antiterrorism Act of 1986, which requires the Coast Guard to maintain and improve port, harbor, and coastal facilities security.

The Federal Boating Safety Act of 1971, which authorizes the Coast Guard to prescribe standards for the manufacture of pleasure boats and associated equipment.

The Recreational Boating Safety and Facilities Improvement Act of 1980, which established the Recreational Boating Safety and Fa-

cilities Improvement Fund, which the Coast Guard uses to promote recreational boating safety and access through a state grant program.

The Federal Water Pollution Control Act of 1972 (popularly known as the Clean Water Act), which requires the Coast Guard to regulate discharges of oil and sewage from vessels.

The Oil Pollution Act of 1990 (OPA 90), which expands the Coast Guard's authority over oil spills, and establishes a comprehensive regime for oil spill compensation, liability, response, and research and development.

The Marine Protection, Research and Sanctuaries Act of 1972, which gives the Coast Guard enforcement authority over ocean dumping and marine sanctuaries.

The Act to Prevent Pollution from Ships, which requires the Coast Guard to administer and enforce international environmental pollution agreements through vessel and port certification and inspections.

The Marine Plastic Pollution Research and Control Act of 1987, which requires the Coast Guard to enforce prohibitions on the disposal of plastic materials and other garbage at sea and to establish regulations for vessel waste management.

The Hazardous Materials Transportation Act, which requires the Coast Guard to enforce safety standards for the waterborne transportation of hazardous materials.

The Intervention on the High Seas Act, which authorizes the Coast Guard to intervene in situations involving pollution discharges on the high seas that pose a threat to the United States and its territorial waters.

The Fishery Conservation and Management Act of 1976, which assigns joint responsibility to the Coast Guard and the National Marine Fisheries Services to enforce U.S. fisheries laws within the 200-mile Exclusive Economic Zone of the United States.

The Outer Continental Shelf Lands Act Amendments of 1978, which authorizes the Coast Guard to enforce environmental and safety regulations governing oil and gas development activities on the outer Continental Shelf.

COMMITTEE ACTION

On February 14 and 15, 1995, the Subcommittee held hearings on the Clinton Administration's fiscal year 1996 budget request for the United States Coast Guard. On February 14, 1995, the Subcommittee received testimony from Admiral Robert Kramek, Commandant of the U.S. Coast Guard; Eric A. Trent, Master Chief Petty Officer, U.S. Coast Guard; and Peter W. Melera, National Commodore, U.S. Coast Guard Auxiliary.

In his testimony, Admiral Kramek explained the importance of the Coast Guard's Maritime Safety, Maritime Law Enforcement, Marine Environmental Protection, and National Security missions. Admiral Kramek also discussed the latest developments concerning the Coast Guard's implementation of the Oil Pollution Act of 1990 (Public Law 101-380).

Admiral Kramek's testimony focused on the President's fiscal year 1996 budget request for the Coast Guard. The fiscal year 1996 budget request represents the second phase in the Clinton Admin-

istration's multi-year streamlining plan for the Coast Guard. The budget request provides for over \$100 million in recurring savings and also proposes to reduce the Coast Guard workforce by nearly 750 people. The Commandant stressed the importance of the budget's Acquisition, Construction, and Improvements request of \$428 million because of the vital need to replace older Coast Guard assets with state-of-the-market equipment and efficient shore facilities. Finally, Admiral Kramek discussed the Coast Guard's plans for continued streamlining in later years. These future budget streamlining plans may include the combining of two or more of the four major Coast Guard training facilities currently in use, and the possible transferring of Coast Guard functions from Governors Island, New York, to other locations.

Master Chief Petty Officer Eric Trent, who represents the 35,000 Coast Guard reserve and active-duty enlisted personnel, discussed the increasing difficulty in retaining enlisted personnel. He testified that in order to attract and retain the brightest people, the Coast Guard needs parity with the Department of Defense in compensation and benefits. He emphasized the importance of the Coast Guard's streamlining and restructuring efforts such as the small boat unit "releveling initiative," because some enlisted personnel at these stations are working up to 90 hours per week. Finally, he discussed the problem that some enlisted personnel are having in securing adequate housing in high-cost areas.

National Commodore Peter Melera testified about vital functions performed by the 36,000 volunteers who serve in the U.S. Coast Guard Auxiliary. Commodore Melera asked the Subcommittee to support legislation to protect the Auxiliary and its members in the event of litigation that might arise out of the performance of their authorized duties. He testified that he believed that potential liability problems have resulted in a reduction in the number of Auxiliarists available to augment Coast Guard missions.

On February 15, 1995, testimony was received from Major Larry Rhinehart, President, National Association of State Boating Law Administrators (NASBLA); Gene Pentimonti, Vice President, American President Lines (APL); Darryle M. Waldron, Chairman, Association of Petroleum Industry Co-Op Managers (APICOM); Arthur J. Volkle, Jr., Associate General Counsel, Maritrans Corporation; and Sergeant Major Michael F. Ouellette, Director, Legislative Affairs, Noncommissioned Officers Association of the United States of America (NCOA).

Major Larry Rhinehart of NASBLA expressed his organization's strong support of the Coast Guard state boating safety grant program. He stated that the Boat Safety Account of the Wallop-Breaux Trust Fund is funded solely from the fuel tax boaters pay on their motorboat gasoline fuel and stressed the need for continuity in funding to allow the states to make long range plans in their boating safety programs. He further stated that H.R. 4477, which passed the House in the 103rd Congress, would provide this long range stability.

Mr. Gene Pentimonti of APL expressed his support for the Coast Guard Regulatory Reform Act of 1994, which passed the House during the 103rd Congress. He stated that this legislation will eliminate costly and unnecessary regulations and help lower the

cost of U.S.-flag shipping. He also stated that regulatory reform will encourage greater reliance on the private sector to perform certain Coast Guard responsibilities that the private sector is already performing in a competent manner.

Mr. Waldron of APICOM testified that offshore response vessels (OSRV's) should not be regulated under the same statutes that apply to oil tankers. He testified that OSRV's have no relation to oil tank vessels and a much higher safety record. As a tank vessel, OSRVs are subject to the particular requirements applicable to commercial tank vessels which include strict construction, manning, operating, and pollution prevention requirements. Mr. Waldron states that subjecting OSRV's to these tanker requirements will not contribute to safety and only reduce oil spill response capacity.

Mr. Volkle of Maritrans voiced his concerns about the Coast Guard regulation which establishes the construction standards to implement the double-hull requirement under the Oil Pollution Act of 1990 (OPA 90). These regulations treat double-hulled vessels operating on the date of enactment of OPA 90 as single-hulled vessels. Mr. Volkle testified that this approach requires the owners of these vessels to retrofit or replace their vessels under the schedule that was designed to phase out single-hulled vessels, and penalizes vessel owners who built double hulled vessels before they were required by law to do so.

Sergeant Major Michael Ouelette of NCOA discussed military pay and compensation, personnel, retiree, medical care, survivor benefits and certain Coast Guard Reserve issues. It is the position of the NCOA that Coast Guard personnel should have pay and benefit parity with the other Department of Defense military services.

On March 16, 1995, the Subcommittee on Coast Guard and Maritime Transportation met to mark up a Discussion Draft of the Coast Guard Authorization Act for Fiscal Year 1996. Much of the Discussion Draft reflects legislative proposals included at the request of the Coast Guard and the Administration. Two amendments were adopted by the Subcommittee. The first amendment was an en bloc amendment offered by Mr. Coble to make three technical and conforming changes to the Discussion Draft bill. The amendment incorporates a suggestion by the Coast Guard to clarify section 215 of the Discussion Draft relating to oil spill response vessels, corrects an omission from section 402 of the Discussion Draft and allows the Ketchikan Indian Corporation to use the property transferred under this section as a social service facility as well as a health clinic, and strikes redundant language relating to the application of section 404 of the Discussion Draft. The Coble en bloc amendment was agreed to by voice vote.

The second amendment was offered by Mr. Oberstar to authorize the Secretary of Transportation to issue a certificate of documentation with a coastwise endorsement for the vessel *Rainbow's End*. This amendment was agreed to by voice vote. Mr. Traficant offered an amendment to prevent the Coast Guard from closing any multimission small boat stations in fiscal year 1996. After a discussion, the amendment was withdrawn. The Discussion Draft bill, as amended, was ordered reported to the Full Committee by voice vote in the presence of a quorum.

The Discussion Draft bill, as amended, was introduced as H.R. 1361 by Mr. Coble on March 31, 1995, with Mr. Traficant, Mr. Shuster, and Mr. Mineta as cosponsors. The bill was referred to the Committee on Transportation and Infrastructure.

On April 5, 1995, the Full Committee met to consider H.R. 1361. Mr. Coble and Mr. Hayes offered an amendment which exempts marinas from the requirement under the Oil Pollution Act of 1990 (OPA 90) to obtain \$150 million in financial responsibility; lowers the financial responsibility requirement for offshore oil facilities to the pre-OPA 90 level of \$35 million, with Presidential authority to raise the requirement back to \$150 million based on a risk assessment; establishes a 1,000 barrel production exemption to the financial responsibility requirement for offshore oil facilities; and removes the requirement that providers of financial responsibility for offshore facilities be guarantors under OPA 90. The amendment was agreed to by a voice vote.

Mr. Traficant offered an amendment to prohibit the Secretary of Transportation from closing any Coast Guard multimission small boat station in fiscal year 1996. Mr. Coble offered a substitute amendment to the amendment offered by Mr. Traficant. The substitute amendment prohibits the closure of Coast Guard multimission small boat stations unless the Secretary of Transportation determines that maritime safety will not be diminished by the closures. Mr. Coble's substitute amendment was agreed to by a roll call vote of 30 to 23. The amendment offered by Mr. Traficant, as amended by the Coble substitute amendment, was agreed to by a voice vote.

Ms. Molinari offered an amendment to conform the manning requirements for Great Lakes towing vessels to the requirements for towing vessels operating in other parts of the country. The amendment also allows crewmen to work in both the deck and engine departments of a vessel. By unanimous consent, Ms. Molinari offered an amendment to her amendment to limit the crewing "crossover" provision to vessels operating on the Great Lakes. The amendment was agreed to by a roll call vote of 27 to 25.

Mr. Brewster offered an en bloc amendment to authorize the Secretary of Transportation to issue a coastwise endorsement to the vessel *Gleam*. The amendment also exempts any small passenger vessel operating on Lake Texoma, located on the Texas-Oklahoma border, from Federal laws relating to the documentation or inspection of vessels or licensing or documentation of vessel operators. Mr. Brewster's amendment was agreed to by a voice vote.

Mr. Gilchrest offered an amendment to authorize the Secretary of Transportation to issue coastwise endorsements for ten barges and scows owned by McLean Contracting Company to be used for dredging operations. His amendment was agreed to by a voice vote.

H.R. 1361, as amended, was ordered reported to the House of Representatives by a voice vote in the presence of a quorum.

SECTION-BY-SECTION ANALYSIS OF H.R. 1361

SECTION 1. SHORT TITLE

This section states that the Act may be cited as the "Coast Guard Authorization Act for Fiscal Year 1996."

TITLE I—AUTHORIZATIONS

SECTION 101. AUTHORIZATION OF APPROPRIATIONS

The President's fiscal year 1996 budget request for the Coast Guard is approximately \$3.8 billion. This represents a \$105 million increase (approximately 2.8 percent) over 1995 appropriated levels. This includes approximately \$2.6 billion for operating expenses, \$428 million for acquisition of vessels, aircraft, and shore facilities, and \$582 million for retired pay.

The budget contains an increase in Coast Guard operating expenses over fiscal year 1995 appropriated levels of approximately \$92 million, primarily for the 1996 military and civilian personnel pay raise and related cost of living increases. The budget also contains offsetting reductions in Coast Guard operating expenses of approximately \$82 million, including personnel reductions and 23 search and rescue station closures.

In addition to the approximately \$10 million increase for Coast Guard operating expenses, the budget contains an approximate increase over 1995 appropriated levels of \$71 million for acquisition of vessels, aircraft, and shore facilities, and an increase of \$19 million for retirement costs. Increases in various other Coast Guard programs and activities, including environmental compliance and research and development, are approximately \$5 million.

H.R. 1361 authorizes the portion of the Coast Guard budget that requires an annual authorization at the level requested by the President, approximately \$3.7 billion compared to the 1995 appropriated level of \$3.6 billion. The bill assumes continued funding for state boating safety grants, and continued funding for the Bridge Administration program in the Coast Guard budget at the level requested by the President. Funds are authorized as described in the following table:

	Fiscal year 1995 appropriations	Fiscal year 1996 authorization
Operations	\$2,607,500,000	\$2,618,316,000
AC&I	357,500,000	428,200,000
RDT&E	20,300,000	22,500,000
Retired Pay	562,600,000	58,022,000
Bridge Alteration		16,200,000
Environmental Compliance	25,500,000	25,000,000

The Committee will begin a program-by-program review of Coast Guard programs and activities later this year. This will be the first time in nearly 15 years that a comprehensive review of Coast Guard roles and missions has been undertaken. The Committee will consider the significant growth in Coast Guard responsibilities in the last two decades, and whether certain Coast Guard functions should be eliminated or performed differently. In addition, the Committee will consider whether certain functions can be performed more efficiently using civilian, rather than military, personnel. The Committee will also consider whether changes in the Coast Guard acquisitions management process will yield additional efficiencies, and whether changes in Coast Guard financial accounting procedures are needed to obtain better cost information concerning Coast Guard programs and activities. The Committee looks

forward to reviewing the Coast Guard streamlining studies as part of the program-by-program review, and commends the Secretary of Transportation and the Commandant of the Coast Guard for undertaking the comprehensive review of Coast Guard organizational and training systems.

SECTION 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND TRAINING

This section authorizes a Coast Guard end-of-year strength of 38,400 active duty military personnel for fiscal year 1996.

SECTION 103. QUARTERLY REPORT ON DRUG INTERDICTION

Section 103 of this bill requires the Secretary of Transportation to submit to the Committee on Transportation and Infrastructure in the House of Representatives and Committee on Commerce, Science and Transportation in the Senate quarterly reports on Coast Guard drug interdiction expenditures. The requirement for quarterly reports will allow the Committees to closely monitor the expenditures for Coast Guard drug interdiction in fiscal year 1996.

In fiscal year 1989, the Coast Guard devoted nearly 24 percent of its operating budget to drug interdiction. Since fiscal year 1994, Coast Guard drug interdiction funding has been reduced by \$21 million. Less than 9 percent of the Coast Guard's operating funds were devoted to drug interdiction last year because substantial Coast Guard resources were diverted to respond to the migration crises in Haiti and Cuba.

The Committee is concerned that the level of funding for Coast Guard drug interdiction efforts has fallen to dangerously low levels. The President's National Drug Control Strategy continues to emphasize "demand" reduction activities over "supply" reduction methods, such as drug interdiction and other law enforcement efforts. This emphasis, coupled with the fiscal year 1994 and 1995 cuts to the Coast Guard drug interdiction budget, have reduced funding for this vital mission far below the level necessary to protect our borders from drug smugglers. The crisis in Haiti last year exacerbated the problem because it required the Coast Guard to divert substantially all of the Coast Guard resources in the Caribbean from drug interdiction to illegal migrant interdiction.

The Committee strongly supports the proportional funding increase for Coast Guard drug interdiction activities authorized under H.R. 1361, and will assess the need for greater funding increases for this mission in the future.

SECTION 104. SAFETY DETERMINATION FOR SMALL BOAT CLOSURES

Section 104 prohibits the closure of Coast Guard multimission small boat stations unless the Secretary of Transportation determines that maritime safety will not be diminished by the closures. The Committee believes that the requirement for this determination is necessary to ensure that the proposed search and rescue station closures are carefully considered in light of all information related to maritime safety.

TITLE II—PERSONNEL MANAGEMENT AMENDMENTS

SECTION 201. HURRICANE ANDREW RELIEF

This section authorizes Coast Guard military personnel assigned to a facility around Homestead Air Force Base, Florida, on or before August 24, 1992, to be compensated if they are unable to sell their homes due to damage from Hurricane Andrew. In August of 1992, there were six Coast Guard personnel who would have been eligible to file claims under a comparable Department of Defense program. The projected total cost for this program is \$25,000, which would be funded through the Coast Guard's Operating Expense account.

SECTION 202. EXCLUDE CERTAIN RESERVES FROM END-OF-YEAR STRENGTH

This section amends section 712 of title 14, United States Code, to eliminate the requirement to include Coast Guard Reservists ordered to active duty in the calculation of Coast Guard end-of-year personnel strength. This new authority parallels the Secretary of Transportation's existing authority to exceed annual Coast Guard end-of-year strength ceilings in order to respond to national defense emergencies.

SECTION 203. PROVISION OF CHILD DEVELOPMENT SERVICES

Section 203 of this bill amends section 93 of title 14, United States Code, to authorize the Coast Guard to establish a program to provide child development services for military members and civilian employees. This program will be similar in most respects to the existing Department of Defense child care development program. The Coast Guard estimates that this program will cost approximately \$1 million annually.

SECTION 204. ACCESS TO NATIONAL DRIVER REGISTER INFORMATION ON CERTAIN COAST GUARD PERSONNEL

Subsection (a) of section 204 of this bill amends section 93 of title 14, United States Code, to authorized the Commandant of the Coast Guard to require that Coast Guard military personnel request all information contained in the National Driver Register (NDR) pertaining to the individual be made available to the Commandant. Current law allows employer access to the NDR records of an individual who is seeking employment or is employed as a driver of a commercial vehicle, an individual who has applied for, or has received an airman's medical certificate, an individual who is seeking employment or is employed as an operator of a locomotive, and a holder of, or applicant for, a merchant mariner's license, certificate of registry, or merchant mariner's document.

Subsection (b) of this section amends section 30305 of title 49, United States Code, to allow Coast Guard military personnel to request the chief licensing official of a State to provide information in the National Driver Register about the individual to the Commandant of the Coast Guard, and to allow the Commandant to receive the information.

Access to NDR information concerning Coast Guard personnel will enhance the safety of Coast Guard operations and activities through early detection of potential drug and alcohol problems among Coast Guard members engaged in positions related to safety.

SECTION 205. OFFICER RETENTION UNTIL RETIREMENT ELIGIBLE

This section amends section 283(b) of title 14, United States Code, to allow Coast Guard officers with at least 18 years of service, and who have been passed over for promotion twice, to continue on active duty until they are eligible for retirement after 20 years of service. A similar provision applies to members of the Coast Guard Reserve and the other branches of the armed forces.

TITLE III—NAVIGATION SAFETY AND WATERWAY SERVICES MANAGEMENT

SECTION 301. FOREIGN PASSENGER VESSEL USER FEES

This section authorizes the Coast Guard to collect user fees for the full cost of inspecting foreign passenger vessels. Section 3303(b) of title 46, United States Code, currently requires the Secretary of Transportation to collect the same fees for the inspection of foreign passenger vessels that a foreign country charges U.S. vessels at the ports of that country. Because the United States currently has no passenger vessels that call at foreign ports, the Coast Guard is prohibited from charging foreign passenger vessels fees to recover the costs of examining those vessels in U.S. ports.

Section 301 of this bill strikes subsection (b) of section 3303, United States Code, to allow the Coast Guard to collect user fees for examining foreign passenger vessels.

The Committee intends that the fee the Coast Guard is authorized to collect under this section will be a reasonable fixed fee for the examination of foreign passenger vessels. On December 18, 1991, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) which would have established a fee for the control verification examinations of passenger vessels subject to the International Convention for the Safety of Life at Sea, 1974, as amended (SOLAS). As noted in the proposed rule, passenger vessels from foreign countries which are parties to SOLAS are inspected to verify that they have complied with the laws of the flag state and the control imposed by treaty. Over 95 percent of these foreign passenger vessel control verification examinations are straight forward, are conducted on a regular basis, and are predictable in terms of time spent per examination. In the NPRM, the Coast Guard proposed a fixed annual fee for the initial, annual, and reinspection examinations. The Coast Guard proposed a fee of \$1,047.00 for Control Verification examinations. Since these examinations are conducted quarterly when the vessels are operating from U.S. ports, the cost to a vessel owner could be as much as \$4,188 annually. The Committee understands this section will allow the Coast Guard to collect an additional \$464,000 annually in user fees.

The Committee expects that the annual fees the Coast Guard is authorized to collect under this section will be within the limits

proposed by the Coast Guard in 1991 and that the total impact on the industry will not exceed the Coast Guard's estimates.

SECTION 302. FLORIDA AVENUE BRIDGE

This section deems the drainage siphon adjacent to the Florida Avenue Bridge in New Orleans, Louisiana, to be an appurtenance of the bridge, pursuant to the Truman-Hobbs Act. In 1992, the Florida Avenue Bridge was declared to be an "unreasonable obstruction to navigation" under the Truman-Hobbs Act. Since that time, funds have been appropriated by Congress to commence planning and engineering for the replacement of the bridge.

The Coast Guard has determined that the drainage siphon, which is connected to the bridge's southern fender, must be removed to widen the channel sufficiently and restore the necessary navigability for commercial vessels on the Gulf Intracoastal Waterway. By declaring the siphon an appurtenance, its removal qualifies for funding under the Truman-Hobbs Act.

SECTION 303. RENEWAL OF HOUSTON-GALVESTON NAVIGATION SAFETY ADVISORY COMMITTEE AND LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE

This section amends sections 18 and 19 of the Coast Guard Authorization Act of 1991 (Public Law 102-241, 105 Stat. 2208-2235) to extend the termination dates for the Houston-Galveston Navigation Safety Advisory Committee and the Lower Mississippi River Waterway Advisory Committee until October 1, 2000. These organizations provide the Coast Guard expert advice and other valuable assistance concerning matters relating to marine safety in these specific areas.

SECTION 304. RENEWAL OF THE NAVIGATION SAFETY ADVISORY COUNCIL

This section amends section 5(d) of the Inland Navigational Rules of 1980 (33 U.S.C. 2073), to extend the termination date for the Navigation Safety Advisory Council until October 1, 2000.

The Navigation Safety Advisory Council, formerly the Rules of the Road Advisory Council, is a 21-member board whose members include representatives of owners and operators of vessels, professional mariners, recreational boaters, and the recreational boating industry. The Council provides the Coast Guard with access to advice from the most respected maritime experts in the Nation.

The Committee encourages the Secretary to consider appointing a representative of U.S. passenger vessel owners to the National Safety Advisory Council. The U.S. small passenger vessel industry is growing in importance, and a representative from this group would be in an excellent position to contribute to the public discussion on navigation safety.

SECTION 305. RENEWAL OF THE COMMERCIAL FISHING INDUSTRY VESSEL ADVISORY COMMITTEE

This section amends section 4508(e)(1) of title 46, United States Code, to extend the termination date of the Commercial Fishing Industry Vessel Advisory Committee until October 1, 2000. This 17-

member organization was created in 1988 to advise the Coast Guard on a wide range of matters relating to fishing vessel safety.

SECTION 306. NONDISCLOSURE OF PORT SECURITY PLANS

This section amends section 7 of the Ports and Waterways Safety Act, as amended (33 U.S.C. 1226), to exempt information regarding passenger vessel or terminal security plans established by the Coast Guard from the public disclosure requirements of any law. Currently, airline and security plans developed by the Federal Aviation Administration are exempt from disclosure under the Freedom of Information Act. Section 306 of this bill extends the same degree of protection to Coast Guard security plans for passenger vessels and terminals to ensure that safety and security are not compromised at these facilities.

SECTION 307. MARITIME DRUG AND ALCOHOL TESTING PROGRAM CIVIL PENALTY

As part of the Department of Transportation's overall drug and alcohol testing program, the Coast Guard has implemented regulations to govern chemical testing of marine personnel. Presently, the only penalties available to the Coast Guard to enforce these regulations are against the master of a vessel or the vessel itself. Section 307 of this bill amends chapter 21 of title 46, United States Code, to provide for a civil penalty of not more than \$1,000 per day for marine employers who violate the Coast Guard's chemical testing regulations.

This provision will give the Coast Guard the flexibility to impose a penalty against a vessel owner, when appropriate, for failing to implement a drug testing program or for another violation of the Coast Guard drug testing regulations.

SECTION 308. WITHHOLDING VESSEL CLEARANCE FOR VIOLATION OF CERTAIN ACTS

This section authorizes the Secretary of the Treasury, at the request of the Secretary of Transportation, to refuse or revoke a vessel's clearance, when that vessel is liable, or reasonable cause exists to believe that the vessel is liable, to the United States Government for certain civil or criminal penalties. It is often difficult for the Coast Guard to collect penalty assessments against foreign vessels. This is especially true when violations are against foreign vessels whose owners or operators do not have assets that are readily recoverable in the United States. The growing U.S. dependence on foreign shipping has increased the need for additional Coast Guard authority over foreign-flag vessels to ensure safety and protect the marine environment. Under the amendments made by this section, the Secretary of the Treasury may grant a clearance previously refused or revoked only if the owner of the vessel obtains a bond or other surety satisfactory to the Secretary of Transportation to cover the amount of the potential fine or penalty assessment.

Subsection (a) of this section amends section 5122 of title 49, United States Code, to authorize the Secretary of Treasury to refuse or revoke a vessel's clearance for violations of chapter 51 of title 49, United States Code, formerly the Hazardous Materials

Transportation Act. Chapter 51 of title 49 applies to all vessels that transport, ship, maintain, or manufacture hazardous materials in waters subject to the jurisdiction of the United States.

Subsection (b) of this section amends section 13(f) of the Ports and Waterways Safety Act (33 U.S.C. 1232(f)) to authorize the Secretary of the Treasury to refuse or revoke a vessel's clearance for violations of that Act. The Ports and Waterways Safety Act promotes port and merchant vessel safety through the establishment of vessel traffic service systems and the requirement to carry certain navigation equipment aboard vessels in waters subject to the jurisdiction of the United States.

Subsection (c) of this section amends section 4(d) of the Inland Navigational Rules Act of 1980 (33 U.S.C. 2072(d)) to authorize the Secretary of the Treasury to refuse or revoke a vessel's clearance for violations of that Act. The Inland Navigational Rules Act governs the "rules of the road" for vessel navigation for the various inland, Great Lakes, and Western Rivers waters.

Subsection (d) of this section amends section 3718(e) of title 46, United States Code, to authorize the Secretary of Treasury to refuse or revoke a vessel's clearance for violations of chapter 37 of title 46, United States Code, governing the carriage of liquid bulk dangerous cargoes in the navigable waters or a port of place subject to the jurisdiction of the United States.

SECTION 309. INCREASED CIVIL PENALTIES

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

To complement the Coast Guard's regulatory changes in this area, subsection (a) of this section amends section 6103(a) of title 46, United States Code, to increase the civil penalty against an owner, charterer, managing operator, agent, master, or individual in charge of a vessel for failure to report a vessel casualty from \$1,000 to not more than \$25,000. Subsection (b) of this section amends section 8906 of title 46, United States Code, to increase the civil penalty against an owner, charterer, managing operator, agent, master, or individual in charge of a vessel operated in violation of chapter 89 of title 46, United States Code, regarding small vessel operator licensing requirements, from \$1,000 to not more than \$25,000. These increased penalties will encourage compliance with Coast Guard casualty reporting requirements and licensing requirements for towing vessels and other vessels.

SECTION 310. AMENDMENT TO REQUIRE EMERGENCY POSITION INDICATING RADIO BEACONS (EPIRBs) ON THE GREAT LAKES

The Commercial Fishing Industry Vessel Safety Act of 1988 (Public Law 100-424) established safety standards for all uninspected commercial fishing industry vessels and included a re-

quirement for these vessels to carry Emergency Position Indicating Radio Beacons (EPIRBs) when operating on the high seas. Subsequently section 4102 of title 46, United States Code, was amended to require the carriage of EPIRB's on all uninspected vessels operating on the high seas or beyond three nautical miles from the coastline on the Great Lakes. Currently, the only class of vessels not subject to the requirement to carry EPIRB's are uninspected commercial fishing vessels operating on the Great Lakes. This section amends section 7 of section 4502(a) of title 46, United States Code, to correct this omission and require uninspected commercial fishing vessels operating beyond three nautical miles from the coastline of the Great Lakes to carry EPIRB's.

TITLE IV—MISCELLANEOUS

SECTION 401. TRANSFER OF COAST GUARD PROPERTY

This section directs the Secretary of Transportation to transfer approximately 27.10 acres of excess property located in Traverse City, Michigan, from the Coast Guard to the Traverse City Area Public School District. This property will be used by the School District for athletic fields. Under section 401 of this bill, the ownership of this property reverts to the United States if the Traverse City Area School District ceases to use the property for the statutorily authorized purposes.

SECTION 402. TRANSFER OF COAST GUARD PROPERTY

Section 402 of this bill transfers approximately 3/4 of an acre of excess property in Ketchikan, Alaska, from the Coast Guard to the Ketchikan Indian Corporation. The property is adjacent to Ketchikan Hospital and will be used by the Ketchikan Indian Corporation as the site for a new health or social services facility. The ownership of this property reverts to the United States if the Ketchikan Indian Corporation ceases to use the property as a health or social services facility.

SECTION 403. ELECTRONIC FILING OF COMMERCIAL INSTRUMENTS

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

SECTION 404. BOARD FOR CORRECTION OF MILITARY RECORDS DEADLINE

Section 404 of this bill clarifies the application of section 212 of the Coast Guard Authorization Act of 1989, (Public Law 101-225, 10 U.S.C. 1552 note). Section 212 of the Coast Guard Authorization Act of 1989 required the Secretary of Transportation to amend the regulations governing the Coast Guard's Board for the Correction of Military Records (BCMR) to ensure that appeals are processed

expeditiously and that final decisions are made within 10 months of their receipt by the BCMR. Section 212 also required the Secretary to appoint and maintain a permanent staff, and a panel of civilian officers or employees to serve as members of the board, which are adequate to ensure compliance with the 10-month deadline for final action on the application. Section 404 of this bill clarifies that the 10-month deadline established under section 212 of the 1989 Coast Guard Authorization Act was intended to be mandatory. Section 404 also clarifies that section 212 of the 1989 Coast Guard Authorization Act was intended to apply to applications pending before the BCMR or the Secretary of Transportation on June 12, 1990, which was six months after the date of enactment of the 1989 Coast Guard Authorization Act.

Under section 404 of this bill and section 212 of the 1989 Coast Guard Authorization Act, extensions of time granted to applicants by the BCMR do not count toward the 10-month deadline. The purpose of section 212 of the 1989 Coast Guard Authorization Act was to impose a deadline on the Department of Transportation that resulted in timely, meaningful resolution of claims for BCMR applicants. Extensions of the 10-month deadline requested by applicants themselves are not contrary to the purpose of section 212. Also, the Committee does not intend that section 404 invalidate prior Departmental actions unless the applicant requests that result. Finally, section 404 does not prohibit the Secretary from acting in favor of an applicant at any time to avoid litigation.

The Committee is concerned because the Secretary of Transportation has failed to meet the 10-month deadline in a significant number of cases. One case took over six years to decide. The Committee intends that all the requirements of section 212 be met, including the requirement to ensure that adequate personnel are assigned to the BCMR to ensure that applications are processed expeditiously. The Committee also intends that the review process within the Department's Office of the General Counsel be changed or expedited to accommodate the overall 10-month deadline.

SECTION 405. JUDICIAL SALE OF CERTAIN DOCUMENTED VESSELS TO ALIENS

This section amends section 31329 of title 46, United States Code, to allow for the sale, by order of a Federal District Court, of documented fishing industry and recreational vessels to non-U.S. citizens. This would conform the conditions for the judicial sale of these vessels to the conditions for their private sale under section 9(c) of the Shipping Act of 1916 (46 App. U.S.C. 808(c)). In the past, the provisions of section 31329 of title 46 have unreasonably restricted the foreign sales of recreational vessels and the ability of subsequent U.S. owners to document the vessels. The Committee believes that there is no reason to continue to restrict the sales of documented recreational and fishing industry vessels to non-U.S. citizens.

SECTION 406. IMPROVED AUTHORITY TO SELL RECYCLABLE MATERIAL

Section 406 of this bill amends section 641(c)(2) of title 14, United States Code, to exempt sales by the Coast Guard of recyclable materials for which the proceeds of sale will not exceed \$5,000 from

current Federal excess property disposal requirements for the sale of recyclable materials. This section also authorizes the Coast Guard to make these small sales under regulations prescribed by the Commandant.

SECTION 407. RECRUITMENT OF WOMEN AND MINORITIES

This section requires the Coast Guard to submit a report to the Committee on Transportation and Infrastructure in the House of Representatives and the Committee on Commerce, Science, and Transportation in the Senate on efforts to recruit women and minorities, and to make recommendations on the need for future action in this area.

SECTION 408. LIMITATION OF CERTAIN STATE AUTHORITY OVER VESSELS

This section resolves a conflict between certain Federal and state laws involving authorized gambling aboard U.S.-flag cruise vessels. Section 408 amends section 5(b)(2) of the Act of January 2, 1951 (15 U.S.C. 1175(b)(2)), commonly referred to as the "Johnson Act", to prohibit a state from regulating gambling in international waters during the intrastate segment of a voyage that begins or ends in the same state or U.S. possession and is part of a voyage to another state or country. States may still regulate gambling in state waters, on "voyages to nowhere," and on other state voyages. This section does not apply to a voyage within the boundaries of the State of Hawaii.

SECTION 409. VESSEL FINANCING

In 1988, Congress began easing the restrictions on persons that can be mortgagees for U.S.-flag vessels by eliminating all restrictions on mortgagees for recreational vessels and fishing industry vessels. Additionally, the Secretary of Transportation was authorized to approve any other person to be a mortgagee for vessels with coastwise and registry endorsements.

Section 409(a) amends section 31322 of title 46, United States Code, to eliminate all restrictions on persons that may be a mortgagee for a U.S.-flag vessel. This amendment is intended to promote vessel financing. U.S. vessel owners should be able to obtain the cheapest financing available anywhere in the world in the same manner as their foreign competition without having to get approval from the Secretary. In the past, U.S. operators could obtain this financing by setting up a trust in a U.S. bank. These trusts, called "Westhampton Trusts," resulted in additional costs to the U.S. vessel owners without giving any real protection to the Government to control the vessel.

Section 409(b) repeals section 31328 of title 46, United States Code, which provided for the establishment of Westhampton Trusts. This section is no longer needed since all restrictions on mortgagees have been eliminated.

Section 409(c) makes conforming changes to section 9(c) of the Shipping Act, 1916, (46 App. U.S.C. 808) to eliminate the need to obtain permission from the Secretary before using a foreign mortgagee.

Section 409(d) amends section 12106 of title 46, United States Code, to promote lease financing for vessels engaged in the coastwise trade by eliminating citizenship requirements for leasing companies. Lease financing has become a very common way to finance capital assets in many industries, including the maritime industry. Many vessel operators choose to acquire vessels through lease financing instead of traditional mortgage financing. Currently, there are no citizenship requirements on leasing companies that finance vessels that have Great lakes or Registry endorsements. Section 409(d) will also allow these companies to finance vessels that have coastwise endorsements.

Section 409(d) also amends section 12106 of title 46, United States Code, to authorize the Secretary to issue coastwise endorsements for vessels owned by any leasing company that is eligible to own a documented vessel. However, if the leasing company is not a U.S. citizen under section 2 of the Shipping Act, 1916, the vessel may only be operated in the coastwise trade if the vessel is operated under a demise charter to a section 2 citizen for a period of at least three years. It is expected that most of the charters will be long-term charters. However, once the initial long-term charter has expired, the leasing company may find it necessary to enter into short-term charters until another long-term charter is obtained. The lease agreement need not remain in effect for the full three years if there is a default by the lessee or a casualty or other event where the lease might be terminated by vessel owner or lessee prior to the expiration of that period.

The Secretary may also authorize leases for a period shorter than three years under appropriate circumstances such as when a vessel's remaining useful life would not support a lease of three years or to preserve the use or possession of the vessel. The section also provides that on termination of a demise charter, the coastwise endorsement may be continued for a period not to exceed six months on any terms and conditions that the Secretary may prescribe. This will allow the leasing company to move the vessel, maintain it, have it repaired, or layed-up, but does not allow the vessel to be used in the coastwise trade since it is not under a charter to a section 2 citizen.

SECTION 410. SENSE OF CONGRESS; REQUIREMENT REGARDING NOTICE

This section expresses the sense of the Congress that, to the greatest extent practicable, all equipment and products purchased by the Coast Guard should be American-made.

SECTION 411. SPECIAL SELECTION BOARDS

This section requires the Secretary of Transportation to establish special Coast Guard selection boards similar to those required for the Department of Defense under section 628 of title 10, United States Code. The purpose of these boards is to provide reconsideration for officers who are not considered for promotion by reason of error, or considered on an unfair or incorrect record. Each year, a small number of Coast Guard officers obtain relief from the Board for Correction of Military Records (BCMR) following failures of selection for promotion. Under present law, they must wait for the next annual promotion board to be reconsidered, unlike Depart-

ment of Defense personnel, who may be considered by special selection boards held periodically during the year. Also under current law, when Coast Guard personnel are reconsidered for promotion after their records are corrected by the BCMR, they are judged against officers other than those with whom they originally competed. The process established under section 411 will ensure that officers who are reconsidered for promotion compete against officers for the appropriate group.

The Committee does not intend that the Coast Guard be required to hold special selection boards more often than three or four times annually, depending upon the number of officers waiting reconsideration. Also, the Committee intends that the Coast Guard conduct these boards with several officers from Coast Guard Headquarters, and not use scarce travel resources for this purpose.

SECTION 412. AVAILABILITY OF EXTRAJUDICIAL REMEDIES UPON
DEFAULT OF PREFERRED MORTGAGE LIENS ON VESSELS

Under current law, marine lenders seeking to foreclose loans secured by federally mortgaged vessels must pursue their rights in the Federal courts to clearly preserve their right to recover a deficiency after the sale of the vessel. Section 412 of this bill establishes a nonjudicial alternative to this procedure for lenders to take possession of a vessel after a default.

Section 31325 of title 46, United States Code, provides for the foreclosure of a preferred mortgage on a documented vessel by an in rem arrest action against the vessel within the district court's admiralty jurisdiction. This remedy establishes the priority for the mortgage lien as against any maritime lien or land-based lien on the vessel and permits the vessel to be sold free and clear of liens.

Under the Uniform Commercial Code in effect in almost every state, a secured creditor may take possession of the collateral security for the loan upon a default and sell it in foreclosure of the creditor's lien. For many years, lenders holding preferred mortgages on documented vessels regularly exercised this type of "self-help" remedy to sell mortgaged vessels upon a loan default. Particularly for smaller loans secured by recreational vessels, when the debtor raised no opposition to repossession and there was little likelihood of an adverse maritime lien claim against the vessel, there was no reason to go through the time-consuming, expensive procedures of an action in Federal court.

In 1985, the decision in *Bank of America National Trust and Savings Association v. Fogle*, 637 F.Supp. 305, 1986 AMC 205 (N.D. Cal. 1985) was rendered. In *Fogle*, the court held that in providing for an in rem admiralty remedy in Federal law, Congress must have intended to preclude a "self-help" remedy under state law. The *Fogle* decision has forced lenders seeking to foreclose defaulted loans secured by documented vessels to use a Federal court action, even when no controversy requiring judicial action is necessary.

Subsection (a) of section 412 adds a new paragraph (3) to section 31325(b) of title 46, United States Code, to clarify that the remedies currently available under section 31325(b) do not preclude the exercise of other lawful rights and remedies available to mortgages, including extrajudicial, "self-help" remedies. New para-

graph 31325(b)(3) also supports the international recognition of vessel mortgage foreclosures under principles of comity and permits a preferred mortgage on a U.S.-flag vessel to be foreclosed in a foreign court having jurisdiction over the vessel.

Consistent with existing law, the rights of any maritime lien claimant or holder of a preferred mortgage are expressly preserved under the amendments made by this section, notwithstanding the use of a self-help remedy under state law.

The amendment will also not affect the remedies available under state law to the holder of a security interest which is deemed to be a preferred mortgage pursuant to section 31322(d) of title 46, United States Code, when the Vessel Identification System established under chapter 125 of title 46 is effective.

Subsection (b) of section 412 of this bill requires the person exercising the extrajudicial remedy to give notice of the remedy to the Coast Guard, to any other mortgagee whose mortgage is recorded, and to any maritime claimant who has recorded a notice of a claim of a lien with the Coast Guard.

SECTION 413. IMPLEMENTATION OF OIL POLLUTION ACT WITH RESPECT TO VEGETABLE OIL

In general, this provision requires Federal agencies charged with regulation of "oil" under Federal laws related to water pollution to differentiate between and establish separate regulatory classes for animal fats and vegetable oils distinct from other oils, including toxic petroleum oil. The provision also includes amendments to the Oil Pollution Act of 1990 (OPA 90) (Public Law 101-380) to ensure regulation of animal fats and vegetable oils in a manner consistent with the lower risk that spills of these substances pose to the environment. Federal agencies charged with regulation of "oil" under Federal laws related to water pollution have failed to make common-sense differentiations between and to establish separate regulatory categories for animal fats and vegetable oils distinct from other oils, including toxic petroleum oil. Similarly, agencies have failed to ensure regulation of animal fats and vegetable oils in a manner consistent with the lower risk that spills of these substances pose to the environment.

The need for legislative change is illustrated by the regulations being issued under the provisions of the Oil Pollution Act of 1990. OPA 90 was enacted in response to the catastrophic *Exxon Valdez* petroleum oil spill to reduce the risk of, improve the response to, and minimize the impact of oil spills. However, due to the overly broad definition of "oil," OPA 90 applies not only to toxic oils such as petroleum oil, but also to non-toxic agricultural products such as animal fats and vegetable oils. As a result, those non-toxic substances, which are used to make foodstuffs and other consumer products, are unfortunately being regulated to the same degree as petroleum and other toxic oils.

Subsection (a)(1) requires each agency responsible for implementing or enforcing a Federal law relating to water pollution to differentiate between and establish separate regulatory classes for (1) animal fats and (2) vegetable oils distinct from all other oils, including petroleum oils. In the course of implementing, enforcing, or issuing any interpretation or guidance regarding these laws, the

agencies are to apply different standards to each category consistent with this provision.

Subsection (a)(2) sets forth certain factors that an agency must consider when differentiating between classes, including differences in physical, chemical, biological, and other properties, and in the environmental effects, of the substances in these categories. Separate classes for different types of oils and differentiation between those classes are necessary to ensure appropriate regulations recognizing the specific characteristics of each category. This is particularly needed in the area of response requirements.

Separate response requirements that recognize the different characteristics of animal fats and vegetable oils within separate classes should be established under this section. Although spills of any type of oil may have some similar environmental impacts under certain conditions, in many significant respects spills of animal fats and vegetable oils are very different than those of toxic oils in the way they affect the environment. Non-toxic animal fats and vegetable oils by their very nature do not have the same overall environmental impact as a toxic oil. Consequently, agencies should provide flexibility for different response strategies for animal fats and vegetable oils recognizing their non-toxic and readily biodegradable nature.

One response strategy appropriate for toxic oils that may not be appropriate for animal fats and vegetable oils is containment and removal. Amassing non-toxic and readily biodegradable animal fats and vegetable oils, through the use of type typical contain-and-remove strategy commonly used for toxic petroleum oils, may have an unintended detrimental effect given the likelihood of oxygen depletion and increased possibility of immersion of wildlife in created pools of oil resulting from this containment technique. Further, considering the non-toxic, biodegradable, and non-persistent properties of animal fats and vegetable oils, use of intrusive methodologies appropriate for toxic oil spills may actually cause more damage to the environment than the spill left undisturbed. Thus, in the case of animal fats and vegetable oils, alternative approaches such as dispersement, dilution, or agitation, as well as no action may be more appropriate and should be permissible response techniques. These alternative approaches are consistent with the National Contingency Plan and would protect the shorelines as well as serve to minimize harm to wildlife and the environment.

Subsection (b) amends the liability and financial responsibility provisions of OPA 90 to clarify that the higher liability limits and financial responsibility requirements applicable to tank vessels carrying toxic oil as cargo, such as petroleum oil, do not apply to tank vessels carrying animal fats, vegetable oils, or both when those are the only substances a vessel is carrying as cargo. This section specifies that those vessels carrying animal fats, vegetable oils, or both as the only oil cargo are to be treated as "other vessels" under OPA 90 and not included with vessels such as petroleum oil tankers.

This section does not affect product tankers carrying at the same time petroleum oil and either animal fats, vegetable oils, or both, in bulk; any tank vessel carrying any quantity of oil other than animal fats or vegetable oils in bulk would be required to meet the

more stringent financial responsibility requirement. This action simply ensures that vessels carrying only animal fats, vegetable oils, or both in bulk as cargo are not placed in the same category as vessels carrying toxic oils. This section does not affect the methods by which the Coast Guard administers the issuance of Certificates of Financial Responsibility, but merely ensures that tank vessels not carrying any petroleum oil as cargo have the lower liability and financial responsibility limits applicable to all other vessels.

The higher liability amounts applicable to tank vessels reflect the fact that the risks of pollution related to enormous quantities of petroleum oil carried on tankers as cargo vastly outweigh the potential harm from other vessels whose spills of petroleum oil are limited to bunker fuel or lubricating oil used in the propulsion and other mechanical systems of the ship. However, considering the animal fat and vegetable oil industry's excellent spill prevention record and the significantly lower risk of environmental harm posed by a spill of these non-toxic, readily biodegradable agricultural products, the risk of harm presented by vessels carrying animal fats and vegetable oils is similar to that of other non-petroleum-carrying vessels and the liabilities and financial responsibility amounts should be placed at the appropriate level.

Subsection (c) provides for the definitions of "animal fat" and "vegetable oil" as those terms are used in this provision. The definitions include but are not limited to the types and kinds of animal fats and vegetable oils referred to in section 61 of title 13, United States Code. Section 61 gives the Department of Commerce authority to collect statistics on all types of animal fats and vegetable oils used in commerce. The reference to this section ensures that, at a minimum, all commercially-used animal fats and vegetable oils are included in the definition and, therefore, are covered by this provision.

SECTION 414. CERTAIN INFORMATION FROM MARINE CASUALTY INVESTIGATIONS BARRED IN LEGAL PROCEEDINGS

Section 414(a) of this bill adds a new section to chapter 63 of title 46, United States Code, to preclude the use of certain portions of formal and informal marine casualty investigations in civil judicial, administrative, and state criminal proceedings. New section 6308 also clarifies that the restriction on the use of the portions of investigations is not an admission of liability by the United States or by a person referred to in the investigation.

Although there are certain statutory and discovery provisions that presently protect parts of an investigation from use in civil and state criminal proceedings, there is no statutory prohibition on the use of opinions, recommendations, deliberations, and conclusions contained in marine casualty investigation reports. Marine casualty investigations are intended to expeditiously determine the factors that cause accidents, to determine whether there is a need for regulatory or statutory changes, to determine whether a material failure caused or contributed to the casualty, and whether there is evidence that warrants enforcement action. The amendments made by this section will ensure that the deliberative process of Coast Guard casualty investigations will be unaffected by the prospects of future litigation.

SECTION 415. REPORT ON LORAN-C REQUIREMENTS

This section requires the Secretary of Transportation, in consultation with users of the LORAN-C radionavigation system, to submit a report on the future use of and funding for operations, maintenance, and upgrades of the LORAN-C radionavigation system as satellite based technology becomes the sole means of safe and efficient navigation.

The Coast Guard has considered phasing out the 30-year-old LORAN-C system by the year 2000. This land-based system of navigation used by all modes of transportation, as well as the telecommunications industry, would be replaced by the satellite-based Global Positioning System (GPS) controlled by the U.S. Department of Defense.

This section specifically requires the Secretary to address several issues in the report. These include determining an appropriate timetable for transitioning from ground-based radionavigation technology, and the possible need for all agencies in the Department of Transportation, as well as other government beneficiaries, to share in the Federal government's costs related to LORAN-C technology.

There is concern among LORAN-C users, both in the aviation and boating sectors, that the Coast Guard is considering phasing out the LORAN system, which it operates, well in advance of the date contemplated in the Federal Radionavigation Plan and rely solely on satellite systems at the turn of the century. While the Committee certainly supports a transition to satellite based navigation, a premature phase out could render many users' navigation equipment unusable. The Committee believes that a Secretarial report that examines user-related transition issues is in the best interests of the Coast Guard and other agencies that currently rely upon LORAN technology, as well as the flying and boating publics.

SECTION 416. LIMITED DOUBLE-HULL EXEMPTIONS

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

Section 416 of this bill amends section 3703a(b) of title 46, United States Code, to exempt those double-hulled vessels delivered before August 12, 1992, from the OPA 90 double hull requirements. This approach avoids penalizing vessel owners who built double-hulled vessels before they were forced to do so by the phase-out requirements under OPA 90.

Section 416 also amends section 3703a(b) to exempt barges of less than 2000 gross tons that are primarily used to carry deck cargo and bulk fuel to Alaska Native villages from the OPA 90 double-hull requirements. These vessels, which travel on protected waterways, are the only links to remote Alaskan villages. Due to

the deeper draft of double-hulled vessels and the shallow waters in these areas, these Alaskan vessels could not operate economically and continue to serve these remote areas without the exemption.

SECTION 417. OIL SPILL RESPONSE VESSELS

Section 417(a) of this bill amends section 2101 of title 46, United States Code, to define an "oil spill response vessel" (OSRV) as a vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material. OSRVs are a unique type of vessel that often are specially built or adapted to engage in spill response operations. Under the amendments made by this section, the Coast Guard is required to establish a new regulatory system for OSRVs. These vessels are not subject to existing requirements applicable to tank vessels under any law, including construction, operating, manning, pollution prevention, or financial responsibility requirements.

Section 417(b) adds a new subsection (f) to section 3702 of title 46, United States Code, to exempt OSRVs from the tank vessel requirements of chapter 37 of title 46, United States Code. OSRVs operate in an environment where oil is already all around the vessels, and the challenge is to recover it from the environment into the vessel. Because OSRV operations are entirely different from tank vessel operations, the applicable regulatory requirements should also be different. Consequently, this section exempts OSRVs from the chapter 37 regulatory requirements applicable to tank vessels, including tank vessel construction and operating restrictions.

Section 417(b) divides OSRVs into two distinct categories. The first category addresses dedicated response vessels which are used only in spill response related activities. These vessels are not certified for any other type of service other than response. This category includes barges which are not used for carriage of oil in bulk as cargo and in some cases will never contain oil. There is no tonnage limit in this category. The second category recognizes that some vessels are dual-certified. This category exempts vessels from tank vessel requirements only when designated in the certificate for inspection as a response vessel and only when actually engaged in spill response related activities. This category is limited to 500 gross tons.

Sections 417(c) and 417(d) amend sections 8104 and 8301 of title 46, United States Code, to authorize the Secretary of Transportation to prescribe watchstanding and licensing requirements for OSRVs. A dedicated response vessel is currently authorized to divide licensed individuals and crew-members into at least two watches when the vessel is engaged in an operation less than 12 hours in duration or into three watch sections for operations more than 12 hours in duration. In addition, a dedicated response vessel is required to have two licensed mates when engaged in an operation over 12 hours in duration and one mate for operations less than 12 hours in duration. These requirements do not provide acceptable operating flexibility to respond to, and to train for, responses to discharges. In addition, the requirements should not be limited to dedicated response vessels but should also include other vessels while engaged in response related operations. This 12 hour

benchmark for watchstanding and mate requirements unnecessarily and adversely impact vessel operations.

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

Section 417(e) amends the requirements for Merchant Mariner's Documents (MMDs) under section 8701 of title 46, United States Code, by providing the Secretary with the flexibility to prescribe which, if any, individuals onboard an OSRV should be required to hold an MMD. An MMD should only be required for individuals who have duties aboard an OSRV which require particular experience, training or qualifications to perform traditional maritime-related duties aboard a vessel. These duties should relate to operation of the vessel, not support activities associated with spill response activities. During a spill response, many "temporary" individuals, including equipment operators, regulatory personnel, scientific personnel, wildlife rehabilitators, government officials, maintenance and other spill response support technical personnel, may come aboard the vessel for activities associated with a spill response. In addition, numerous prospective "temporary" contractors, fisherman and member company personnel are trained on OSRVs to be available for the infrequent circumstances for which their services may be needed to aid in a spill response. Accordingly, the Secretary should not require individuals, other than the navigational crew, to have MMDs, without a determination that there is a substantial and practical nexus with traditional seaman duties and resulting benefits associated with requiring an MMD.

Section 417(f) amends section 8905 of title 46, United States Code, to clarify that a person licensed to operate towing vessels should not be required to operate vessels engaged in oil spill response or training activities. Currently, section 8904 of title 46, United States Code, requires that a towing vessel that is at least 26 feet in length be operated by a licensed individual. These provisions are not intended to apply to vessels towing in an emergency or on an intermittent basis during oil spill response or training.

Section 417(g) amends section 3301 of title 46, United States Code, to establish a new vessel inspection category for OSRVs. The Committee intends that the Coast Guard establish appropriate requirements for OSRV's that address the necessary standards applicable to this unique type of vessel, while accomplishing the desired goal of facilitating the development of resources for the oil spill response industry. In addition, the Coast Guard has the flexibility to determine that small OSRVs, including small skimming vessels, barges (particularly shallow water barges) and dracones up to ap-

proximately 100 gross tons, are “equipment”, and are not subject to examination or inspection.

The Committee does not intend for the Secretary to use the flexibility under this section to regulate OSRVs in the same manner as tank vessels. There are fundamental differences between OSRVs, as compared to commercial tank vessels carrying oil in bulk as cargo for purposes of commercial transportation. The Secretary should establish requirements for OSRVs that are appropriate and practical for the fledging oil spill response industry.

SECTION 418. OFFSHORE FACILITY FINANCIAL RESPONSIBILITY
REQUIREMENTS

Under the Oil Pollution Act of 1990 (Public Law 101-380)(OPA 90), all oil tankers and offshore facilities are required to maintain evidence of financial responsibility to cover potential oil spill liability. Responsible parties for offshore facilities are required to maintain \$150 million in financial responsibility. (Onshore facilities are not required to obtain evidence of financial responsibility for oil spills.)

On August 15, 1993, the Minerals Management Service (MMS) of the Department of Interior issued an Advance Notice of Proposed Rulemaking concerning financial responsibility requirements for offshore facilities under OPA 90. That Advance Notice interprets the requirement under OPA 90 for offshore facilities to maintain evidence of financial responsibility to include tens of thousands of traditional onshore facilities, such as refineries, terminals, marinas, and other onshore facilities that cross navigable waters. On November 29, 1994, the Solicitor of the Department of Interior issued a legal opinion that concluded that the Minerals Management Service does not have the flexibility under OPA 90 to make a different interpretation.

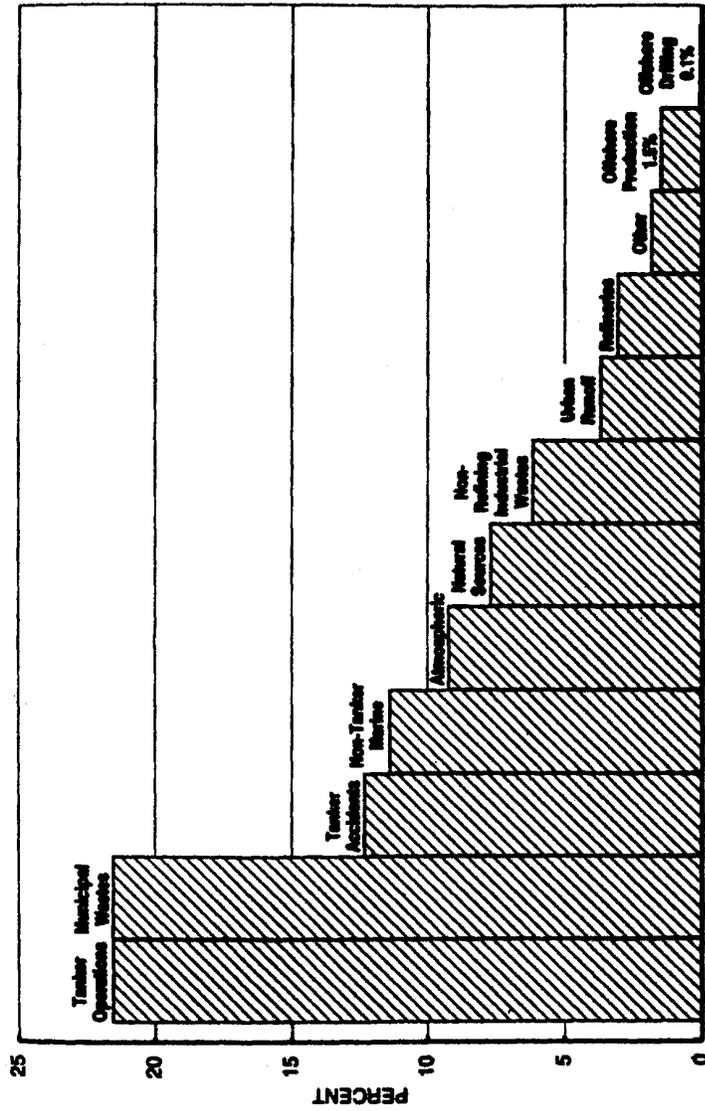
At the request of the Secretary of Energy, the National Petroleum Council, a standing Advisory Committee to the Secretary of Energy, issued a report concerning the impacts of the Minerals Management Service proposal to implement the financial responsibility requirements of OPA 90. That report concluded that the Minerals Management approach could have serious and substantial impacts on all segments of the oil and gas industry and disrupt commerce in many other areas without benefiting the environment. The report also concluded that even under a narrower interpretation of OPA 90's requirements, offshore operators will face significant new cost burdens.

Under the current interpretation of the Minerals Management Service, marinas are considered offshore facilities under OPA 90, and are required to obtain \$150 million in financial responsibility. The Committee finds this an unacceptable situation, considering that most of the small businesses operating marinas in this country would be forced out of business because they are unable to afford the coverage, estimated to cost \$150,000 to \$450,000 per year. Section 418(a) of this bill amends the definition of responsible party in section 1001(32)(c) of OPA 90 (title 33, U.S.C., section 2701(32)(c)) to exempt marinas from the \$150 million requirement, consistent with the treatment of other onshore facilities under OPA 90.

Section 418(b) of this bill amends section 1016(c)(1) of OPA 90 (title 33, U.S.C., section 2716(c)(1)) to lower the requirement for financial responsibility for traditional offshore oil facilities to \$35 million, with Presidential authority to increase the financial responsibility requirement to \$150 million, based upon an assessment of the risks involved. This approach recognizes the low level of risk of oil spills associated with the offshore industry generally, and the fact that no spill on the Federal Gulf of Mexico offshore has exceeded the \$35 million of financial responsibility in force prior to OPA 90. Low pressure reservoirs and the resultant need for artificial lift, blowout and spill prevention equipment, and automatic shutdown systems, safety training, and drills all have contributed to this exemplary record. As an example, these measures were effective during Hurricane Andrew, where only small spills occurred even after platforms and other facilities were evacuated, and in some cases destroyed.

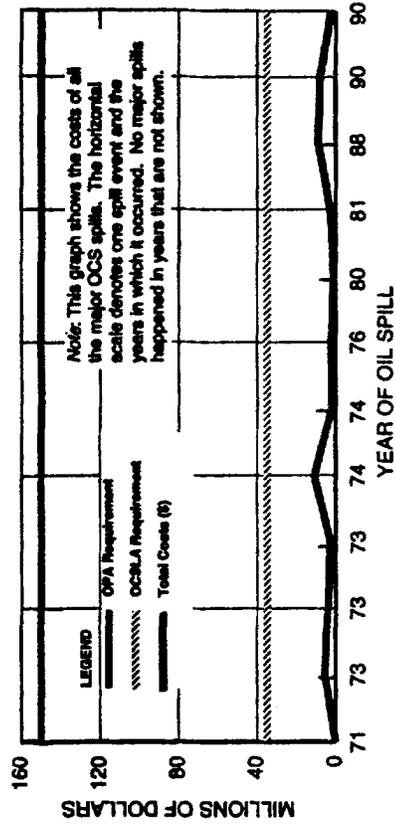
Because certain offshore facility operations do not represent an oil spill risk that is great enough to justify the minimum amount of financial responsibility, section 418(b) contains a 1,000 barrel production exemption from the OPA 90 offshore facility financial responsibility requirement. Finally, section 418(b) of this bill makes the requirements of 1016(f) of the Oil Pollution Act of 1990 concerning claims against guarantors inapplicable to the financial responsibility arrangements for offshore facilities.

The amendments to OPA 90 made by section 418 of this bill are consistent with the lower risk to the environment posed by offshore facilities. Following are two charts which illustrate this point, reprinted from the Report of the National Petroleum Council: The Oil Pollution Act of 1990: Issues and Solutions, issued in July of 1994.



Source: National Academy of Sciences (1985) & Warlick.

Figure 1-1. Marine Hydrocarbon Pollution Worldwide (64,000 Barrels per Day).



*Projected estimated costs (cleanup and damages) in 1992 dollars in accordance with OPA definitions. Estimates of NRDA costs were not made.
 Source: The Minerals Management Service.

Figure 1-2. Major Oil Spill Cleanup and Associated Damages Costs*—1971-1991 (for Major Spills from Offshore Facilities on the Gulf of Mexico OCS).

SECTION 419. MANNING AND WATCH REQUIREMENTS ON TOWING
VESSELS ON THE GREAT LAKES

Section 419 of this bill amends section 8104 of title 46, United States Code, to conform the manning requirements for Great Lakes towing vessels to the requirements for towing vessels operating in other parts of the country. Subsection (a) of this section amends section 8104(c) of title 46 to permit licensed individuals and seamen aboard Great Lakes towing vessels to work no more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period. Section 419 also amends section 8104(e) of title 46 to allow crewmen to work in both the deck and engine departments of a towing vessel operating on the Great Lakes. Finally, section 419 amends section 8104(g) of title 46, United States Code, to allow the licensed individuals and crewmembers aboard Great Lakes towing vessels to be divided in two watches, rather than the current three watch requirement.

SECTION 420. LIMITATION ON APPLICATION OF CERTAIN LAWS TO LAKE
TEXOMA

This section exempts the small passenger vessels operating on Lake Texoma, located on the border of Texas and Oklahoma, from Federal laws relating to documentation or inspection of vessels or licensing or documentation of vessel operators. The States of Texas and Oklahoma are providing adequate operator licensing for and inspections of these vessels.

TITLE V—COAST GUARD REGULATORY REFORM

SECTION 501. SHORT TITLE

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

SECTION 502. SAFETY MANAGEMENT

Section 502 adds a new chapter 32 to title 46, United States Code, to authorize the Secretary of Transportation to prescribe regulations regarding shipboard and shore-based management of vessels and personnel. This authority would include conducting examinations and requiring the maintenance of records. The purpose of this section is to implement the International Safety Management (ISM) Code. This agreement, which the United States Government has signed, requires owners of vessels engaged in foreign commerce to manage their vessels in a safe manner. This initiative recognizes that many of the decisions directly affecting the safety and environmental conditions on vessels are made on shore. The Secretary currently lacks legal authority to require adoption and use of the ISM Code by the owners and operators of U.S.-flag vessels. Neither the International Convention for the Safety of Life at Sea (SOLAS) in general, nor the ISM in particular, derogate any of the pollution prevention measures contained in OPA 90. SOLAS, including the ISM Code, augment safety and pollution prevention measures already enacted in the United States.

New section 3201 provides definitions for the chapter.

New section 3020(a) provides for the mandatory application of the chapter to the vessels covered by the ISM Code. Mandatory application of the chapter will begin on July 1, 1998, to vessels transporting more than 12 passengers (as the term "passenger" is defined in section 2101(21)(A) of title 46, U.S.C.), and to a tanker, bulk freight vessel, or high speed freight vessel, each of which over 500 gross tons, as measured under chapter 143 of title 46, United States Code. The term "freight vessel" is already defined in section 2101 of title 46. Therefore, a "bulk freight vessel" is a freight vessel that transports bulk cargo and a "high speed freight vessel" is a freight vessel that operates at a high speed, as defined under the SOLAS.

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

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

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

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

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

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

Section 502(c) requires the Secretary of Transportation to submit to Congress a study on the implementation of the ISM Code. The marine industry cannot be expected to join in this effort without meaningful participation in this development. This study must be completed and submitted to Congress not later than the earlier of one year after the date of enactment of this Act or before the Secretary has prescribed final regulations implementing new chapter 32 of title 46, United States Code.

SECTION 503. USE OF REPORTS, DOCUMENTS, RECORDS, AND EXAMINATIONS OF OTHER PERSONS

Section 503 adds a new section 3103 to title 46, United States Code. This new section will allow the Secretary to use reports, documents, and certificates issued by persons that the Secretary decides may be relied on to inspect, examine, or survey vessels.

Under this section, the Secretary may use and rely on reports, documents, and certificates issued by international classification societies, surveyors, professional engineering societies, shipyards, marine chemists, testing laboratories, the National Cargo Bureau, the International Cargo Gear Bureau, foreign governments, or other persons that the Secretary believes may be relied on to professionally inspect or review a vessel to ensure compliance with subtitle II of title 46, United States Code, which includes vessel inspection and load line laws. This authority gives the Secretary the flexibility to use alternative means of complying with regulatory requirements, including determinations that requirements or materials meet Coast Guard approved requirements, without reducing marine safety or pollution prevention. This offers the possibility of greater efficiencies for shipyards and vessel owners making it possible for the Secretary to use governmental resources in areas in which greater oversight and enforcement are needed. Reliance by the Secretary on the work of these various qualified persons re-

duces the need for the Coast Guard to do this work directly and reduces the number of duplicate examinations imposed on the marine industry.

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

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

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

Section 503(c) amends section 3308 of title 46, United States Code, to clarify that the Secretary, or a person delegated by the Secretary, does not have to personally examine the vessel. This will allow for the use of reports, other records, and for self-inspections by model companies.

SECTION 504. EQUIPMENT APPROVAL

Section 504 amends section 3306 of title 46, United States Code, concerning vessel inspection regulations and equipment and material approvals. Subsection (b)(1) contains the same language as the current section 3306(b), except that the language has been broadened to specifically include material subject to regulation. This term is added for clarification only.

This section also amends section 3306(b) of the title 46, United States Code, by adding a new paragraph (2) that allows the Secretary to accept, for use on vessels inspected by the Coast Guard,

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

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

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

Section 504(b) requires the Secretary, in consultation with other Federal agencies, to work to eliminate barriers to U.S. manufacturers of fire and safety equipment and materials imposed by foreign governments, such as failing to certify their products, which the Secretary has found safe, for use in vessels documented in that country. Additionally, the Secretary shall continue to work through the International Maritime Organization (IMO) to develop standards that result in mutual acceptance of maritime equipment and material.

SECTION 505. FREQUENCY OF INSPECTION

Section 505 amends section 3307(1) of title 46, United States Code, to clarify its purpose and to change the period of validity for certificates of inspection from two to five years. No practical changes will result with respect to inspections and examinations that are the basis for issuing the certificates of inspection.

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

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

The Committee does not envision any decrease in the level of safety due to these changes. Vessels on five-year cycles will continue to receive annual examinations to ensure they are in compliance with their Certificates of Inspection. These annual examinations may be scheduled within two months of the Certificate of Inspection anniversary date. Nothing in this provision affects the requirements applicable to hull, boiler, or other interval examinations as these are functions of regulations independent of section 3307.

SECTION 506. CERTIFICATE OF INSPECTION

Section 506 eliminates the prohibition of a vessel owner from scheduling an inspection for a vessel more than 60 days in advance of the inspection. This change will allow shipowners to request inspections more than 60 days prior to the expiration of the current certificate of inspection. Modern commercial practice requires that ship schedules generally be developed six months or more in advance. The owners and operators of U.S.-flag vessels, in order to adequately compete with their foreign counterparts, need to be able to make long-range commitments. The current statute restricts their ability to request scheduling of required vessel inspections and examinations. Further, it restricts the ability of the Secretary to make long-range plans for the use of government personnel.

SECTION 507. DELEGATION OF AUTHORITY OF SECRETARY TO CLASSIFICATION SOCIETIES

Section 507 amends section 3316 of title 46, United States Code, concerning the use of classification societies to inspect vessels. Currently, section 3316 limits delegations to the American Bureau of Shipping (ABS) "or a similar United States classification society." Since there is no similar U.S. classification society, there is, in effect, no delegation under this section other than to ABS.

Classification societies review vessel plans and conduct vessel examinations, primarily for insurance purposes. The Coast Guard frequently conducts plan reviews and vessel inspections that, in many respects, duplicate the work of the classification societies. There are over 40 classification societies worldwide, each association is affiliated with a particular foreign country. The degree of professionalism varies among these classification societies. Eleven classification societies (including ABS) have joined together to form the International Association of Classification Societies (IACS). IACS has been granted observer status by the IMO. Section 507(a)(4) allows the Secretary to delegate vessel inspection and examination and plan review and approval authority to classification societies, in addition to the ABS, that meet safety and quality standards acceptable to the Secretary.

However, the Secretary may make this delegation only if the foreign government provides reciprocity to the ABS to provide those services for vessels documented in that country. The Secretary may also delegate this authority to the extent that the government of

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

While section 507 allows the Secretary to delegate the authority to inspect and provide related services on a reciprocal basis to foreign classification societies, the Secretary should exercise discretion to determine who should be delegated authority and the extent of that delegation. While membership in IACS should be a minimum standard, it should not be the only standard. A delegation may only be done if it will secure the safety of individuals and property on board the U.S.-flag vessels to be inspected.

TITLE VI—DOCUMENTATION OF VESSELS

SECTION 601. AUTHORITY TO ISSUE COASTWISE ENDORSEMENTS

Waivers to the Jones Act, the Nation's cabotage law, to permit privately owned vessels to enter the U.S. domestic trades have been routinely considered and granted by Congressional action. More than 170 waivers were granted in the last several years and many private bills were pending when the 103rd Congress adjourned. Generally, a waiver is sought because the vessel is foreign-built, built domestically and later sold foreign, or the present owner is unable to certify that the vessel was owned by foreign interests. The cabotage waiver is for the most part requested for vessels to be used for non-cargo related activities, such as fishing and passenger charters.

Section 601 of this bill authorizes the Secretary of Transportation to issue certificate of documentation with a coastwise endorsement for a vessel that is less than 200 gross tons, is eligible for documentation, was built in the United States, and was sold foreign or placed in a foreign registry. The Committee believes that a simple administrative procedure serves the interests of the public in these cases. Currently, a vessel built in the United States cannot obtain a coastwise endorsement if the vessel is sold to a foreign individual or placed under a foreign registry. This section provides an exception to this requirement for small vessels under limited circumstances. Foreign built vessels must continue to seek legislative approval.

The Committee intends that the 200 gross ton threshold under this section is measured under chapter 143 of title 46, United States Code, which implements the International Tonnage Convention measurement system.

SECTION 602. VESSEL DOCUMENTATION FOR CHARITY CRUISES

This section provides a limited authorization for the Secretary of Transportation to issue a certificate of documentation with a coastwise endorsement for the *Gallant Lady* (Feadship hull number 645, approximately 130 feet in length) and for the *Gallant Lady* (Feadship hull number 651, approximately 172 feet in length). The coastwise trade authorized under this section is limited to carriage of passengers on charitable cruises. This section is conditional upon the owner of the *Gallant Lady* submits to the Secretary a letter expressing the intent of the owner to enter into a contract before October 1, 1996, for construction in a United States shipyard of a passenger vessel that is at least 130 feet in length.

SECTION 603. EXTENSION OF DEADLINE FOR CONVERSION OF VESSEL
M/V TWIN DRILL

Section 603 extends the deadline under section 601(d) of the Coast Guard Authorization Act of 1993 (Public Law 103-206) for the major conversion of the vessel M/V *Twin Drill* (Panama official number 8536-PEXT-2) from June 30, 1995 to June 30, 1996.

SECTION 604. DOCUMENTATION OF VESSEL RAINBOW'S END

Section 604 authorizes the Secretary of Transportation to issue a certificate of documentation with appropriate endorsements for employment in the coastwise trade, the Great Lakes trade, and the fisheries for the vessel *Rainbow's End* (official number 1026899, hull identification number MY13708C787).

SECTION 605. DOCUMENTATION OF VESSEL GLEAM

Section 605 authorizes the Secretary of Transportation to issue a certificate of documentation with a coastwise endorsement for the vessel *Gleam* (United States official number 921594).

SECTION 606. DOCUMENTATION OF VARIOUS VESSELS

This section authorizes the Secretary of Transportation to issue a certificate of documentation with coastwise endorsements to the following vessels: *Annapolis* (United States official number 999008), *Chesapeake* (United States official number 999010), *Consort* (United States official number 999005), *Curtis Bay* (United States official number 999007), *Hampton Roads* (United States official number 999009), *Jamestown* (United States official number 999006).

SECTION 607. DOCUMENTATION OF 4 BARGES

This section authorizes the Secretary of Transportation to issue certificates of documentation with coastwise endorsements to four barges owned by McLean Contracting Company (a corporation organized under the laws of Maryland) and numbered by that company as Barge 76 (official number 1030612), Barge 77 (official number 1030613), Barge 78 (official number 1030614), and Barge 100 (official number 1030615).

TITLE VII. TECHNICAL AND CONFORMING AMENDMENTS

SECTION 701. AMENDMENT OF INLAND NAVIGATION RULES

The Navigation Safety Advisory Council (NAVSAC) reviews the Inland Navigational Rules (Inland Rules) (33 U.S.C. 2001–2071) for clarity and for conformity with the International Regulations for Preventing Collisions at Sea (COLREGS), (33 U.S.C. 1602). NAVSAC has recommended several changes to the Inland Rules to clarify ambiguities in the practical application of the Rules, as well as to bring them into closer conformity with COLREGS. The Coast Guard agrees with the recommendations of NAVSAC and has proposed amendments to Inland Rules 9, 15, 23, 24, and 26. These amendments follow.

Inland Rule 9(e)(i)

Inland Rule 9(e)(i) prescribes procedures for vessels overtaking one another in narrow channels. This amendment clarifies the meaning of Rule 9(e)(i) regarding the duties of the overtaking and overtaken vessel and brings the language in closer conformity with the language of COLREGS Rule 9(e)(i).

Under the current Inland Rule 9(e)(i), the vessel intending to overtake sounds the appropriate sound signal, and the overtaken vessel, if in agreement, sounds the same signal. The overtaking vessel is the give way vessel and must take steps to permit safe passing and keep clear of the overtaken vessel until finally passed and clear. The overtaken vessel, as the stand-on vessel, must maintain course and speed consistent with the channel.

The current rule does not, on its face, permit the vessel being overtaken to assist in the passing, by taking action such as slackening speed or moving to the edge of the channel. However, as a practical safety matter, overtaken vessels often maneuver or slacken speed to assist in a safe passage. (For example, a smaller vessel being overtaken may slow to reduce the amount of time the overtaking vessel will take to pass, to allow the overtaking vessel to pass at a slower speed, or to allow the passage to take place at a wider portion of a narrow channel.) In addition, vessels often reduce speed when overtaken, to increase revolutions and maintain steerage way as a larger vessel passes.

The amendment to Inland Rule 9(e)(i) provides that if a vessel agrees to be overtaken by whistle signals alone, the vessel must maintain course and speed, and may assist in the overtaking only if the specific maneuver is agreed to by VHF radio or other means. By only allowing maneuvers specifically agreed to, this amendment will help prevent unexpected maneuvers by the overtaken vessel which could cause an accident.

In addition, this provision resolves an ambiguity between Inland Rules 9(e)(i) and 34(c). Specifically, by adding the term “power-driven” to describe vessels under Inland Rule 9(e)(i), this amendment clarifies that the maneuvering sound signals provided in Inland Rule 34 are for use between power-driven vessels only, except that any vessel may use the danger signal prescribed in Inland Rule 34(d). The current Inland Rule 9(e)(i) refers to any “vessel”, implying that all vessels, including sailboats and rowboats, must sound maneuvering signals. However, because there are no provisions for

sailboats, rowboats and other non-power driven vessels to sound maneuvering signals, except for the danger signal, a power-driven vessel cannot reach an agreement with those vessels. While the requirement for power-driven vessels only to sound maneuvering signals may be based on historical use of steam-powered whistles, most sailing vessels are small recreational craft and do not generally use or understand whistle signals and would not benefit from application of this provision.

NAVSAC considered modifying Inland Rule 9(e)(i) to mirror the language in COLREGS Rule 9(e)(i) but rejected this for many of the same reasons the United States chose not to adopt the language of COLREGS Rule 9(e)(i) during the drafting of the Inland Navigation Rules Act. Under COLREGS Rule 9(e)(i), sound signals are only required if the overtaken vessel must maneuver to permit safe passage. The United States felt it was advantageous for sound signals (or bridge-to-bridge radiotelephone agreement) to be used whenever power-driven vessels overtake in a narrow channel, not just in those situations where the overtaken vessel must maneuver to permit safe passage. Also, the rules in effect in the United States prior to the adoption of the Inland Navigation Rules in 1980, which required overtaken vessels to maintain course and speed, were well known to U.S. mariners and helped to prevent unexpected maneuvers by the overtaken vessel.

Inland Rule 15(b)

Inland Rule 15(b) provides that on the Great Lakes, Western Rivers, and waters specified by the Secretary, vessels crossing a river must give way to power-driven vessels ascending or descending a river. This amendment clarifies that this provision applies only to situations where a power-driven vessel is crossing and another power-driven vessel is ascending or descending a river. Also, it resolves a direct conflict between Inland Rule 15(b) and Inland Rule 18(a). Rule 18(a) lists general responsibilities between types of vessels and provides that, subject to exceptions, a power-driven vessel shall give way to vessels not under command, vessels restricted in ability to maneuver, fishing vessels, and sailing vessels. Generally, a more maneuverable power-driven vessel must give way to a less maneuverable craft. Without this amendment, a sailing vessel crossing may expect a power-driven vessel descending a river to give way based on Rule 18(a), while the power-driven vessel would expect the sailing vessel to give way under Rule 15(b).

Inland Rule 23(a)

Inland Rule 23(a) prescribes the lights that must be exhibited by a power-driven vessel underway. This proposed amendment will make the language of both Inland Rule 23(a) and COLREGS Rule 23(a) identical, by removing a technical specification for masthead light placement from Inland Rule 23(a)(i). The United States had proposed to the International Maritime Organization (IMO) that the COLREGS Rule 23(a)(i) be changed to mirror Inland Rule 23(a)(i), which allows a vessel less than 20 meters in length to carry its masthead light as far forward as is practicable instead of forward of amidships. This reflects the practical difficulty in mounting the masthead light forward of amidships on smaller ves-

sel designs, and recognizes problems with light backscatter interfering with an operator's night vision on smaller vessels. While endorsing the substantive change, IMO chose to incorporate this amendment into the technical annexes regarding light placement, rather than amend COLREGS Rule 23(a)(i) itself. This IMO amendment to the COLREGS will become effective on November 5, 1995. To provide for parallel language between the two sets of Rules, this proposed change to Inland Rule 23(a) removes that portion of Inland Rule 23(a)(i) relating to light placement. The Coast Guard, through the regulatory process, will incorporate the language adopted by IMO into the appropriate technical annex of the Inland Navigation Rules.

Inland Rule 24(f)

Inland Rule 24(f) governs lighting of one or more vessels being towed alongside or being pushed in a group. The proposed amendment will require a special flashing light to be carried on vessels being towed alongside, to alert recreational boaters, as well as commercial operators, of the forward edge of the tow in the same manner as Inland Rule 24(f)(i) has always required such a special flashing light on vessels being pushed ahead. This light has proven invaluable, especially on the Western Rivers, where towing vessels often push large groups of barges ahead, and the lead barge may be hundreds of feet ahead of the towing vessel itself.

NAVSAC carefully considered this issue, and decided that the use of such a light would increase navigation safety if extended to vessels being towed alongside as well. This decision was based on several factors: (a) the increase in recreational boating and the problems recreational boaters often have in identifying tows at night; (b) towing vessels moving large barges may use unconventional towing arrangements, such as making up tow barges in a "V" with the towing vessel in the middle; and (c) where multiple vessels, usually barges, are being towed alongside, it is desirable to make explicit that sidelights should mark the forward most outboard extremities of the tow.

In configurations where vessels are being pushed ahead, as well as being towed alongside (*e.g.*, where a towing vessel may be pushing several barges ahead and also has one barge alongside "on the hip"), the vessel or group of vessels is required to display the special flashing light and sidelights under Inland Rule 24(f)(i), and the vessel alongside must exhibit a sternlight under Inland Rule (f)(ii). In this or any configuration, only one special flashing light is required. However, where vessels are towed alongside on both sides, sternlights will be required on both outboard vessels by Inland Rule 24(f)(iii).

Inland Rule 34(h)

Currently, Inland Rule 34(h) provides that vessels may make passing arrangements using bridge-to-bridge radiotelephone, in lieu of the sound signals prescribed in Inland Rule 34(a)-(c). The current Rule reflects both the safety advantage and current practice of many mariners.

As amended, the Rule refers to the use of bridge-to-bridge radiotelephone as an example, to allow for use of communications means

other than just the VHF radio channels prescribed by the Vessel Bridge-to-Bridge Radiotelephone Act (33 U.S.C. 1201) and implementing regulations. It is important to take into account the development of new technology, such as satellite communications or cellular phone systems, which may be useful for vessel communication. For example, on the Great Lakes, where a discrete number of ships regularly operate, carriers often communicate by cellular phone. This amendment will allow vessels to make valid passing agreements with these systems.

This amendment also clarifies the Rule by replacing the word "meeting" with the word "hear-on", to more correctly describe this factual situation in accordance with Inland Rule 14.

SECTIONS 702-744. ESTABLISHMENT OF ALTERNATE CONVENTION
TONNAGE

Sections 702-744 of this bill authorize the Secretary of Transportation to establish alternate International Tonnage Convention (ITC) tonnage requirements for the purposes of statutes that contain vessel tonnage thresholds. Tonnage thresholds in existing statutes are based on the regulatory measurement system under chapter 145 of title 46, United States code, which allows vessel designers to use tonnage reduction techniques to artificially lower the tonnage of a vessel. Since the ITC measurement system, implemented under chapter 143 of title 46, United States Code, becomes effective for the United States on July 18, 1984, statutory tonnage limits have not been revised to reflect the higher tonnages that often result when a vessel is measured under the ITC system. The availability of alternate ITC tonnages established by the Secretary will discourage vessel designers and operators from using the regulatory measurement system to comply with existing statutory and regulatory requirements to maintain their competitive viability. Alternate ITC tonnages will give the maritime industry the flexibility to build and operate vessels that do not employ tonnage reduction techniques, resulting in safer and more efficient vessels. Alternate tonnages will also enable U.S. vessel designers and operators to be competitive in the international market.

Sections 702 through 744 authorize the Secretary of Transportation to establish alternate ITC tonnage thresholds for the purposes of each of the statutes amended. Under the amendments made by these sections, vessel owners have the option to measure their vessels under the new ITC tonnage system or the regulatory system. The Committee expects that owners of many existing vessels, and virtually all owners of vessels constructed in the future, will exercise this option, leading ultimately to the demise of the antiquated regulatory measurement system. However, the amendments made by sections 702-744 do not effect the option of an "existing vessel" as defined in section 14101(2) of title 46, United States Code, to retain its regulatory tonnage measurement as provided in section 14301(d) of that title.

Alternate tonnages prescribed by the Secretary under sections 702-744 of this bill should be equivalent, to the maximum extent possible, to the current statutory tonnage. In the interim period before the Secretary prescribes an alternate tonnage, the current statutory tonnage will apply to vessels measured under either the

regulatory tonnage measurement system or the ITC tonnage measurement system. Finally, sections 702–744 authorize the Secretary to establish an alternate regulatory tonnage for the purposes of statutes enacted after July 18, 1994, that apply the ITC system. Alternate regulatory tonnages must be established to allow vessels entitled to use the regulatory tonnage measurement system to comply with laws enacted after July 18, 1994.

SECTION 745. CLERICAL AMENDMENT

This section is a technical amendment to chapter 121 of title 46, United States Code.

SECTION 746. REPEAL OF GREAT LAKES ENDORSEMENTS

The Coast Guard Authorization Act of 1989 (Public Law 101–225) made technical changes to the Coast Guard vessels documentation scheme. These changes reflect the conversion from a system of separate and distinct types of documents based on the use of the vessel to a system of multiple endorsements for a particular trade or use. These changes unintentionally added all of the requirements of the U.S. coastwise trade (Jones Act) to all vessels operating on the Great Lakes, even those only trading between the United States and Canada. This section corrects the error and will permit U.S.-flag vessels to trade between the United States and Canada with a certificate of documentation with a registry endorsement. However, a vessel engaged in the coastwise trade or fisheries on the Great Lakes must meet all the requirements necessary to obtain coastwise or fisheries endorsements.

SECTION 747. CONVENTION TONNAGE FOR LICENSES, CERTIFICATES, AND DOCUMENTS

This section amends chapter 75 of title 46, United States Code, by adding a new section 7506 to authorize the Secretary to evaluate the service of an individual applying for a license, certificate of registry, or merchant mariners document based on the size of the vessel on which the individual served as measured under the International Tonnage Convention (chapter 143, title 46, United States Code). Eligibility of individuals for licenses, certificates of registry, and merchant mariners' documents issued by the Secretary is based, in part, on the size of the vessel on which the individual has experience.

Authorizing the Secretary to use International Tonnage Convention tonnages to determine eligibility for licenses, certificates, and documents will not affect the ability of vessel owners or operators to use regulatory tonnage for applying manning, inspection, and other marine safety laws and regulations.

TITLE VIII. COAST GUARD AUXILIARY AMENDMENTS

SECTION 801. ADMINISTRATION OF THE COAST GUARD AUXILIARY

The Coast Guard Auxiliary is a voluntary organization, established before World War II, to promote boating safety. Today, there are approximately 36,000 Coast Guard Auxiliary members.

Section 801 of this bill amends section 821 of title 14, United States Code, to establish an organizational structure for the Coast Guard Auxiliary and to designate the Auxiliary as an “instrumentality of the United States.” The Committee believes that the Coast Guard Auxiliary should be considered an instrumentality of the United States because the Auxiliary’s sole function is to support the operations and activities of the U.S. Coast Guard. Coast Guard Auxiliary’s volunteer their time and property, including vessels and aircraft, for use in performing Coast Guard missions. As the Coast Guard streamlines its operations and develops more efficient ways to perform its missions, the Coast Guard Auxiliary will become an even more valuable resource to the Coast Guard. The Committee expects that the additional protection by Auxiliary “instrumentality status” will attract more individuals to join this vital organization.

Section 801 of this bill confers instrumentality status on the Coast Guard Auxiliary, only with respect to acts or omissions committed by Auxiliary members performing a Coast Guard function or operation authorized by the Commandant of the Coast Guard, under section 822 of title 14, United States Code.

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

Section 801 of this bill also authorizes the national board of the Auxiliary, Auxiliary districts, and regions of the Auxiliary, to incorporate under state law in accordance with policies established by the Commandant. The ability to incorporate will allow the Auxiliary’s national board to manage its finances more effectively and to hold Auxiliary copyrights, trademarks, and title to property used by the Auxiliary in performing its missions. Regional or district corporations may be formed under this section only for the purpose of holding property for Auxiliary use. Corporations formed under this authority are not considered instrumentalities of the United States.

SECTION 802. PURPOSE OF THE COAST GUARD AUXILIARY

Section 802 provides that the purpose of the Coast Guard Auxiliary is to assist the Coast Guard as authorized by the Commandant, in performing any Coast Guard function, power, duty, role, mission, or operation authorized by law. As the functions and operations of the Coast Guard expand in future years, the Auxiliary will have the flexibility to act in support of Coast Guard operations, under the direction of the Commandant. Future uses of the Coast Guard Auxiliary may include the establishment and support of marine safety and security zones; port and harbor patrols; parade and regatta patrols; pollution patrols; transportation of Coast Guard personnel for mission support; training support; and other support missions authorized by the Commandant. The Committee does not intend that the Coast Guard Auxiliary become involved in

law enforcement missions, or in any other mission that is appropriately restricted to Coast Guard personnel.

SECTION 803. MEMBERS OF THE AUXILIARY; STATUS

Section 803 of this bill clarifies the status of individual members of the Coast Guard Auxiliary, and affords an Auxiliarist, while acting within the scope of official duties, the same degree of protection from legal liability as is provided to Coast Guard personnel. Under section 803, Auxiliary members are considered Federal employees for limited purposes, and are protected under the Federal Tort Claims Act (28 U.S.C. 2671 et seq.) from the claims of a third party who is allegedly harmed by the Auxiliary member while the member is acting within the scope of official duties.

SECTION 804. ASSIGNMENT AND PERFORMANCE OF DUTIES

This section deletes the antiquated term “specific duties”, from sections 830, 831, and 832 of title 14, United States Code.

SECTION 805. COOPERATION WITH OTHER AGENCIES, STATES, TERRITORIES, AND POLITICAL SUBDIVISIONS

The section allows the Commandant to prescribe conditions under which the Coast Guard Auxiliary may assist the states, when requested by proper state authorities. Assistance provided under this section may include supporting and augmenting state safety and security patrols for boat parades, regattas, and other special waterborne events.

SECTION 806. VESSEL DEEMED PUBLIC VESSEL

Section 806 of this bill clarifies that an Auxiliary vessel, while assigned to authorized Coast Guard duty, is deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of sections 646 and 647 of title 14, United States Code, and other applicable provisions of law, for purposes of resolving third-party claims for damage.

SECTION 807. AIRCRAFT DEEMED PUBLIC AIRCRAFT

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

SECTION 808. DISPOSAL OF CERTAIN MATERIAL

Section 808 allows the Auxiliary to acquire directly obsolete or other material that is not needed by the Coast Guard, in those states where unincorporated associations may do so, or indirectly, through a corporation formed for purposes of acquiring, owning, and disposing of property.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(l)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of

rule X of the Rules of the House of Representatives, the Subcommittee on Coast Guard and Maritime Transportation of the Committee on Transportation and Infrastructure held hearings on the Coast Guard's fiscal year 1996 budget request on February 14 and 15, and the Committee's oversight findings and recommendations are reflected in this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of H.R. 1361 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 1361. However, clause 7(d) provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 1361 does not contain any new budget authority or new credit authority. It does contain minor new direct spending provisions and sections that increase revenues. These provisions are expected to have negligible impacts on the Federal budget.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight of the subject of H.R. 1361.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 1361 from the Director of the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, May 1, 1995.

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

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1361, the Coast Guard Authorization Act of 1995. Because the bill could affect receipts and direct spending by the Coast Guard, pay-as-you-go procedures would apply.

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

JAMES L. BLUM
(For June E. O'Neill, *Director*).

Enclosure.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

1. Bill number: H.R. 1361.
2. Bill title: The Coast Guard Authorization Act of 1995.
3. Bill status: As ordered reported by the House Committee on Transportation and Infrastructure on April 5, 1995.
4. Bill purpose: H.R. 1361 would authorize fiscal year 1996 appropriations of about \$3.1 billion to the U.S. Coast Guard (USCG) for discretionary programs, including about \$2.6 billion for operating expenses, \$428 million for acquisition and other capital projects, \$22.5 million for research activities, \$16 million for bridge alterations, and \$25 million for environmental compliance. Of the amounts authorized, about \$61 million would be derived from the Oil Spill Liability Trust Fund (OSLTF). The bill also would authorize the appropriation of \$582 million in 1996 for retirement benefits.

In addition, the bill would:

- allow USCG officers who are not promoted to remain on active duty until they retire;
- authorize the agency to charge fees for inspecting foreign passenger vessels;
- make the removal of a drainage siphon adjacent to a bridge in Louisiana eligible for federal funding under the Truman-Hobbs Act;
- increase civil penalties for violations of various laws enforced by the USCG;
- exempt small passenger vessels operating on Lake Texoma from certain laws enforced by the Coast Guard;
- expand the Coast Guard's authority to delegate to nonfederal entities certain agency functions such as inspecting and certifying vessels; and
- mandate various studies and make technical amendments to statutes governing USCG regulatory programs, administrative procedures, and other activities.

5. Estimated cost to the Federal Government: Assuming appropriation of the entire amounts authorized for discretionary programs, enactment of H.R. 1361 would increase fiscal year 1996 funding by about \$127 million over the 1995 appropriated level. Several provisions of H.R. 1361 also would result in small changes to mandatory spending and federal revenues. The budgetary effects of the legislation are summarized below:

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
Spending subject to appropriations action						
Spending under current law:						
Budget authority ¹	2,983	28
Estimated outlays	2,939	807	421	102	29	18

[By fiscal year, in millions of dollars]

	1995	1996	1997	1998	1999	2000
Proposed changes:						
Authorization level		3,082				
Estimated Outlays		2,157	439	349	90	26
Spending under H.R. 1372:						
Authorization level ¹	2,983	3,110				
Estimated outlays	2,939	2,964	860	451	119	44
Mandatory Spending and Receipts						
Direct spending:						
Estimated budget authority		(²)				
Estimated outlays		(²)				
Estimated revenues		(²)				

¹The 1995 spending level is the amount actually appropriated for programs authorized by this bill. For comparison purposes, total 1995 funding was reduced by \$25 million appropriated for USCG operating expenses from the Aquatic Resources Trust Fund (ARTF). The annual ARTF contribution to USCG operations is authorized under existing law through fiscal year 1997 and is not affected by H.R. 1361. The \$28 million in 1996 is the amount already authorized for appropriations from the OSLTF.

²Less than \$500,000.

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

The \$562.6 million provided in the bill for Coast Guard retirement has not been included in the above table because such pay is an entitlement under current law, requiring no annual authorization of appropriations.

6. Basis of estimate: For purposes of this estimate, CBO assumed that H.R. 1361 will be enacted by October 1, 1995, and that the full amounts authorized for USCG programs will be appropriated for fiscal year 1996.

Authorizations of Appropriations.—The additional authorizations for 1996 consist of the amounts stated in the bill for discretionary accounts, excluding the \$28 million to be derived from the OSLTF for Coast Guard operations and research, because such appropriations are already authorized under existing law. Outlays were estimated on the basis of historical spending patterns for Coast Guard programs.

Several provisions would increase the cost of annual USCG operations as well as long-term projects such as bridge alterations. For example, section 104 of the bill could prevent or delay planned consolidations or closures of multimission small boat stations, which the agency had estimated would save about \$6 million in 1996. If such cost-saving measures could not be achieved or were delayed, the agency would have to absorb the additional expense by cutting other spending from operating appropriations.

Also, section 302, which would deem a drainage siphon on the Mississippi River in Louisiana to be a part of the Florida Avenue Bridge, could increase the future cost of removing the bridge under the Truman-Hobbs Act. Removal of the siphon is estimated to cost about \$8 million, most of which would be paid by the federal government (assuring appropriation of the necessary sums).

Finally, section 404, regarding the activities of the Board for Corrections of Military Records, could result in minor additional costs by requiring the Coast Guard to reimburse eligible applicants for their legal costs.

Direct Spending.—Several provisions may result in small changes in direct spending:

Section 205 would permit officers with at least 18 years of service to remain on active duty until retirement. Under current law,

officers who fail to be promoted to the rank of lieutenant commander after the second try must leave active duty. Retention of such officers on active duty for a longer period would increase their annual retirement benefits by about \$20,000 each. Increased direct spending would be about \$40,000 in 1996 and about \$120,000 annually beginning in 1997.

Section 301 would repeal a statutory requirement that USCG fees for inspecting foreign passenger vessels be equal to the amount imposed on U.S.-flag ships at foreign ports. This would enable the agency to recover the full cost of providing this service to foreign vessels, resulting in an increase in offsetting receipts of about \$400,000 annually.

Section 420 would exempt small passenger vessels operating on Lake Texoma from Coast Guard documentation, inspection, and other functions for which the agency currently charges fees. The resulting decrease in federal offsetting receipts would be less than \$100,000 over the next five years.

Section 507 would permit the Coast Guard to delegate to foreign classification societies certain agency functions that currently may be delegated only to U.S. groups such as the American Bureau of Shipping. The expanded authority would probably result in a small increase in the Coast Guard's use of delegation (because requests from foreign groups are expected to be few), with minimal impact on the agency's workload and operating budget. A small loss of offsetting receipts would also occur because the agency would be inspecting and certifying fewer vessels, services for which it currently charges user fees. CBO expects that such losses would be less than \$200,000 annually, probably beginning in fiscal year 1997.

Revenues.—Section 307 would impose a maximum civil penalty of \$1,000 for failing to comply with alcohol and dangerous drug testing requirements. Section 309 would increase to \$25,000 the current \$1,000 maximum civil penalty for both failure to report a casualty and operation of an uninspected vessel in violation of manning requirements. Total additional revenues would be less than \$500,000 annually.

Other provisions of H.R. 1361 are not expected to have any significant impact on the federal budget.

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

[By fiscal year, in millions of dollars]

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

8. Estimated cost to State and local governments: None.

9. Estimate comparison: None.

10. Previous CBO estimate: None.

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

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

FULL COMMITTEE, APRIL 5, 1995

ROLL CALL VOTES

1. Molinari amendment: to conform the manning requirements for towing vessels on the Great Lakes to the requirements for towing vessels in other parts of the country.

AYE (27)	Nay (25)
Shuster	Blute
Bachus	Borski
Baker	Brewster
Barcia	Brown
Bateman	Clement
Coble	Clinger
Cramer	Clyburn
Deal	Costello
Ehlers	Danner
Emerson	DeFazio
Fowler	Duncan
Franks	Filner
Gilchrest	Hayes
Horn	Johnson
Hutchinson	Laughlin
Kelly	Menendez
Kim	Nadler
Latham	Parker
LaTourette	Quinn
Lipinski	Rahall
Mica	Tate
Mineta	Traficant
Molinari	Wise
Oberstar	Young
Poshard	Zeliff
Wamp	
Weller	

2. Coble substitute for Traficant Amendment: allows the closure of Coast Guard search and rescue stations if the Secretary of Transportation determines that maritime safety will not be diminished.

AYE (30)	NAY (23)
Shuster	Bachus
Baker	Barcia
Bateman	Blute
Brewster	Brown
Clinger	Clement
Coble	Clyburn
Cramer	Costello
Deal	Danner
Duncan	DeFazio
Ehlers	Filner

Emerson	Hayes
Ewing	Johnson
Fowler	LaTurette
Franks	Laughlin
Gilchrest	Lipinski
Horn	Menendez
Hutchinson	Mineta
Kelly	Nadler
Kim	Oberstar
Latham	Poshard
Martini	Rahall
Mica	Traficant
Molinari	Wise
Quinn	
Seastrand	
Tate	
Wamp	
Weller	
Young	
Zeliff	

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 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):

TITLE 14, UNITED STATES CODE

PART I—REGULAR COAST GUARD

* * * * *

CHAPTER 5—FUNCTIONS AND POWERS

* * * * *

§93. Commandant; general powers

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

(a) * * *

* * * * *

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

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

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

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

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

(v) make child development services available to members of the armed forces and Federal civilian employees under terms and conditions comparable to those under the Military Child Care Act of 1989 (10 U.S.C. 113 note); and

(w) require that any officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment to any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) request that all information contained in the National Driver Register pertaining to the individual, as described in section 30304(a) of title 49, be made available to the Commandant under section 30305(a) of title 49, may receive that information, and upon receipt, shall make the information available to the individual.

* * * * *

CHAPTER 7—COOPERATION WITH OTHER AGENCIES

Sec.

[141. General.]

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

* * * * *

[§ 141. General]

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

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

* * * * *

CHAPTER 11—PERSONNEL

* * * * *

D. DISCHARGES; RETIREMENTS; REVOCATION OF COMMISSIONS

* * * * *

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

(a) * * *

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

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

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

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

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

* * * * *

CHAPTER 17—ADMINISTRATION

* * * * *

§ 641. Disposal of certain material

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

(c)(1) * * *

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

sales of materials for which the proceeds of sale will not exceed \$5,000 under regulations prescribed by the Commandant.

* * * * *

**PART II—COAST GUARD RESERVE AND
AUXILIARY**

CHAPTER 21—COAST GUARD RESERVE

SUBCHAPTER A

GENERAL

Sec.
701. Organization.

* * * * *

SUBCHAPTER B

COMMISSIONED OFFICERS

720. Definitions.

* * * * *

747. *Special selection boards.*

* * * * *

§ 712. Active duty for emergency augmentation of regular forces

(a) * * *

* * * * *

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

* * * * *

SUBCHAPTER B

COMMISSIONED OFFICERS

* * * * *

§ 747. Special selection boards

(a) The Secretary shall provide for special selection boards to consider the case of any officer who is eligible for promotion who—

(1) was not considered for selection for promotion by a selection board because of administrative error; or

(2) was considered for selection for promotion by a selection board but not selected because—

(A) the action of the board that considered the officer was contrary to law or involved a material error of fact or material administrative error; or

(B) the board that considered the officer did not have before it for its consideration material information.

(b) Not later than 6 months after the date of the enactment of the Coast Guard Authorization Act For Fiscal Year 1996, the Secretary shall issue regulations to implement this section. The regulations shall conform, as appropriate, to the regulations and procedures issued by the Secretary of Defense for special selection boards under section 628 of title 10, United States Code.

* * * * *

CHAPTER 23—COAST GUARD AUXILIARY

Sec.

§821. Administration.

§822. Purpose.

§823. Eligibility, enrollments.]

821. *Administration of the Coast Guard Auxiliary.*

822. *Purpose of the Coast Guard Auxiliary.*

823. *Eligibility, enrollments, and status.*

* * * * *

§821. Administration

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

§822. Purpose

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

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

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

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

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

§821. Administration of the Coast Guard Auxiliary

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

(b) Each organizational element or unit of the Coast Guard Auxiliary organization (but excluding any corporation formed by an organizational element or unit of the Auxiliary under subsection (c) of this section), shall, except when acting outside the scope of section

822, at all times be deemed to be an instrumentality of the United States, for purposes of—

(1) chapter 26 of title 28 (popularly known as the Federal Tort Claims Act);

(2) section 2733 of title 10 (popularly known as the Military Claims Act);

(3) the Act of March 3, 1925 (46 App. U.S.C. 781–790; popularly known as the Public Vessels Act);

(4) the Act of March 9, 1920 (46 App. U.S.C. 741–752; popularly known as the Suits in Admiralty Act);

(5) the Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act); and

(6) other matters related to noncontractual civil liability.

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

§ 822. Purpose of the Coast Guard Auxiliary

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

§ 823. Eligibility, enrollments, and status

(a) The Auxiliary shall be composed of citizens of the United States and its territories and possessions, who are owners, sole or part, of motorboats, yachts, aircraft, or radio stations or who by reason of their special training or experience are deemed by the Commandant to be qualified for duty in the Auxiliary, and who may be enrolled therein pursuant to applicable regulations.

(b) A member of the Coast Guard Auxiliary is not a Federal employee except for the following purposes:

(1) Chapter 26 of title 28 (popularly known as the Federal Tort Claims Act).

(2) Section 2733 of title 10 (popularly known as the Military Claims Act).

(3) The Act of March 3, 1925 (46 App. U.S.C. 781–790; popularly known as the Public Vessel Act).

(4) The Act of March 9, 1920 (46 App. U.S.C. 741–752; popularly known as the Suits in Admiralty Act).

(5) The Act of June 19, 1948 (46 App. U.S.C. 740; popularly known as the Admiralty Extension Act).

(6) Other matters related to noncontractual civil liability.

(7) Compensation for work injuries under chapter 81 of title 5.

(8) The resolution of claims relating to damage to or loss of personal property of the member incident to service under section 3721 of title 31 (popularly known as the Military Personnel and Civilian Employees' Claims Act of 1964).

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

* * * * *

§ 827. Vessel deemed public vessel

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

§ 828. Aircraft deemed public aircraft

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

§ 827. Vessel deemed public vessel

While assigned to authorized Coast Guard duty, any motorboat or yacht shall be deemed to be a public vessel of the United States and a vessel of the Coast Guard within the meaning of sections 646 and 647 of this title and other applicable provisions of law.

§ 828. Aircraft deemed public aircraft

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

* * * * *

§ 830. Availability of appropriations

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

* * * * *

§ 831. Assignment and performance of duties

No member of the Auxiliary, solely by reason of such membership, shall be vested with, or exercise, any right, privilege, power, or duty vested in or imposed upon the personnel of the Coast Guard or the Reserve, except that any such member may, under

applicable regulations, be assigned [specific] duties, which, after appropriate training and examination, he has been found competent to perform, to effectuate the purposes of the Auxiliary. No member of the Auxiliary shall be placed in charge of a motorboat, yacht, aircraft, or radio station assigned to Coast Guard duty unless he has been specifically designated by authority of the Commandant to perform such duty. Members of the Auxiliary, when assigned to [specific] duties as herein authorized shall, unless otherwise limited by the Commandant, be vested with the same power and authority, in the execution of such duties, as members of the regular Coast Guard assigned to similar duty. When any member of the Auxiliary is assigned to such duty he may, pursuant to regulations issued by the Secretary, be paid actual necessary traveling expenses, including a per diem allowance in conformity with standardized Government travel regulations in lieu of subsistence, while traveling and while on duty away from his home. No per diem shall be paid for any period during which quarters and subsistence in kind are furnished by the Government, and no per diem shall be paid for any period while such member is performing duty on a vessel.

§ 832. Injury or death in line of duty

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

* * * * *

TITLE 49, UNITED STATES CODE

* * * * *

SUBTITLE III—GENERAL AND INTERMODAL PROGRAMS

* * * * *

CHAPTER 51—TRANSPORTATION OF HAZARDOUS MATERIAL

* * * * *

§ 5122. Enforcement

(a) * * *

* * * * *

(c) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or person in charge of a vessel is liable for a civil penalty under section 5123 of this title or for a fine under section 5124 of this title, or if reasonable cause exists to believe that such owner, operator, or person in charge may be subject to such a civil penalty or fine, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

(2) Clearance refused or revoked under this subsection may be granted upon the filing of a bond or other surety satisfactory to the Secretary.

* * * * *

SUBTITLE VI—MOTOR VEHICLE AND DRIVER PROGRAMS

* * * * *

PART A—GENERAL

* * * * *

CHAPTER 303—NATIONAL DRIVER REGISTER

* * * * *

§ 30305. Access to Register information

(a) * * *

(b) REQUESTS TO OBTAIN INFORMATION.—(1) * * *

* * * * *

(7) An individual who is an officer, chief warrant officer, or enlisted member of the Coast Guard or Coast Guard Reserve (including a cadet or an applicant for appointment or enlistment of any of the foregoing and any member of a uniformed service who is assigned to the Coast Guard) may request the chief driver licensing official of a State to provide information about the individual under subsection (a) of this section to the Commandant of the Coast Guard. The Commandant may receive the information and shall make the information available to the individual. Information may not be obtained from the Register under this paragraph if the information was entered in the Register more than 3 years before the request, unless the information is about a revocation or suspension still in effect on the date of the request.

[(7)] (8) A request under this subsection shall be made in the form and way the Secretary of Transportation prescribes by regulation.

* * * * *



COAST GUARD AUTHORIZATION ACT OF 1991

* * * * *

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

(a) * * *

* * * * *

(h) The Committee shall terminate on October 1, 2000.

SEC. 19. LOWER MISSISSIPPI RIVER WATERWAY ADVISORY COMMITTEE.

(a) * * *

* * * * *

(g) The Committee shall terminate on October 1, 2000.

* * * * *

INLAND NAVIGATIONAL RULES ACT OF 1980

* * * * *

SEC. 2. Inland Navigational Rules:

* * * * *

PART B—STEERING AND SAILING RULES

SUBPART I—CONDUCT OF VESSELS IN ANY CONDITION OF VISIBILITY

* * * * *

RULE 9

Narrow Channels

(a) * * *

* * * * *

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

* * * * *

SUBPART II—CONDUCT OF VESSELS IN SIGHT OF ONE ANOTHER

* * * * *

RULE 15

Crossing Situation

(a) When two power-driven vessels are crossing so as to involve risk of collision, the vessel which has the other on her starboard side shall keep out of the way and shall, if the circumstances of the case admit, avoid crossing ahead of the other vessel.

(b) Notwithstanding paragraph (a), on the Great Lakes, Western Rivers, or water specified by the Secretary, a *power-driven* vessel crossing a river shall keep out of the way of a power-driven vessel ascending or descending the river.

* * * * *

PART C—LIGHTS AND SHAPES

* * * * *

RULE 23

Power-Driven Vessels Underway

(a) A power-driven vessel underway shall exhibit:

(i) a masthead light forward; [except that a vessel of less than 20 meters in length need not exhibit this light forward of amidships but shall exhibit it as far forward as is practicable;]

* * * * *

RULE 24

Towing and Pushing

(a) * * *

* * * * *

[(f) Provided that any number of vessels being towed alongside or pushed in a group shall be lighted as one vessel:

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

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

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

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

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

(iii) when vessels are towed alongside on both sides of the towing vessels a stern light shall be exhibited on the stern of the outboard vessel on each side of the towing vessel, and a single

set of sidelights as far forward and as far outboard as is practicable, and a single special flashing light.

* * * * *

RULE 26

Fishing Vessels

(a) A vessel engaged in fishing, whether underway or at anchor, shall exhibit only the lights and shapes prescribed in this Rule.

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

(i) two all-round lights in a vertical line, the upper being green and the lower white, or a shape consisting of two cones with their apexes together in a vertical line one above the other; [a vessel of less than 20 meters in length may instead of this shape exhibit a basket;]

* * * * *

(c) A vessel engaged in fishing, other than trawling, shall exhibit:

(i) two all-round lights in a vertical line, the upper being red and the lower white, or a shape consisting of two cones with apexes together in a vertical line one above the other; [a vessel of less than 20 meters in length may instead of this shape exhibit a basket;]

* * * * *

[(d) A vessel engaged in fishing in close proximity to other vessels engaged in fishing may exhibit the additional signals described in Annex II to these Rules.]

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

* * * * *

PART D—SOUND AND LIGHT SIGNALS

* * * * *

RULE 34

Maneuvering and Warning Signals

(a) * * *

* * * * *

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

(h) A vessel that reaches agreement with another vessel in a head-on, crossing, or overtaking situation, as for example, by using the radiotelephone as prescribed by the Vessel Bridge-to-Bridge Radio-

telephone Act (85 Stat. 164; 33 U.S.C. 1201 et seq.), is not obliged to sound the whistle signals prescribed by this rule, but may do so. If agreement is not reached, then whistle signals shall be exchanged in a timely manner and shall prevail.

* * * * *

SEC. 4. (a) Whoever operates a vessel in violation of this Act, or of any regulation issued thereunder, or in violation of a certificate of alternative compliance issued under Rule 1 is liable to a civil penalty of not more than \$5,000 for each violation.

* * * * *

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

(d) WITHHOLDING OF CLEARANCE.—(1) If any owner, operator, or person in charge of a vessel is liable for a penalty under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to a penalty under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

* * * * *

SEC. 5. (a) * * *

* * * * *

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

* * * * *

TITLE 46, UNITED STATES CODE

* * * * *

Subtitle II—Vessels and Seamen

* * * * *

PART B—INSPECTION AND REGULATION OF VESSELS

* * * * *

Chap.		Sec.
31.	General	3101
32.	Management of vessels	3201

* * * * *

PART A—GENERAL PROVISIONS

CHAPTER 21—GENERAL

Sec.
2101. General definitions.
* * * * *
2115. Civil penalty to enforce alcohol and dangerous drug testing.
* * * * *

§ 2101. General definitions

In this subtitle—

(1) * * *
* * * * *

(13) “freight vessel” means a motor vessel of more than 15 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title that carries freight for hire, except an oceanographic research vessel or an offshore supply vessel.

(13a) “Great Lakes barge” means a non-self-propelled vessel of at least 3,500 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title operating on the Great Lakes.

* * * * *

(19) “offshore supply vessel” means a motor vessel of more than 15 gross tons but less than 500 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title that regularly carries goods, supplies, individuals in addition to the crew, or equipment in support of exploration, exploitation, or production of offshore mineral or energy.

* * * * *

(20a) “oil spill response vessel” means a vessel that is designated in its certificate of inspection as such a vessel, or that is adapted to respond to a discharge of oil or a hazardous material.

[(20a)] (20b) “overall in length” means—
(A) * * *

* * * * *

(22) “passenger vessel” means a vessel of at least 100 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title—

(A) * * *

* * * * *

(30) “sailing school vessel” means a vessel—

(A) that is less than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title;*

* * * * *

(32) “seagoing barge” means a non-self-propelled vessel of at least 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* making voyages beyond the Boundary Line.

(33) “seagoing motor vessel” means a motor vessel of at least 300 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* making voyages beyond the Boundary Line.

* * * * *

(35) “small passenger vessel” means a vessel of less than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title—*

(A) * * *

* * * * *

(42) “uninspected passenger vessel” means an uninspected vessel—

(A) of at least 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title—*

(i) carrying not more than 12 passengers, including at least one passenger for hire; or

(ii) that is chartered with the crew provided or specified by the owner or the owner’s representative and carrying not more than 12 passengers; and

(B) of less than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title—*

(i) carrying not more than 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.

* * * * *

§2113. Authority to exempt certain vessels

If the Secretary decides that the application of a provision of part B, C, F, or G of this subtitle is not necessary in performing the mission of the vessel engaged in excursions or an oceanographic re-

search vessel, or not necessary for the safe operation of certain ves-
sels carrying passengers, the Secretary by regulation may—

(1) * * *

* * * * *
(4) establish different structural fire protection, manning, op-
erating, and equipment requirements for vessels of at least 100
gross tons but less than 300 gross tons *as measured under sec-
tion 14502 of title 46, United States Code, or an alternate ton-
nage measured under section 14302 of that title as prescribed
by the Secretary under section 14104 of that title* carrying not
more than 150 passengers on domestic voyages if the owner of
the vessel—

(A) * * *

* * * * *
(5) establish different structural fire protection, manning, op-
erating, and equipment requirements for former public vessels
of the United States of at least 100 gross tons but less than
500 gross tons *as measured under section 14502 of title 46,
United States Code, or an alternate tonnage measured under
section 14302 of that title as prescribed by the Secretary under
section 14104 of that title*, carrying not more than 150 pas-
sengers on domestic voyages, if the owner of the vessel—

(A) makes application for inspection to the Coast Guard
within 6 months of the date of enactment of the Passenger
Vessel Safety Act of 1993; and

(B) provides satisfactory documentation that the vessel
was chartered at least once within the previous 12 months
prior to the date of enactment of that Act.

**§2115. Civil penalty to enforce alcohol and dangerous drug
testing**

*Any person who fails to comply with or otherwise violates the re-
quirements prescribed by the Secretary under this subtitle for chem-
ical testing for dangerous drugs or for evidence of alcohol use is lia-
ble to the United States Government for a civil penalty of not more
than \$1,000 for each violation. Each day of a continuing violation
shall constitute a separate violation.*

PART B—INSPECTION AND REGULATIONS OF VESSELS

CHAPTER 31—GENERAL

- Sec.
- 3101. Authority to suspend inspection.
- 3102. Immersion suits.
- 3103. Use of reports, documents, and records.

§3103. Use of reports, documents, and records

*The Secretary may rely, as evidence of compliance with this sub-
title, on—*

- (1) reports, documents, and records of other persons who have been determined by the Secretary to be reliable; and
- (2) other methods the Secretary has determined to be reliable.

CHAPTER 32—MANAGEMENT OF VESSELS

- Sec.
 3201. Definitions.
 3202. Application.
 3203. Safety management system.
 3204. Implementation of safety management system.
 3205. Certification.

§ 3201. Definitions

In this chapter—

- (1) “International Safety Management Code” has the same meaning given that term in chapter IX of the Annex to the International Convention for the Safety of Life at Sea, 1974;
- (2) “responsible person” means—
 - (A) the owner of a vessel to which this chapter applies;
 - or
 - (B) any other person that has—
 - (i) assumed the responsibility for operation of a vessel to which this chapter applies from the owner; and
 - (ii) agreed to assume with respect to the vessel responsibility for complying with all the requirements of this chapter and the regulations prescribed under this chapter.
- (3) “vessel engaged on a foreign voyage” means a vessel to which this chapter applies—
 - (A) arriving at a place under the jurisdiction of the United States from a place in a foreign country;
 - (B) making a voyage between places outside the United States; or
 - (C) departing from a place under the jurisdiction of the United States for a place in a foreign country.

§ 3202. Application

- (a) **MANDATORY APPLICATION.**—This chapter applies to the following vessels engaged on a foreign voyage:
 - (1) Beginning July 1, 1998—
 - (A) a vessel transporting more than 12 passengers described in section 2101(21)(A) of this title; and
 - (B) a tanker, bulk freight vessel, or high-speed freight vessel, of at least 500 gross tons.
 - (2) Beginning July 1, 2002, a freight vessel and a mobile offshore drilling unit of at least 500 gross tons.
- (b) **VOLUNTARY APPLICATION.**—This chapter applies to a vessel not described in subsection (a) of this section if the owner of the vessel requests the Secretary to apply this chapter to the vessel.
- (c) **EXCEPTION.**—Except as provided in subsection (b) of this section, this chapter does not apply to—
 - (1) a barge;
 - (2) a recreational vessel not engaged in commercial service;
 - (3) a fishing vessel;

- (4) a vessel operating on the Great Lakes or its tributary and connecting waters; or
- (5) a public vessel.

§ 3203. Safety management system

(a) *IN GENERAL.*—The Secretary shall prescribe regulations which establish a safety management system for responsible persons and vessels to which this chapter applies, including—

- (1) a safety and environmental protection policy;
- (2) instructions and procedures to ensure safe operation of those vessels and protection of the environment in compliance with international and United States law;
- (3) defined levels of authority and lines of communications between, and among, personnel on shore and on the vessel;
- (4) procedures for reporting accidents and nonconformities with this chapter;
- (5) procedures for preparing for and responding to emergency situations; and
- (6) procedures for internal audits and management reviews of the system.

(b) *COMPLIANCE WITH CODE.*—Regulations prescribed under this section shall be consistent with the International Safety Management Code with respect to vessels engaged on a foreign voyage.

§ 3204. Implementation of safety management system

(a) *SAFETY MANAGEMENT PLAN.*—Each responsible person shall establish and submit to the Secretary for approval a safety management plan describing how that person and vessels of the person to which this chapter applies will comply with the regulations prescribed under section 3203(a) of this title.

(b) *APPROVAL.*—Upon receipt of a safety management plan submitted under subsection (a), the Secretary shall review the plan and approve it if the Secretary determines that it is consistent with and will assist in implementing the safety management system established under section 3203.

(c) *PROHIBITION ON VESSEL OPERATION.*—A vessel to which this chapter applies under section 3202(a) may not be operated without having on board a Safety Management Certificate and a copy of a Document of Compliance issued for the vessel under section 3205 of this title.

§ 3205. Certification

(a) *ISSUANCE OF CERTIFICATE AND DOCUMENT.*—After verifying that the responsible person for a vessel to which this chapter applies and the vessel comply with the applicable requirements under this chapter, the Secretary shall issue for the vessel, on request of the responsible person, a Safety Management Certificate and a Document of Compliance.

(b) *MAINTENANCE OF CERTIFICATE AND DOCUMENT.*—A Safety Management Certificate and a Document of Compliance issued for a vessel under this section shall be maintained by the responsible person for the vessel as required by the Secretary.

(c) *VERIFICATION OF COMPLIANCE.*—The Secretary shall—

(1) periodically review whether a responsible person having a safety management plan approved under section 3204(b) and each vessel to which the plan applies is complying with the plan; and

(2) revoke the Secretary's approval of the plan and each Safety Management Certificate and Document of Compliance issued to the person for a vessel to which the plan applies, if the Secretary determines that the person or a vessel to which the plan applies has not complied with the plan.

(d) ENFORCEMENT.—At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) of a vessel that is subject to this chapter under section 3202(a) of this title or to the International Safety Management Code, if the vessel does not have on board a Safety Management Certificate and a copy of a Document of Compliance for the vessel. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.

CHAPTER 33—INSPECTION GENERALLY

Sec.

3301. Vessels subject to inspection.

* * * * *

[3316. United States classification societies.]

3316. Classification societies.

* * * * *

§ 3301. Vessels subject to inspection

The following categories of vessels are subject to inspection under this part:

(1) * * *

* * * * *

(14) oil spill response vessels.

§ 3302. Exemptions

(a) * * *

* * * * *

(c)(1) A fish processing vessel of not more than 5,000 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title is exempt from section 3301(1), (6), (7), (11), and (12) of this title.

(2) A fish tender vessel of not more than 500 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title is exempt from section 3301(1), (6), (7), (11), and (12) of this title.

(3) A fishing, fish processing, or fish tender vessel of not more than 500 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title is exempt from section 3301(1), (6), and (7) of this title if—

(A) * * *

* * * * *

(4) A fish tender vessel is exempt from section 3301(1), (6), and (7) of this title when engaged in the Aleutian trade if the vessel—

(A) is not more than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title;*

* * * * *

(d)(1) A motor vessel of less than 150 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*, constructed before August 23, 1958, is not subject to inspection under section 3301(1) of this title if the vessel is owned or demise chartered to a cooperative or association that only transports cargo owned by at least one of its members on a nonprofit basis between places within the waters of—

(A) * * *

* * * * *

(i)(1) The Secretary may issue a permit exempting a vessel from any part of the requirements of this part for vessels transporting cargo, including bulk fuel, from one place in Alaska to another place in Alaska only if the vessel—

(A) is not more than 300 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title;*

* * * * *

(j) Notwithstanding another provision of this chapter, the Secretary is not required to inspect or prescribe regulations for a nautical school vessel of not more than 15 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title—*

(1) * * *

* * * * *

§ 3303. Reciprocity for foreign vessels

[(a) Except as] *Except as* provided in chapter 37 of this title, a foreign vessel of a country having inspection laws and standards similar to those of the United States and that has an unexpired certificate of inspection issued by proper authority of its respective country, is subject to an inspection to ensure that the condition of the vessel is as stated in its current certificate of inspection. A foreign country is considered to have inspection laws and standards similar to those of the United States when it is a party to an International Convention for Safety of Life at Sea to which the United States Government is currently a party. A foreign certificate of inspection may be accepted as evidence of lawful inspection only when presented by a vessel of a country that has by its laws ac-

corded to vessels of the United States visiting that country the same privileges accorded to vessels of that country visiting the United States.

[(b) The Secretary shall collect and pay to the Treasury the same fees for the inspection of foreign vessels carrying passengers from the United States that a foreign country charges vessels of the United States trading to the ports of that country. The Secretary may waive at any time the collection of the fees on notice of the proper authorities of any country concerned that the collection of fees for the inspection of vessels of the United States has been discontinued.]

* * * * *

§ 3306. Regulations

(a) To carry out this part and to secure the safety of individuals and property on board vessels subject to inspection, the Secretary shall prescribe necessary regulations to ensure the proper execution of, and to carry out, this part in the most effective manner for—

(1) * * *

* * * * *

(4) inspections and tests related to [clauses (1)–(3)] paragraphs (1), (2), and (3) of this subsection; and

[(b) Equipment subject to regulation under this section may not be used on any vessel without prior approval as prescribed by regulation.]

(b)(1) *Equipment and material subject to regulation under this section may not be used on any vessel without prior approval of the Secretary.*

(2) *Except with respect to use on a public vessel, the Secretary may treat an approval of equipment or materials by a foreign government as approval by the Secretary for purposes of paragraph (1) if the Secretary determines that—*

(A) the design standards and testing procedures used by that government meet the requirements of the International Convention for the Safety of Life at Sea, 1974;

(B) the approval of the equipment or material by the foreign government will secure the safety of individuals and property on board vessels subject to inspection; and

(C) for lifesaving equipment, the foreign government—

(i) has given equivalent treatment to approvals of lifesaving equipment by the Secretary; and

(ii) otherwise ensures that lifesaving equipment approved by the Secretary may be used on vessels that are documented and subject to inspection under the laws of that country.

* * * * *

(h) The Secretary shall establish appropriate structural fire protection, manning, operating, and equipment requirements for vessels of at least 100 gross tons but less than 300 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as pre-

scribed by the Secretary under section 14104 of that title carrying not more than 150 passengers on domestic voyages, which meet the eligibility criteria of section 2113(4) of this title.

(i) The Secretary shall establish appropriate structural fire protection, manning, operating, and equipment requirements for former public vessels of the United States of at least 100 gross tons but less than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* carrying not more than 150 passengers on domestic voyages, which meet the eligibility criteria of section 2113(5) of this title.

§ 3307. Frequency of inspection

Each vessel subject to inspection under this part shall undergo an initial inspection for certification before being put into service. After being put into service—

(1) each passenger vessel and ~~nautical school vessel~~, *nautical school vessel, and small passenger vessel allowed to carry more than 12 passengers on a foreign voyage* shall be inspected at least once a year; and

~~(2)~~ each small passenger vessel, freight vessel or offshore supply vessel of less than 100 gross tons, and sailing school vessel shall be inspected at least once every 3 years; and

~~(3)~~ (2) any other vessel shall be inspected at least once every ~~2~~ 5 years.

§ 3308. Examinations

In addition to inspections required by section 3307 of this title, the Secretary shall examine *or have examined*—

(1) * * *

* * * * *

§ 3309. Certificate of inspection

(a) * * *

* * * * *

(c) At least 30 days ~~[(but not more than 60 days)]~~ before the current certificate of inspection issued to a vessel under subsection (a) of this section expires, the owner, charterer, managing operator, agent, master, or individual in charge of the vessel shall submit to the Secretary in writing a notice that the vessel—

(1) * * *

* * * * *

~~§ 3316. United States classification societies~~

~~§ 3316. Classification societies~~

~~[(a) In carrying out this part, the Secretary may rely on reports, documents, and certificates issued by the American Bureau of Shipping or a similar United States classification society, or an agent of the Bureau or society.~~

~~[(b) (a) Each department, agency, and instrumentality of the United States Government shall recognize the Bureau as its agent~~

in classifying vessels owned by the Government and in matters related to classification, as long as the Bureau is maintained as an organization having no capital stock and paying no dividends. The Secretary and the Secretary of Transportation each shall appoint one representative (except when the Secretary is the Secretary of Transportation, in which case the Secretary shall appoint both representatives) who shall represent the Government on the executive committee of the Bureau. The Bureau shall agree that the representatives shall be accepted by it as active members of the committee. The representatives shall serve without compensation, except for necessary traveling expenses.

[(c)(1) To the maximum extent practicable, the Secretary may delegate to the Bureau or a similar United States classification society, or an agent of the Bureau or society, the inspection or examination, in the United States or in a foreign country, of a vessel documented or to be documented as a vessel of the United States. The Bureau, society, or agent may issue the certificate of inspection required by this part and other certificates essential to documentation.

(b)(1) The Secretary may delegate to the American Bureau of Shipping or another classification society recognized by the Secretary as meeting acceptable standards for such a society, for a vessel documented or to be documented under chapter 121 of this title, the authority to—

(A) review and approve plans required for issuing a certificate of inspection required by this part;

(B) conduct inspections and examinations; and

(C) issue a certificate of inspection required by this part and other related documents.

(2) The Secretary may make a delegation under paragraph (1) to a foreign classification society only—

(A) to the extent that the government of the foreign country in which the society is headquartered delegates authority and provides access to the American Bureau of Shipping to inspect, certify, and provide related services to vessels documented in that country; and

(B) if the foreign classification society has offices and maintains records in the United States.

[(2)] (3) When an inspection or examination has been delegated under this subsection, the Secretary's delegate—

(A) * * *

* * * * *

[(d) The Secretary also may make an agreement with or use the Bureau or a similar United States classification society, or an agent of the Bureau or society, for reviewing and approving plans required for issuing a certificate of inspection.]

* * * * *

§ 3318. Penalties

(a) Except as otherwise provided in this part, the owner, charterer, managing operator, agent, master, or individual in charge of a vessel operated in violation of this part or a regulation prescribed under this part, and a person violating a regulation that

applies to a small passenger vessel, freight vessel of less than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*, or sailing school vessel, are liable to the United States Government for a civil penalty of not more than \$5,000. The vessel also is liable in rem for the penalty.

* * * * *

(j)(1) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel required to be inspected under this chapter operating the vessel without the certificate of inspection is liable to the Government for a civil penalty of not more than \$10,000 for each day during which the violation occurs, except when the violation involves operation of a vessel of less than 1,600 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*, the penalty is not more than \$2,000 for each day during which the violation occurs. The vessel also is liable in rem for the penalty.

* * * * *

CHAPTER 37—CARRIAGE OF LIQUID BULK DANGEROUS CARGOES

* * * * *

§ 3702. Application

(a) * * *

(b) This chapter does not apply to a documented vessel that would be subject to this chapter only because of the transfer of fuel from the fuel supply tanks of the vessel to offshore drilling or production facilities in the oil industry if the vessel is—

(1) not more than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*;

* * * * *

(c) This chapter does not apply to a fishing or fish tender vessel of not more than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* when engaged only in the fishing industry.

(d) This chapter does not apply to a fish processing vessel of not more than 5,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*. However, the vessel is subject to regulation by the Secretary when carrying flammable or combustible liquid cargo in bulk.

* * * * *

(f) *This chapter does not apply to an oil spill response vessel if—*

- (1) *the vessel is used only in response-related activities; or*
 (2) *the vessel is—*
 (A) *not more than 500 gross tons;*
 (B) *designated in its certificate of inspection as an oil spill response vessel; and*
 (C) *engaged in response-related activities.*

* * * * *

§ 3703a. Tank vessel construction standards

(a) * * *

(b) This section does not apply to—

(1) a vessel used only to respond to a discharge of oil or a hazardous substance;

(2) a vessel of less than 5,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* equipped with a double containment system determined by the Secretary to be as effective as a double hull for the prevention of a discharge of oil; **[or]**

(3) before January 1, 2015—

(A) a vessel unloading oil in bulk at a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.); or

(B) a delivering vessel that is offloading in lightering activities—

(i) within a lightering zone established under section 3715(b)(5) of this title; and

(ii) more than 60 miles from the baseline from which the territorial sea of the United States is measured[.];

(4) a vessel equipped with a double hull before August 12, 1992; or

(5) a barge of less than 2,000 gross tons that is primarily used to carry deck cargo and bulk fuel to Native villages (as that term is defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1601)) located on or adjacent to bays or rivers above 58 degrees north latitude.

(c)(1) * * *

(2) A vessel of less than 5,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* for which a building contract or contract for major conversion was placed before June 30, 1990, and that is delivered under that contract before January 1, 1994, and a vessel of less than 5,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* that had its appraised salvage value determined by the Coast Guard before June 30, 1990, and that qualifies for documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14) before January 1, 1994, may not operate in the navigable waters or the Exclusive Economic Zone of the United States after January 1, 2015,

unless the vessel is equipped with a double hull or with a double containment system determined by the Secretary to be as effective as a double hull for the prevention of a discharge of oil.

(3) A vessel for which a building contract or contract for major conversion was placed before June 30, 1990, and that is delivered under that contract before January 1, 1994, and a vessel that had its appraised salvage value determined by the Coast Guard before June 30, 1990, and that qualifies for documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14) before January 1, 1994, may not operate in the navigable waters or Exclusive Economic Zone of the United States unless equipped with a double hull—

(A) in the case of a vessel of at least 5,000 gross tons but less than 15,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title—*

(i) * * *

* * * * *

(B) in the case of a vessel of at least 15,000 gross tons but less than 30,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title—*

(i) * * *

* * * * *

(C) in the case of a vessel of at least 30,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title—*

(i) * * *

* * * * *

§ 3707. Tanker minimum standards

(a) A new tanker of at least 10,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title shall be equipped with—*

(1) * * *

* * * * *

(b) An existing tanker of at least 10,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title shall be equipped with—*

(1) * * *

* * * * *

§ 3708. Self-propelled tank vessel minimum standards

A self-propelled tank vessel of at least 10,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* shall be equipped with—

(1) * * *

* * * * *

§ 3710. Evidence of compliance by vessels of the United States

(a) * * *

(b) Each certificate endorsed under this section is valid for not more than **[24 months]** *5 years* and may be renewed as specified by the Secretary. In appropriate circumstances, the Secretary may issue a temporary certificate valid for not more than 30 days. A certificate shall be suspended or revoked if the Secretary finds that the vessel does not comply with the conditions under which the certificate was issued.

* * * * *

§ 3718. Penalties

(a) * * *

* * * * *

[(e) At the request of the Secretary, the Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) of a vessel the owner or operator of which is subject to a penalty under this section. Clearance may be granted on filing a bond or other surety satisfactory to the Secretary.]

(e)(1) If any owner, operator, or person in charge of a vessel is liable for any penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to any penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

(2) Clearance or a permit refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

* * * * *

CHAPTER 45—UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

* * * * *

§ 4502. Safety standards

(a) The Secretary shall prescribe regulations which require that each vessel to which this chapter applies shall be equipped with—

(1) * * *

* * * * *

(7) alerting and locating equipment, including emergency position indicating radio beacons, on vessels that operate on the high seas or beyond three nautical miles from the coastline of the Great Lakes; and

* * * * *

§ 4508. Commercial Fishing Industry Vessel Advisory Committee

(a) * * *

* * * * *

(e)(1) The Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) applies to the Committee, except that the Committee terminates on [September 30, 1994] *October 1, 2000*.

* * * * *

CHAPTER 47—ABANDONMENT OF BARGES

* * * * *

§ 4701. Definitions

In this chapter—

(1) “abandon” means to moor, strand, wreck, sink, or leave a barge of more than 100 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title unattended for longer than forty-five days.

* * * * *

PART C—LOAD LINES OF VESSELS

* * * * *

CHAPTER 51—LOAD LINES

* * * * *

§ 5102. Application

(a) * * *

(b) This chapter does not apply to the following:

(1) * * *

* * * * *

(4) a fish processing vessel of not more than 5,000 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title that—

(A) * * *

* * * * *

(5) a fish tender vessel of not more than 500 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title that—

(A) * * *

* * * * *

(10) an existing vessel of not more than 150 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title that is on a domestic voyage.

* * * * *

PART D—MARINE CASUALTIES

* * * * *

CHAPTER 61—REPORTING MARINE CASUALTIES

* * * * *

§6103. Penalty

(a) An owner, charterer, managing operator, agent, master, or individual in charge of a vessel failing to report a casualty as required under section 6101 of this title or a regulation prescribed under section 6101 is liable to the United States Government for a civil penalty of **[\$1,000]** not more than \$25,000.

* * * * *

CHAPTER 63—INVESTIGATING MARINE CASUALTIES

Sec.

6301. Investigation of marine casualties.

* * * * *

6308. Information barred in legal proceedings.

* * * * *

§6308. Information barred in legal proceedings

(a) Notwithstanding any other provision of law, any opinion, recommendation, deliberation, or conclusion contained in a report of a marine casualty investigation conducted under section 6301 of this title with respect to the cause of, or factors contributing to, the casualty set forth in the report of the investigation is not admissible as evidence or subject to discovery in any civil, administrative, or State criminal proceeding arising from a marine casualty, other than with the permission and consent of the Secretary of Transportation, in his or her sole discretion. Any employee of the United States or military member of the Coast Guard investigating a marine casualty or assisting in any such investigation conducted pursuant to section 6301 of this title, shall not be subject to deposition or other discovery, or otherwise testify or give information in such proceedings relevant to a marine casualty investigation, without the permission and consent of the Secretary of Transportation in his or her

sole discretion. In exercising this discretion in cases where the United States is a party, the Secretary shall not withhold permission for an employee to testify solely on factual matters where the information is not available elsewhere or is not obtainable by other means. Nothing in this section prohibits the United States from calling an employee as an expert witness to testify on its behalf.

(b) The information referred to in subsection (a) of this section shall not be considered an admission of liability by the United States or by any person referred to in those conclusions or statements.

* * * * *

PART E—MERCHANT SEAMEN LICENSES, CERTIFICATES, AND DOCUMENTS

* * * * *

CHAPTER 71—LICENSES AND CERTIFICATES OF REGISTRY

* * * * *

§ 7101. Issuing and classifying licenses and certificates of registry

(a) * * *

* * * * *

(e) An individual may be issued a license under subsection (c)(2) of this section only if the applicant—

(1) * * *

* * * * *

(3) has a thorough physical examination each year while holding the license, except that this requirement does not apply to an individual who will serve as a pilot only on a vessel of less than 1,600 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title;*

* * * * *

CHAPTER 73—MERCHANT MARINERS' DOCUMENTS

* * * * *

§ 7308. Able seamen—limited

The required service for the endorsement of able seaman—limited, qualified for limited service on a vessel on any waters, is at least 18 months' service on deck on board vessels of at least 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* operating on the oceans or navigable waters of the United States (including the Great Lakes).

* * * * *

§ 7310. Able seamen—offshore supply vessels

For service on a vessel of less than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* engaged in support of exploration, exploitation, or production of offshore mineral or energy resources, an individual may be rated as able seaman—offshore supply vessels if the individual has at least 6 months' service on deck on board vessels operating on the oceans or the navigable waters of the United States (including the Great Lakes).

* * * * *

§ 7312. Scale of employment

(a) * * *

(b) Individuals qualified as able seamen—limited under section 7308 of this title may constitute all of the able seamen required on a vessel of less than 1,600 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* or on a vessel operating on the Great Lakes and the Saint Lawrence River as far east as Sept Iles. Individuals qualified as able seamen—limited may constitute not more than 50 percent of the number of able seamen required on board other vessels.

(c) Individuals qualified as able seamen—special under section 7309 of this title may constitute—

(1) all of the able seamen required on a vessel of not more than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* or on a seagoing barge or towing vessel; and

* * * * *

(d) Individuals qualified as able seamen—offshore supply vessels under section 7310 of this title may constitute all of the able seamen required on board a vessel of less than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* engaged in support of exploration, exploitation, or production of offshore mineral or energy resources.

* * * * *

(f) Individuals qualified as able seamen—fishing industry under section 7311a of this title may constitute—

(1) all of the able seamen required on a fish processing vessel entered into service before January 1, 1988, and of more than 1,600 gross tons but not more than 5,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*; and

(2) all of the able seamen required on a fish processing vessel entered into service after December 31, 1987, and having more than 16 individuals on board primarily employed in the preparation of fish or fish products but of not more than 5,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title.*

§ 7313. General requirements for members of engine departments

(a) Classes of endorsement as qualified members of the engine department on vessels of at least 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* (except vessels operating on rivers or lakes (except the Great Lakes)) may be prescribed by regulation.

* * * * *

CHAPTER 75—GENERAL PROCEDURES FOR LICENSING, CERTIFICATION, AND DOCUMENTATION

Sec.

7501. Duplicates.

* * * * *

7506. *Convention tonnage for licenses, certificates, and documents.*

* * * * *

§ 7506. Convention tonnage for licenses, certificates, and documents

Notwithstanding any provision of section 14302(c) or 14305 of this title, the Secretary may—

- (1) *evaluate the service of an individual who is applying for a license, a certificate of registry, or a merchant mariner's document by using the tonnage as measured under chapter 143 of this title for the vessels on which that service was acquired, and*
- (2) *issue the license, certificate, or document based on that service.*

* * * * *

PART F—MANNING OF VESSELS

CHAPTER 81—GENERAL

* * * * *

§ 8101. Complement of inspected vessels

(a) * * *

* * * * *

(h) The owner, charterer, or managing operator of a freight vessel of less than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary*

under section 14104 of that title, a small passenger vessel, or a sailing school vessel not manned as required by this section is liable to the Government for a civil penalty of \$1,000. The vessel also is liable in rem for the penalty.

* * * * *

§ 8102. Watchmen

(a) * * *

(b) The owner, charterer, managing operator, agent, master, or individual in charge of a fish processing vessel of more than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* shall keep a suitable number of watchmen trained in fire-fighting on board when hotwork is being done to guard against and give alarm in case of a fire.

§ 8103. Citizenship and Naval Reserve requirements

(a) * * *

(b)(1) * * *

* * * * *

(3) The Secretary may waive a citizenship requirement under this section, other than a requirement that applies to the master of a documented vessel, with respect to—

(A) an offshore supply vessel or other similarly engaged vessel of less than 1,600 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* that operates from a foreign port;

* * * * *

§ 8104. Watches

(a) * * *

(b) On an oceangoing or coastwise vessel of not more than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* (except a fishing, fish processing, or fish tender vessel), a licensed individual may not be required to work more than 9 of 24 hours when in port, including the date of arrival, or more than 12 of 24 hours at sea, except in an emergency when life or property are endangered.

(c) On a towing vessel (except a towing vessel operated only for fishing, fish processing, fish tender, or engaged in salvage operations) operating on the Great Lakes, harbors of the Great Lakes, and connecting or tributary waters between Gary, Indiana, Duluth, Minnesota, Niagara Falls, New York, and Ogdensburg, New York, a licensed individual or seaman in the deck or engine department may not be required [or permitted] to work more than 8 hours in one day *or permitted to work more than 15 hours in any 24-hour*

period, or more than 36 hours in any 72-hour period, except in an emergency when life or property are endangered.

(d) On a merchant vessel of more than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* (except a vessel only operating on rivers, harbors, lakes (except the Great Lakes), bays, sounds, bayous, and canals, a fishing, fish tender, or whaling vessel, a fish processing vessel of not more than 5,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*, yacht, or vessel engaged in salvage operations), the licensed individuals, sailors, coal passers, firemen, oilers, and water tenders shall be divided, when at sea, into at least 3 watches, and shall be kept on duty successively to perform ordinary work incident to the operation and management of the vessel. The requirement of this subsection applies to radio officers only when at least 3 radio officers are employed. A licensed individual or seaman in the deck or engine department may not be required to work more than 8 hours in one day.

(e) On a vessel designated by **【subsections (c) and (d)】** *subsection (d) of this section—*

(1) * * *

* * * * *

(g) On a towing vessel **【(except a vessel to which subsection (c) of this section applies)】**, an offshore supply vessel, or a barge to which this section applies, that is engaged on a voyage of less than 600 miles, the licensed individuals and crewmembers (except the coal passers, firemen, oilers, and water tenders) may be divided, when at sea, into at least 2 watches.

* * * * *

(l) Except as provided in subsection (k) of this section, on a fish processing vessel, the licensed individuals and deck crew shall be divided, when at sea, into at least 2 watches if the vessel—

(1) entered into service before January 1, 1988, and is more than 1,600 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*; or

* * * * *

(m) This section does not apply to a fish processing vessel—

(1) entered into service before January 1, 1988, and not more than 1,600 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*; or

* * * * *

(o)(1) Except as provided in paragraph (2) of this subsection, on a fish tender vessel of not more than 500 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by*

the Secretary under section 14104 of that title engaged in the Aleutian trade, the licensed individuals and crewmembers shall be divided, when at sea, into at least 3 watches.

(2) On a fish tender vessel of not more than 500 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title engaged in the Aleutian trade, the licensed individuals and crewmembers shall be divided, when at sea, into at least 2 watches, if the vessel—

(A) before September 8, 1990, operated in that trade; or

(B)(i) before September 8, 1990, was purchased to be used in that trade; and

(ii) before June 1, 1992, entered into service in that trade.

[(p) On a vessel used only to respond to a discharge of oil or a hazardous substance, the licensed individuals and crewmembers may be divided into at least two watches when the vessel is engaged in an operation less than 12 hours in duration.]

(p) The Secretary may prescribe the watchstanding requirements for an oil spill response vessel.

* * * * *

CHAPTER 83—MASTERS AND OFFICERS

* * * * *

§ 8301. Minimum number of licensed individuals

(a) Except as provided in chapter 89 of this title and except for a vessel operating only on rivers, harbors, lakes (except the Great Lakes), bays, sounds, bayous, and canals, a vessel subject to inspection under chapter 33 of this title shall engage a minimum of licensed individuals as follows:

(1) Each of those vessels propelled by machinery or carrying passengers shall have a licensed master.

(2) A vessel of at least 1,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* and propelled by machinery shall have 3 licensed mates, except—

(A) * * *

* * * * *

(3) A vessel of at least 200 gross tons but less than 1,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* and propelled by machinery shall have 2 licensed mates.

(4) A vessel of at least 100 gross tons but less than 200 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* and propelled by machinery shall have one licensed mate. However, if the vessel is on a voyage of more than 24 hours, it shall have 2 licensed mates.

(5) A freight vessel or a passenger vessel of at least 300 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* and propelled by machinery shall have a licensed engineer.

(b) An offshore supply vessel on a voyage of less than 600 miles shall have a licensed mate. However, if the vessel is on a voyage of at least 600 miles, the vessel shall have 2 licensed mates. An offshore supply vessel of more than 200 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* may not be operated without a licensed engineer.

* * * * *

[(e) A vessel used only to respond to a discharge of oil or a hazardous substance shall have—

[(1) two licensed mates when the vessel is engaged in an operation over 12 hours in duration;

[(2) one licensed mate when the vessel is engaged in an operation less than 12 hours in duration; and

[(3) if the vessel is more than 200 gross tons, a licensed engineer when the vessel is operating.]

(e) *The Secretary may prescribe the minimum number of licensed individuals for an oil spill response vessel.*

§8304. Implementing the Officers' Competency Certificates Convention, 1936

(a) * * *

(b) The Officers' Competency Certificates Convention, 1936 (International Labor Organization Draft Convention Numbered 53, on the minimum requirement of professional capacity for masters and officers on board merchant vessels), as ratified by the President on September 1, 1938, with understandings appended, and this section apply to a documented vessel operating on the high seas except—

(1) * * *

* * * * *

(4) a vessel of less than 200 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title.*

* * * * *

CHAPTER 87—UNLICENSED PERSONNEL

* * * * *

§8701. Merchant mariners' documents required

(a) This section applies to a merchant vessel of at least 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that*

title as prescribed by the Secretary under section 14104 of that title except—

(1) * * *

* * * * *

(6) a fish processing vessel entered into service before January 1, 1988, and not more than 1,600 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* or entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products;

(7) a fish processing vessel (except a vessel to which clause (6) of this subsection applies) with respect to individuals on board primarily employed in the preparation of fish or fish products or in a support position not related to navigation; [and]

(8) a mobile offshore drilling unit with respect to individuals, other than crew members required by the certificate of inspection, engaged on board the unit for the sole purpose of carrying out the industrial business or function of the unit[.]; and

(9) *the Secretary may prescribe the individuals required to hold a merchant mariner's document serving onboard an oil spill response vessel.*

* * * * *

§ 8702. Certain crew requirements

(a) This section applies to a vessel of at least 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* except—

(1) * * *

* * * * *

(6) a fish processing vessel entered into service before January 1, 1988, and not more than 1,600 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* or entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products; and

* * * * *

CHAPTER 89—SMALL VESSEL MANNING

* * * * *

§ 8901. Freight vessels

A freight vessel of less than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* shall be operated by an

individual licensed by the Secretary to operate that type of vessel in the particular geographic area, under prescribed regulations.

* * * * *

§ 8905. Exemptions

(a) * * *

(b) Section 8904 of this title does not apply to a vessel of less than 200 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* engaged in the offshore mineral and oil industry if the vessel has offshore mineral and oil industry sites or equipment as its ultimate destination or place of departure.

(c) *Section 8904 of this title does not apply to an oil spill response vessel while engaged in oil spill response or training activities.*

§ 8906. Penalty

An owner, charterer, managing operator, agent, master, or individual in charge of a vessel operated in violation of this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of **[\$1,000]** *not more than \$25,000*. The vessel also is liable in rem for the penalty.

* * * * *

CHAPTER 93—GREAT LAKES PILOTAGE

* * * * *

§ 9303. United States registered pilot service

(a) The Secretary shall prescribe by regulation standards of competency to be met by each applicant for registration under this chapter. An applicant must—

(1) have a license as master, mate, or pilot issued under section 7101 of this title;

(2) have acquired at least 24 months licensed service or equivalent experience on vessels or integrated towing vessels and tows of at least 4,000 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*, operating on the Great Lakes or oceans, with a minimum of 6 months of that service or experience having been on the Great Lakes; and

* * * * *

PART G—MERCHANT SEAMEN PROTECTION AND RELIEF

CHAPTER 101—GENERAL

* * * * *

§ 10101. Definitions

In this part—

(1) * * *

* * * * *

(4) "fishing vessel" includes—

(A) a fish tender vessel; or

(B) a fish processing vessel entered into service before January 1, 1988, and not more than 1,600 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title or entered into service after December 31, 1987, and having not more than 16 individuals on board primarily employed in the preparation of fish or fish products.

* * * * *

CHAPTER 103—FOREIGN AND INTERCOASTAL VOYAGES

* * * * *

§ 10301. Application

(a) Except as otherwise specifically provided, this chapter applies to a vessel of the United States—

(1) * * *

(2) of at least 75 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title on a voyage between a port of the United States on the Atlantic Ocean and a port of the United States on the Pacific Ocean.

* * * * *

CHAPTER 105—COASTWISE VOYAGES

* * * * *

§ 10501. Application

(a) Except for a vessel to which chapter 103 of this title applies, this chapter applies to a vessel of at least 50 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title on a voyage between a port in one State and a port in another State (except an adjoining State).

* * * * *

CHAPTER 106—FISHING VOYAGES

* * * * *

§ 10601. Fishing agreements

(a) Before proceeding on a voyage, the master or individual in charge of a fishing vessel, fish processing vessel, or fish tender vessel shall make a fishing agreement in writing with each seaman employed on board if the vessel is—

(1) at least 20 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*; and

* * * * *

CHAPTER 111—PROTECTION AND RELIEF

* * * * *

§ 11101. Accommodations for seamen

(a) On a merchant vessel of the United States the construction of which began after March 4, 1915 (except a yacht, pilot vessel, or vessel of less than 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*)—

(1) * * *

* * * * *

§ 11102. Medicine chests

(a) A vessel of the United States on a voyage from a port in the United States to a foreign port (except to a Canadian port), and a vessel of the United States of at least 75 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* on a voyage between a port of the United States on the Atlantic Ocean and Pacific Ocean, shall be provided with a medicine chest.

* * * * *

CHAPTER 113—OFFICIAL LOGBOOKS

* * * * *

§ 11301. Logbook and entry requirements

(a) Except a vessel on a voyage from a port in the United States to a port in Canada, a vessel of the United States shall have an official logbook if the vessel is—

(1) on a voyage from a port in the United States to a foreign port; or

(2) of at least 100 gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* and is on a voyage between a port of the United States on the Atlantic Ocean and on the Pacific Ocean.

* * * * *

PART H—IDENTIFICATION OF VESSELS

CHAPTER 121—DOCUMENTATION OF VESSELS

Sec.
12101. Definitions and related terms in other laws.

* * * * *

[12107. Great Lakes endorsements.]

* * * * *

[12123. Denial and revocation of endorsements.]

§ 12101. Definitions and related terms in other laws

(a) * * *

(b) When used in a law, regulation, document, ruling, or other official act referring to the documentation of a vessel—

(1) * * *

* * * * *

[(3) “enrollment and license to engage in the foreign and coastwise (or coasting) trade on the northern, northeastern, and northwestern frontiers, otherwise than by sea” means a Great Lakes endorsement as provided in section 12107 of this title.]

* * * * *

§ 12106. Coastwise endorsements

(a) * * *

* * * * *

(c) A coastwise endorsement to engage in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands may be issued for a vessel that—

(1) is less than [two hundred gross tons] *200 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title;*

* * * * *

(e)(1) *A certificate of documentation for a vessel may be endorsed with a coastwise endorsement if—*

(A) *the vessel is eligible for documentation under section 12102;*

(B) *the vessel is otherwise qualified under this section to be employed in the coastwise trade;*

(C) *the person that owns the vessel, a parent entity of that person, or a subsidiary of a parent entity of that person, is engaged in leasing;*

(D) *the vessel is under a demise charter to a person qualifying as a citizen of the United States for engaging in the coastwise trade under section 2 of the Shipping Act, 1916; and*

(E) *the demise charter is for—*

(i) *a period of at least 3 years; or*

(ii) *such shorter period as may be prescribed by the Secretary.*

(2) *On termination of a demise charter required under paragraph (1)(D), the coastwise endorsement may be continued for a period not to exceed 6 months on any terms and conditions that the Secretary of Transportation may prescribe.*

(f) *For purposes of the first proviso of section 27 of the Merchant Marine Act, 1920, section 2 of the Shipping Act, 1916, and section 12102(a) of this title, a vessel meeting the criteria of subsection (d)*

or (e) is deemed to be owned exclusively by citizens of the United States.

- (g) A coastwise endorsement may be issued for a vessel that—
 - (1) is less than 200 gross tons;
 - (2) is eligible for documentation;
 - (3) was built in the United States; and
 - (4) was—
 - (A) sold foreign in whole or in part; or
 - (B) placed under foreign registry.

§ 12107. Great Lakes endorsements

[(a) A certificate of documentation may be endorsed with a Great Lakes endorsement for a vessel that—

- [(1) is eligible for documentation;
- [(2)(A) was built in the United States; or
- [(B) if not built in the United States, was captured in war by citizens of the United States and lawfully condemned as prize, was adjudged to be forfeited for a breach of the laws of the United States, or qualified for documentation under section 4136 of the Revised Statutes (46 App. U.S.C. 14); and
- [(3) otherwise qualifies under the laws of the United States to be employed in the coastwise trade.

[(b) Subject to the laws of the United States regulating trade with Canada, only a vessel for which a certificate of documentation with a Great Lakes endorsement is issued may be employed on the Great Lakes and their tributary and connecting waters in trade with Canada.]

§ 12108. Fishery endorsements

(a) * * *

* * * * *

(c) A fishery endorsement to engage in fishing in the territorial sea and fishery conservation zone adjacent to Guam, American Samoa, and the Northern Mariana Islands may be issued to a vessel that—

- (1) is less than [two hundred gross tons] 200 gross tons as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title;

* * * * *

§ 12123. Denial and revocation of endorsements

[The Secretary of Transportation is authorized to deny the issuance or renewal of a trade or recreational endorsement on a certificate of documentation issued under this chapter and to revoke such endorsement if that vessel's owner has not paid an assessment of a civil penalty after final agency action for a violation of law for which an assessment has been made by the Secretary.]

* * * * *

PARTY J—MEASUREMENT OF VESSELS

CHAPTER 141—GENERAL

* * * * *

§ 14104. Measurement to determine application of a law

(a) When the application of a law of the United States to a vessel depends on the vessel's tonnage, the vessel shall be measured under this part.

(b) *If a statute allows for an alternate tonnage to be prescribed under this section, the Secretary may prescribe it by regulation. The alternate tonnage shall, to the maximum extent possible, be equivalent to the statutorily established tonnage. Until an alternate tonnage is prescribed, the statutorily established tonnage shall apply to vessels measured under chapter 143 or chapter 145 of this title.*

* * * * *

Subtitle III—Maritime Liability

* * * * *

CHAPTER 313—COMMERCIAL INSTRUMENTS AND MARITIME LIENS

Sec.

31301. Definitions.

* * * * *

[31328. Limitations on parties serving as trustees of mortgaged vessel interests.]

§ 31321. Filing, recording, and discharge

(a)(1) * * *

* * * * *

(4)(A) *A bill of sale, conveyance, mortgage, assignment, or related instrument may be filed electronically under regulations prescribed by the Secretary.*

(B) *A filing made electronically under subparagraph (A) shall not be effective after the 10-day period beginning on the date of the filing unless the original instrument is provided to the Secretary within that 10-day period.*

* * * * *

§ 31322. Preferred mortgages

[(a)(1) A preferred mortgage is a mortgage, whenever made, that—

[(A) includes the whole of a vessel;

[(B) is filed in substantial compliance with section 31321 of this title;

[(C)(i) covers a documented vessel; or

[(ii) covers a vessel for which an application for documentation is filed that is in substantial compliance with the requirements of chapter 121 of this title and the regulations prescribed under that chapter; and

[(D) has as the mortgagee—

- [(i) a State;
- [(ii) the United States Government;
- [(iii) a federally insured depository institution, unless disapproved by the Secretary;
- [(iv) an individual who is a citizen of the United States;
- [(v) a person qualifying as a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802); or
- [(vi) a person approved by the Secretary of Transportation.

- [(2) Paragraph (1)(D) of this subsection does not apply to—
 - [(A) a documented vessel that has a fisheries endorsement or a recreational endorsement, or both endorsements; or
 - [(B) a vessel for which an application for documentation with a fisheries endorsement or a recreational endorsement, or both endorsements, has been filed.]
- (a) *A preferred mortgage is a mortgage, whenever made, that—*
 - (1) *includes the whole of the vessel;*
 - (2) *is filed in substantial compliance with section 31321 of this title; and*
 - (3)(A) *covers a documented vessel; or*
 - (B) *covers a vessel for which an application for documentation is filed that is in substantial compliance with the requirements of chapter 121 of this title and the regulations prescribed under that chapter.*

* * * * *

§ 31325. Preferred mortgage liens and enforcement

- (a) * * *
- (b) On default of any term of the preferred mortgage, the [mortgage] *mortgagee* may—
 - (1) enforce the [preferred] *preferred* mortgage lien in a civil action in rem for a documented vessel, a vessel to be documented under chapter 121 of this title, or a foreign vessel; [and]

* * * * *

- (3) *enforce the preferred mortgage lien or a claim for the outstanding indebtedness secured by the mortgaged vessel, or both, by exercising any other remedy (including an extrajudicial remedy) against a documented vessel, a vessel for which an application for documentation is filed under chapter 121 of this title, a foreign vessel, or a mortgagor, maker, comaker, or guarantor for the amount of the outstanding indebtedness or any deficiency in full payment of that indebtedness, if—*
 - (A) *the remedy is allowed under applicable law; and*
 - (B) *the exercise of the remedy will not result in a violation of section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 808, 835).*

* * * * *

- (f)(1) *Before title to the documented vessel or vessel for which an application for documentation is filed under chapter 121 is transferred by an extrajudicial remedy, the person exercising the remedy*

shall give notice of the proposed transfer to the Secretary, to the mortgagee of any mortgage on the vessel filed in substantial compliance with section 31321 of this title before notice of the proposed transfer is given to the Secretary, and to any person that recorded a notice of a claim of an undischarged lien on the vessel under section 31343(a) or (d) of this title before notice of the proposed transfer is given to the Secretary.

(2) Failure to give notice as required by this subsection shall not affect the transfer of title to a vessel. However, the rights of any holder of a maritime lien or a preferred mortgage on the vessel shall not be affected by a transfer of title by an extrajudicial remedy exercised under this section, regardless of whether notice is required by this subsection or given.

(3) The Secretary shall prescribe regulations establishing the time and manner for providing notice under this subsection.

* * * * *

§ 31328. Limitations on parties serving as trustees of mortgaged vessel interests

[(a) Without the approval of the Secretary of Transportation, an instrument or evidence of indebtedness secured by a mortgage of a documented vessel to a trustee may not be issued, assigned, or transferred to, or held in trust for, a person not qualifying as a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), unless the trustee—

[(1) is a State;

[(2) is the United States Government;

[(3) is a person approved by the Secretary and qualifying as a citizen of the United States under that section 2; or

[(4) has been approved by the Secretary.

[(b) The Secretary shall approve a trustee under subsection (a)(3) or (4) of this section if the trustee—

[(1) is organized as a corporation, and is doing business, under the laws of the United States or of a State;

[(2) is authorized under those laws to exercise corporate trust powers;

[(3) is subject to supervision or examination by an official of the United States Government or a State;

[(4) has a combined capital and surplus (as stated in its most recent published report of condition) of at least \$3,000,000; and

[(5) if the trustee is to be approved under subsection (a)(4) of this section, meets any other requirements prescribed by the Secretary.

[(c) If the trustee at any time does not satisfy the qualifications of subsection (b) of this section, the Secretary shall disapprove the trustee.

[(d) Except as provided in subsection (a) of this section, a right under a mortgage of a documented vessel may be issued, assigned, or transferred to a person not eligible to be a mortgagee of that vessel under section 31322 of this title only with the approval of the Secretary.

[(e) The vessel may be operated by the trustee only with the approval of the Secretary.

[(f) The issuance, assignment, or transfer of an instrument or evidence of indebtedness contrary to this section is void.]

§ 31329. Court sales of documented vessels

(a) * * *

* * * * *

(f) *This section does not apply to a documented vessel that has been operated only—*

(1) as a fishing vessel, fish processing vessel, or fish tender vessel; or

(2) for pleasure.

§ 31330. Penalties

(a) * * *

(b)(1) A person that knowingly violates section [31328 or] 31329 of this title shall be fined under title 18, imprisoned for not more than 3 years, or both.

(2) A person violating section [31328 or] 31329 of this title is liable to the Government for a civil penalty of not more than \$25,000.

(3) A vessel involved in a violation under section [31328 or] 31329 of this title and its equipment may be seized by, and forfeited to, the Government.

* * * * *

PORTS AND WATERWAYS SAFETY ACT

* * * * *

SEC. 4. VESSEL OPERATING REQUIREMENTS.

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

(1) * * *

* * * * *

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

* * * * *

SEC. 7. PORT, HARBOR, AND COASTAL FACILITY SECURITY.

(a) * * *

* * * * *

(c) *NONDISCLOSURE OF PORT SECURITY PLANS.*—Notwithstanding any other provision of law, information related to security plans, procedures, or programs for passenger vessels or passenger terminals authorized under this Act is not required to be disclosed to the public.

SEC. 13. ENFORCEMENT. (a) * * *

* * * * *

[(f) *WITHHOLDING OF CLEARANCE.*—The Secretary of the Treasury shall withhold or revoke, at the request of the Secretary, the clearance required by section 4197 of the Revised Statutes of the United States, as amended (46 U.S.C. 91), of any vessel, the owner of operator of which is subject to any of the penalties in this section. Clearance may be granted in such cases upon the filing of a bond or other surety satisfactory to the Secretary.]

(f) *WITHHOLDING OF CLEARANCE.*—(1) If any owner, operator, or person in charge of a vessel is liable for a penalty or fine under this section, or if reasonable cause exists to believe that the owner, operator, or person in charge may be subject to a penalty or fine under this section, the Secretary of the Treasury, upon the request of the Secretary, shall with respect to such vessel refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91).

(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

ACT OF JANUARY 2, 1951

(Commonly Referred to as the Johnson Act)

AN ACT To prohibit transportation of gambling devices in interstate and foreign commerce

* * * * *

SEC. 5. (a)

* * *

(b) EXCEPTION.—

(1) * * *

(2) APPLICATION TO CERTAIN VOYAGES.—

(A) * * *

* * * * *

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

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

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

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

* * * * *

SECTION 9 OF THE SHIPPING ACT, 1916

SEC. 9. (b) * * *

(c) Except as provided in section 611 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1181), and sections 31322(a)(1)(D) and [31328] 12106(e) of title 46, United States Code, a person may not, without the approval of the Secretary of Transportation—

(1) sell, [mortgage] lease, charter, deliver, or in any manner transfer, or agree to sell, [mortgage,] lease, charter, deliver, or in any manner transfer, to a person not a citizen of the United States, any interest in or control of a documented vessel (except in a vessel that has been operated only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of title 46, United States Code) or in a vessel that has been operated only for pleasure) owned by a citizen of the United States or the last documentation of which was under the laws of the United States; or

* * * * *

(d)(1) Any charter, sale, [transfer, or mortgage] or transfer of a vessel, or interest in or control of that vessel, contrary to this section is void.

(2) A person that knowingly charters, sells, [transfers, or mortgages] or transfers a vessel, or interest in or control of that vessel, contrary to this section shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

(3) A documented vessel may be seized by, and forfeited to, the United States Government if—

(A) the vessel is placed under foreign registry or operated under the authority of a foreign country contrary to this section; or

(B) a person knowingly charters, sells, [transfers, or mortgages] or transfers a vessel, or interest or control in that vessel, contrary to this section.

(4) A person that charters, sells, [transfers, or mortgages] or transfers a vessel, or an interest in or control of a vessel, in violation of this section is liable to the United States Government for a civil penalty of not more than \$10,000 for each violation.

OIL POLLUTION ACT OF 1990

* * * * *

TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION

SEC. 1001. DEFINITIONS.

For the purposes of this Act, the term—

(1) * * *

* * * * *

(32) "responsible party" means the following:

* * * * *

(C) OFFSHORE FACILITIES.—In the case of an offshore facility (other than a pipeline or a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.)), the lessee or permittee of the area in which the facility is located or the holder of a right of use and easement granted under [applicable State law or] applicable State law relating to exploring for, producing, or transporting oil on submerged lands on the Outer Continental Shelf in accordance with a license or permit issued for such purpose, or under the Outer Continental Shelf Lands Act (43 U.S.C. 1301–1356) for the area in which the facility is located (if the holder is a different person than the lessee or permittee), except a Federal agency, State, municipality, commission, or political subdivision of a State, municipality, commission, or political subdivision of a State, or any interstate body, that as owner transfers possession and right to use the property to another person by lease, assignment, or permit.

* * * * *

SEC. 1004. LIMITS ON LIABILITY.

(a) GENERAL RULE.—Except as otherwise provided in this section, the total of the liability of a responsible party under section 1002 and any removal costs incurred by, or on behalf of, the responsible party, with respect to each incident shall not exceed—

(1) [for a tank vessel,] for a tank vessel carrying oil in bulk as cargo (unless the only oil carried in an animal fat or vegetable oil, as those terms are defined in section 413(c) of the Coast Guard Authorization Act For Fiscal Year 1996), the greater of—

(A) * * *

* * * * *

SEC. 1016. FINANCIAL RESPONSIBILITY.

(a) REQUIREMENT.—The responsible party for—

(1) * * *

* * * * *

shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to meet the maximum amount of liability to which, [in the case of a tank vessel,] in the case of a tank vessel carrying oil in bulk as cargo (unless the only oil carried is an animal fat or vegetable oil, as those terms are defined in section 413(c) of the Coast Guard Authorization Act for Fiscal Year 1996), the responsible party could be subject under section 1004 (a)(1) or (d) of this Act, or to which, in the case of any other vessel, the responsible party could be subjected under section 1004 (a)(2) or (d), in a case where the responsible party would be entitled to limit liability under that section. If the responsible party owns or operates more than one

vessel, evidence of financial responsibility need be established only to meet the amount of the maximum liability applicable to the vessel having the greatest maximum liability.

* * * * *

(c) OFFSHORE FACILITIES.—

[(1) IN GENERAL.—Except as provided in paragraph (2), each responsible party with respect to an offshore facility shall establish and maintain evidence of financial responsibility of \$150,000,000 to meet the amount of liability to which the responsible party could be subjected under section 1004(a) in a case in which the responsible party would be entitled to limit liability under that section. In a case in which a person is the responsible party for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the facility having the greatest maximum liability.]

(1) IN GENERAL.—

(A) EVIDENCE OF FINANCIAL RESPONSIBILITY REQUIRED.—

Except as provided in paragraph (2), each responsible party with respect to an offshore facility described in section 1001(32)(C) located seaward of the line of mean high tide that is—

(i) used for drilling for, producing, or processing oil; and

(ii) has the capacity to transport, store, transfer, or otherwise handle more than 1,000 barrels of oil at any one time,

shall establish and maintain evidence of financial responsibility in the amount required under subparagraph (B) or (C), applicable.

(B) AMOUNT REQUIRED GENERALLY.—*Except as provided in subparagraph (C), for purposes of subparagraph (A) the amount of financial responsibility required is \$35,000,000.*

(C) GREATER AMOUNT.—*If the President determines that an amount of financial responsibility greater than the amount required by subparagraph (B) is necessary for an offshore facility, based on an assessment of the risk posed by the facility that includes consideration of the relative operational, environmental, human health, and other risks posed by the quantity or quality of oil that is transported, stored, transferred, or otherwise handled by the facility, the amount of financial responsibility required shall not exceed \$150,000,000 determined by the President on the basis of clear and convincing evidence that the risks posed justify the greater amount.*

(D) MULTIPLE FACILITIES.—*In a case in which a person is responsible for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the amount applicable to the facility having the greatest financial responsibility requirement under this subsection.*

(E) GUARANTEE METHOD.—*Except with respect of financial responsibility established by the guarantee method,*

subsection (f) shall not apply with respect to this subsection.

* * * * *

SECTION 601 OF THE COAST GUARD AUTHORIZATION ACT OF 1993

SEC. 601. DOCUMENTATION OF VESSELS.

(a) * * *

* * * * *

(d) Notwithstanding section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Act of June 19, 1886 (46 App. U.S.C. 289), and section 12106 of title 46, United States Code, the Secretary of Transportation may issue a certificate of documentation with a coastwise endorsement for the vessel M/V TWIN DRILL (Panama official number 8536—PEXT—2) if—

(1) * * *

(3) the major conversion is completed and the vessel is documented under chapter 121 of title 46, United States Code, with a coastwise endorsement before June 30, [1995] 1996;

(4) the person documenting the vessel contracts with a United States shipyard to construct an additional vessel of equal or greater capacity within [12] 24 months of the date of enactment of this Act, for delivery within 36 months of the date of such contract; and

* * * * *

SECTION 3 OF THE LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT

COVERAGE

SEC. 3. (a) * * *

* * * * *

(d)(1) * * *

* * * * *

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

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

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

* * * * *

**SECTION 4 OF THE VESSEL-TO-BRIDGE
RADIOTELEPHONE ACT**

SEC. 4. (a) Except as provided in section 7 of this Act—

(1) * * *

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

* * * * *

SECTION 27A OF THE MERCHANT MARINE ACT, 1920

SEC. 27A. Notwithstanding any other provision of law, a corporation incorporated under the laws of the United States or any State, Territory, District, or possession thereof, shall be deemed to be a citizen of the United States for the purposes of and within the meaning of that term as used in sections 9 and 37 of the Shipping Act, 1916, as amended (46 U.S.C. 808, 835), section 27 of the Merchant Marine Act of 1920, as amended (46 U.S.C. 883), Revised Statutes, section 4370 (46 U.S.C. 316), and the laws relating to the documentation of vessels, if it is established by a certificate filed with the Secretary of the Treasury as hereinafter provided, that—

(a) * * *

* * * * *

Vessels built in the United States and owned by a corporation meeting the conditions hereof which are non-self-propelled or which, if self-propelled, are of less than five hundred gross tons *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title*, shall be entitled to documentation under the laws of the United States, and except as restricted by this section, shall be entitled to engage in the coastwise trade and, together with their owners or masters, shall be entitled to all the other benefits and privileges and shall be subject to the same requirements, penalties, and forfeitures as may be applicable in the case of vessels built in the United States and otherwise documented or exempt from documentation under the laws of the United States.

* * * * *

SECTION 2 OF THE ACT OF JUNE 14, 1956

AN ACT. To amend the shipping laws, to prohibit the operation in the coastwise trade of vessels rebuilt outside the United States, and for other purposes

SEC. 2. If any vessel of more than five hundred gross tons *as amended under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* documented under the laws of the United States, or last documented

under such laws, is rebuilt, and any part of the rebuilding, including the construction of major components of the hull and superstructure of the vessel, is not effected within the United States, its Territories (not including trust territories) or its possessions, a report of the circumstances of such rebuilding shall be made to the Secretary of the Treasury, upon the first arrival of the vessel thereafter at a port within the customs territory of the United States, if rebuilt outside the United States, its Territories (not including trust territories), or its possessions, or, in any other case, upon completion of the rebuilding, in accordance with such regulations as the Secretary may prescribe. If the required report is not made, the vessel, together with its tackle, apparel, equipment, and furniture, shall be forfeited, and the master and owner shall each be liable to a penalty of \$200. Any penalty or forfeiture incurred under this Act may be remitted or mitigated by the Secretary under the provisions of section 5294 of the Revised Statutes of the United States, as amended (U.S.C., 1952 edition, title 46, sec. 7).

SECTION 1302 OF THE MERCHANT MARINE ACT, 1936

SEC. 1302. For purposes of this title—

(1) * * *

* * * * *

(4) the term “merchant marine officer” means any person who holds a license issued by the United States Coast Guard which authorizes service—

(A) as a master, mate, or pilot on board any vessel of 1,000 gross tons or more *as measured under section 14502 of title 46, United States Code, or an alternate tonnage measured under section 14302 of that title as prescribed by the Secretary under section 14104 of that title* which is documented under the laws of the United States and which operates on the oceans or on the Great Lakes; or

* * * * *

REVISED STATUTES OF THE UNITED STATES

* * * * *

TITLE XXXIV.—COLLECTION OF DUTIES UPON IMPORTS.

* * * * *

CHAPTER 4.—ENTRY OF MERCHANDISE.

* * * * *

SEC. 2793. Documented vessels with a [coastwise, Great Lakes endorsement, departing from or arriving at a port in one district to or from a port in another district, and also touching at intermediate foreign ports,] *registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada,* shall not thereby become liable to the payment

of entry and clearance fees, or tonnage tax [, as if from or to foreign ports].

* * * * *

TITLE L.—REGULATION OF VESSELS IN DOMESTIC COMMERCE

* * * * *

SEC. 4370. (a) It shall be unlawful for any vessel not wholly owned by a person who is a citizen of the United States within the meaning of the laws respecting the documentation of vessels and not having in force a certificate of registry, a certificate of documentation issued under section 12106 [or 12107] of title 46, United States Code, to tow any vessel other than a vessel in distress, from any port or place in the United States, its Territories or possessions, embraced within the coastwise laws of the United States, to any other port or place within the same, either directly or by way of a foreign port or place, or to do any part of such towing, or to tow any such vessel, from point to point within the harbors of such places, or to tow any vessel transporting valueless material or any dredged material, regardless of whether it has commercial value, from a point or place in the United States or a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983, to another point or place in the United States or a point or place on the high seas within that Exclusive Economic Zone. The owner and master of any vessel towing another vessel in violation of the provisions of this section shall each be liable to a fine of not less than \$250 nor more than \$1,000, which fines shall constitute liens upon the offending vessel enforceable through the district court of the United States for any district in which such vessel may be found, and clearance shall not be granted to such vessel until the fines have been paid. The towing vessel shall also be further liable to a penalty of \$50 per ton on the measurement of every vessel towed in violation of this section, which sum may be recovered by way of libel or suit.

* * * * *

