

In the Senate of the United States,

May 7, 2010.

Resolved, That the bill from the House of Representatives (H.R. 3619) entitled “An Act to authorize appropriations for the Coast Guard for fiscal year 2010, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Coast Guard Authoriza-*
3 *tion Act for Fiscal Years 2010 and 2011”.*

4 ***SEC. 2. TABLE OF CONTENTS.***

5 *The table of contents for this Act is as follows:*

Sec. 1. Short title.

Sec. 2. Table of contents.

TITLE I—AUTHORIZATIONS

Sec. 101. Authorization of appropriations.

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

TITLE II—ADMINISTRATION

*Sec. 201. Authority to distribute funds through grants, cooperative agreements,
and contracts to maritime authorities and organizations.*

Sec. 202. Assistance to foreign governments and maritime authorities.

Sec. 203. Cooperative agreements for industrial activities.

Sec. 204. Defining Coast Guard vessels and aircraft.

TITLE III—ORGANIZATION

Sec. 301. Vice commandant; vice admirals.

Sec. 302. Number and distribution of commissioned officers on the active duty promotion list.

TITLE IV—PERSONNEL

Sec. 401. Leave retention authority.

Sec. 402. Legal assistance for Coast Guard reservists.

Sec. 403. Reimbursement for certain medical-related expenses.

Sec. 404. Reserve commissioned warrant officer to lieutenant program.

Sec. 405. Enhanced status quo officer promotion system.

Sec. 406. Appointment of civilian Coast Guard judges.

Sec. 407. Coast Guard participation in the Armed Forces Retirement Home system.

Sec. 408. Crew wages on passenger vessels.

Sec. 409. Protection and fair treatment of seafarers.

TITLE V—ACQUISITION REFORM

Sec. 501. Chief Acquisition Officer.

Sec. 502. Acquisitions.

“CHAPTER 15—ACQUISITIONS

“SUBCHAPTER 1—GENERAL PROVISIONS

“Sec.

“561. Acquisition directorate

“562. Senior acquisition leadership team

“563. Improvements in Coast Guard acquisition management

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

“565. Prohibition on use of lead systems integrators

“566. Required contract terms

“567. Department of Defense consultation

“568. Undefinitized contractual actions

“SUBCHAPTER 2—IMPROVED ACQUISITION PROCESS AND PROCEDURES

“Sec.

“571. Identification of major system acquisitions

“572. Acquisition

“573. Preliminary development and demonstration

“574. Acquisition, production, deployment, and support

“575. Acquisition program baseline breach

“SUBCHAPTER 3—DEFINITIONS

“Sec.

“581. Definitions”

Sec. 503. Report and guidance on excess pass-through charges.

TITLE VI—SHIPPING AND NAVIGATION

Sec. 601. Technical amendments to chapter 313 of title 46, United States Code.

- Sec. 602. Clarification of rulemaking authority.*
Sec. 603. Icebreakers.
Sec. 604. Phaseout of vessels supporting oil and gas development.

TITLE VII—VESSEL CONVEYANCE

- Sec. 701. Short title.*
Sec. 702. Conveyance of Coast Guard vessels for public purposes.

TITLE VIII—OIL POLLUTION PREVENTION

- Sec. 801. Rulemakings.*
Sec. 802. Oil transfers from vessels.
Sec. 803. Improvements to reduce human error and near miss incidents.
Sec. 804. Olympic coast national marine sanctuary.
Sec. 805. Prevention of small oil spills.
Sec. 806. Improved coordination with tribal governments.
Sec. 807. Report on availability of technology to detect the loss of oil.
Sec. 808. Use of oil spill liability trust fund.
Sec. 809. International efforts on enforcement.
Sec. 810. Higher volume port area regulatory definition change.
Sec. 811. Tug escorts for laden oil tankers.
Sec. 812. Extension of financial responsibility.
Sec. 813. Oil spill liability trust fund investment amount.
Sec. 814. Liability for use of single-hull vessels.

TITLE IX—MISCELLANEOUS PROVISIONS

- Sec. 901. Vessel determination.*
Sec. 902. Conveyance of the Presque Isle Light Station Fresnel Lens to Presque Isle Township, Michigan.
Sec. 903. Land conveyance, Coast Guard property in Marquette County, Michigan, to the city of Marquette, Michigan.
Sec. 904. Offshore supply vessels.
Sec. 905. Assessment of certain aids to navigation and traffic flow.
Sec. 906. Alternative licensing program for operators of uninspected passenger vessels on Lake Texoma in Texas and Oklahoma.

TITLE X—BUDGETARY EFFECTS

- Sec. 1001. Budgetary effects.*

1 **TITLE I—AUTHORIZATIONS**

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

3 *Funds are authorized to be appropriated for necessary*
4 *expenses of the Coast Guard for each of fiscal years 2010*
5 *and 2011 as follows:*

6 (1) *For the operation and maintenance of the*
7 *Coast Guard, \$6,556,188,000, of which \$24,500,000 is*

1 *authorized to be derived from the Oil Spill Liability*
2 *Trust Fund to carry out the purposes of section*
3 *1012(a)(5) of the Oil Pollution Act of 1990.*

4 *(2) For the acquisition, construction, renovation,*
5 *and improvement of aids to navigation, shore and off-*
6 *shore facilities, vessels, and aircraft, including equip-*
7 *ment related thereto, \$1,383,980,000, of which*
8 *\$20,000,000 shall be derived from the Oil Spill Li-*
9 *ability Trust Fund to carry out the purposes of sec-*
10 *tion 1012(a)(5) of the Oil Pollution Act of 1990, to*
11 *remain available until expended; such funds appro-*
12 *priated for personnel compensation and benefits and*
13 *related costs of acquisition, construction, and im-*
14 *provements shall be available for procurement of serv-*
15 *ices necessary to carry out the Integrated Deepwater*
16 *Systems program.*

17 *(3) For retired pay (including the payment of*
18 *obligations otherwise chargeable to lapsed appropri-*
19 *ations for this purpose), payments under the Retired*
20 *Serviceman's Family Protection and Survivor Benefit*
21 *Plans, and payments for medical care of retired per-*
22 *sonnel and their dependents under chapter 55 of title*
23 *10, United States Code, \$1,361,245,000.*

1 (4) *For environmental compliance and restora-*
2 *tion functions under chapter 19 of title 14, United*
3 *States Code, \$13,198,000.*

4 (5) *For research, development, test, and evalua-*
5 *tion programs related to maritime technology,*
6 *\$19,745,000.*

7 (6) *For operation and maintenance of the Coast*
8 *Guard reserve program, \$133,632,000.*

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

11 (a) *ACTIVE DUTY STRENGTH.*—*The Coast Guard is*
12 *authorized an end-of-year strength of active duty personnel*
13 *of 49,954 as of September 30, 2010, and 52,452 as of Sep-*
14 *tember 30, 2011.*

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

18 (1) *For recruit and special training, 2,500 stu-*
19 *dent years for fiscal year 2010, and 2,625 student*
20 *years for fiscal year 2011.*

21 (2) *For flight training, 170 student years for fis-*
22 *cal year 2010 and 179 student years for fiscal year*
23 *2011.*

1 (3) *For professional training in military and ci-*
2 *vilian institutions, 350 student years for fiscal year*
3 *2010 and 368 student years for fiscal year 2011.*

4 (4) *For officer acquisition, 1,300 student years*
5 *for fiscal year 2010 and 1,365 student years for fiscal*
6 *year 2011.*

7 **TITLE II—ADMINISTRATION**

8 **SEC. 201. AUTHORITY TO DISTRIBUTE FUNDS THROUGH** 9 **GRANTS, COOPERATIVE AGREEMENTS, AND** 10 **CONTRACTS TO MARITIME AUTHORITIES AND** 11 **ORGANIZATIONS.**

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

14 “(c) *GRANTS TO INTERNATIONAL MARITIME ORGANI-*
15 *ZATIONS.—The Commandant may, after consultation with*
16 *the Secretary of State, make grants to, or enter into cooper-*
17 *ative agreements, contracts, or other agreements with, inter-*
18 *national maritime organizations for the purpose of acquir-*
19 *ing information or data about merchant vessel inspections,*
20 *security, safety and environmental requirements, classifica-*
21 *tion, and port state or flag state law enforcement or over-*
22 *sight.”.*

1 **SEC. 202. ASSISTANCE TO FOREIGN GOVERNMENTS AND**
2 **MARITIME AUTHORITIES.**

3 *Section 149 of title 14, United States Code, as amend-*
4 *ed by section 201, is further amended by adding at the end*
5 *the following:*

6 “(d) *AUTHORIZED ACTIVITIES.*—

7 “(1) *The Commandant may transfer or expend*
8 *funds from any appropriation available to the Coast*
9 *Guard for—*

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

14 “(B) *the activities of maritime authority li-*
15 *aison teams of foreign governments making re-*
16 *ciprocal visits to Coast Guard units, including*
17 *any transportation expense, translation services*
18 *expense, or administrative expense that is related*
19 *to such activities;*

20 “(C) *seminars and conferences involving*
21 *members of maritime authorities of foreign gov-*
22 *ernments;*

23 “(D) *distribution of publications pertinent*
24 *to engagement with maritime authorities of for-*
25 *ign governments; and*

1 “(E) personnel expenses for Coast Guard ci-
2 vilian and military personnel to the extent that
3 those expenses relate to participation in an ac-
4 tivity described in subparagraph (C) or (D).

5 “(2) An activity may not be conducted under
6 this subsection with a foreign country unless the Sec-
7 retary of State approves the conduct of such activity
8 in that foreign country.”.

9 **SEC. 203. COOPERATIVE AGREEMENTS FOR INDUSTRIAL AC-**
10 **TIVITIES.**

11 Section 151 of title 14, United States Code, is amend-
12 ed—

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

15 (2) by adding at the end the following:

16 “(b) **ORDERS AND AGREEMENTS FOR INDUSTRIAL AC-**
17 **TIVITIES.**—Under this section, the Coast Guard industrial
18 activities may accept orders and enter into reimbursable
19 agreements with establishments, agencies, and departments
20 of the Department of Defense and the Department of Home-
21 land Security.”.

1 **SEC. 204. DEFINING COAST GUARD VESSELS AND AIR-**
 2 **CRAFT.**

3 (a) *IN GENERAL.*—Chapter 17 of title 14, United
 4 States Code, is amended by inserting after section 638 the
 5 following new section:

6 **“§ 638a. Coast Guard vessels and aircraft defined**

7 “For the purposes of sections 637 and 638 of this title,
 8 the term *Coast Guard vessels and aircraft* means—

9 “(1) any vessel or aircraft owned, leased, trans-
 10 ferred to, or operated by the Coast Guard and under
 11 the command of a Coast Guard member; or

12 “(2) any other vessel or aircraft under the tac-
 13 tical control of the Coast Guard on which one or more
 14 members of the Coast Guard are assigned and con-
 15 ducting Coast Guard missions.”.

16 (b) *CLERICAL AMENDMENT.*—The table of contents for
 17 chapter 17 of such title is amended by inserting after the
 18 item relating to section 638 the following:

“638a. *Coast Guard vessels and aircraft defined.*”.

19 **TITLE III—ORGANIZATION**

20 **SEC. 301. VICE COMMANDANT; VICE ADMIRALS.**

21 (a) *VICE COMMANDANT.*—

22 (1) Section 41 of title 14, United States Code, is
 23 amended by striking “an admiral,” and inserting
 24 “admirals,”.

1 (2) *The fourth sentence of section 47 of title 14,*
2 *United States Code, is amended by striking “vice ad-*
3 *miral” and inserting “admiral”.*

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

6 **“§ 50. Vice admirals**

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

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

13 “(B) *shall perform such duties as the Com-*
14 *mandant may prescribe.*

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

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

1 “(2) *An officer who is appointed to a position des-*
2 *ignated under subsection (a) shall continue to hold the*
3 *grade of vice admiral—*

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

10 “(B) *while hospitalized, beginning on the day of*
11 *the hospitalization and ending on the day the officer*
12 *is discharged from the hospital, but not for more than*
13 *180 days; and*

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

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

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

1 “(d) Whenever a vacancy occurs in a position des-
2 igned under subsection (a), the Commandant shall inform
3 the President of the qualifications needed by an officer serv-
4 ing in that position or office to carry out effectively the
5 duties and responsibilities of that position or office.”.

6 (c) *REPEAL*.—Section 50a of such title is repealed.

7 (d) *CONFORMING AMENDMENTS*.—Section 51 of such
8 title is amended—

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

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

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

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

1 (2) *by striking “Area Commander, or Chief of*
2 *Staff” in subsection (d)(2) and inserting “or Vice Ad-*
3 *miral”.*

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

7 (f) *CONTINUATION ON ACTIVE DUTY.—The second sen-*
8 *tence of section 290(a) of title 14, United States Code, is*
9 *amended to read as follows: “Officers, other than the Com-*
10 *mandant, serving for the time being or who have served in*
11 *the grade of vice admiral or admiral are not subject to con-*
12 *sideration for continuation under this subsection, and as*
13 *to all other provisions of this section shall be considered*
14 *as having been continued at the grade of rear admiral.”.*

15 (g) *CLERICAL AMENDMENTS.—*

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

18 **“§47. Vice commandant; appointment”.**

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

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

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

1 (A) by striking the item relating to section
2 47 and inserting the following:

“47. Vice Commandant; appointment.”;

3 (B) by striking the item relating to section
4 50a;

5 (C) by striking the item relating to section
6 50 and inserting the following:

“50. Vice admirals.”; and

7 (D) by striking the item relating to section
8 52 and inserting the following:

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

9 (h) *TECHNICAL CORRECTION.*—Section 47 of such title
10 is further amended by striking “subsection” in the fifth sen-
11 tence and inserting “section”.

12 (i) *TREATMENT OF INCUMBENTS; TRANSITION.*—

13 (1) Notwithstanding any other provision of law,
14 the officer who, on the date of enactment of this Act,
15 is serving as Vice Commandant—

16 (A) shall continue to serve as Vice Com-
17 mandant;

18 (B) shall have the grade of admiral with
19 pay and allowances of that grade; and

20 (C) shall not be required to be reappointed
21 by reason of the enactment of that Act.

22 (2) Notwithstanding any other provision of law,
23 an officer who, on the date of enactment of this Act,

1 *is serving as Chief of Staff, Commander, Atlantic*
2 *Area, or Commander, Pacific Area—*

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

8 *(B) for the purposes of transition, may con-*
9 *tinue at the grade of vice admiral with pay and*
10 *allowance of that grade, for not more than 1*
11 *year after the date of enactment of this Act, to*
12 *perform the duties of the officer's former position*
13 *and any other such duties that the Commandant*
14 *prescribes.*

15 **SEC. 302. NUMBER AND DISTRIBUTION OF COMMISSIONED**
16 **OFFICERS ON THE ACTIVE DUTY PROMOTION**
17 **LIST.**

18 *(a) IN GENERAL.—Section 42 of title 14, United*
19 *States Code, is amended—*

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

22 *“(a) The total number of Coast Guard commissioned*
23 *officers on the active duty promotion list, excluding war-*
24 *rant officers, shall not exceed 7,200. This total number may*
25 *be temporarily increased up to 2 percent for no more than*

1 *the 60 days that follow the commissioning of a Coast Guard*
2 *Academy class.*

3 “(b) *The total number of commissioned officers author-*
4 *ized by this section shall be distributed in grade not to ex-*
5 *ceed the following percentages:*

6 “(1) *0.375 percent for rear admiral.*

7 “(2) *0.375 percent for rear admiral (lower half).*

8 “(3) *6.0 percent for captain.*

9 “(4) *15.0 percent for commander.*

10 “(5) *22.0 percent for lieutenant commander.*

11 *The Secretary shall prescribe the percentages applicable to*
12 *the grades of lieutenant, lieutenant (junior grade), and en-*
13 *sign. The Secretary may, as the needs of the Coast Guard*
14 *require, reduce any of the percentages set forth in para-*
15 *graphs (1) through (5) and apply that total percentage re-*
16 *duction to any other lower grade or combination of lower*
17 *grades.*

18 “(c) *The Secretary shall, at least once a year, compute*
19 *the total number of commissioned officers authorized to*
20 *serve in each grade by applying the grade distribution per-*
21 *centages of this section to the total number of commissioned*
22 *officers listed on the current active duty promotion list. In*
23 *making such calculations, any fraction shall be rounded to*
24 *the nearest whole number. The number of commissioned of-*
25 *ficers on the active duty promotion list serving with other*

1 *departments or agencies on a reimbursable basis or excluded*
2 *under the provisions of section 324(d) of title 49, shall not*
3 *be counted against the total number of commissioned offi-*
4 *cers authorized to serve in each grade.”;*

5 *(2) by striking subsection (e) and inserting the*
6 *following:*

7 *“(e) The number of officers authorized to be serving*
8 *on active duty in each grade of the permanent commis-*
9 *sioned teaching staff of the Coast Guard Academy and of*
10 *the Reserve serving in connection with organizing, admin-*
11 *istering, recruiting, instructing, or training the reserve*
12 *components shall be prescribed by the Secretary.”; and*

13 *(3) by striking the caption of such section and*
14 *inserting the following:*

15 **“§ 42. Number and distribution of commissioned offi-**
16 **cers on the active duty promotion list”.**

17 *(b) CLERICAL AMENDMENT.—The table of contents for*
18 *chapter 3 of such title is amended by striking the item relat-*
19 *ing to section 42 and inserting the following:*

“42. Number and distribution of commissioned officers on the active duty pro-
motion list”.

20 **TITLE IV—PERSONNEL**

21 **SEC. 401. LEAVE RETENTION AUTHORITY.**

22 *Section 701(f)(2) of title 10, United States Code, is*
23 *amended by inserting “or a declaration of a major disaster*
24 *or emergency by the President under the Robert T. Stafford*

1 *Disaster Relief and Emergency Assistance Act (Public Law*
2 *93–288, 42 U.S.C. 5121 et seq.)” after “operation”.*

3 **SEC. 402. LEGAL ASSISTANCE FOR COAST GUARD RESERV-**
4 **ISTS.**

5 *Section 1044(a)(4) of title 10, United States Code, is*
6 *amended—*

7 *(1) by striking “(as determined by the Secretary*
8 *of Defense),” and inserting “(as determined by the*
9 *Secretary of Defense and the Secretary of the depart-*
10 *ment in which the Coast Guard is operating, with re-*
11 *spect to the Coast Guard when it is not operating as*
12 *a service of the Navy),”; and*

13 *(2) by striking “prescribed by the Secretary of*
14 *Defense,” and inserting “prescribed by Secretary of*
15 *Defense and the Secretary of the department in which*
16 *the Coast Guard is operating, with respect to the*
17 *Coast Guard when it is not operating as a service of*
18 *the Navy,”.*

19 **SEC. 403. REIMBURSEMENT FOR CERTAIN MEDICAL-RE-**
20 **LATED TRAVEL EXPENSES.**

21 *Section 1074i(a) of title 10, United States Code, is*
22 *amended—*

23 *(1) by striking “IN GENERAL.—In” and insert-*
24 *ing “IN GENERAL.—(1) In”; and*

25 *(2) by adding at the end the following:*

1 “(2) *In any case in which a covered beneficiary resides*
2 *on an INCONUS island that lacks public access roads to*
3 *the mainland and is referred by a primary care physician*
4 *to a specialty care provider on the mainland who provides*
5 *services less than 100 miles from the location in which the*
6 *beneficiary resides, the Secretary shall reimburse the rea-*
7 *sonable travel expenses of the covered beneficiary, and, when*
8 *accompaniment by an adult is necessary, for a parent or*
9 *guardian of the covered beneficiary or another member of*
10 *the covered beneficiary’s family who is at least 21 years*
11 *of age.”.*

12 **SEC. 404. RESERVE COMMISSIONED WARRANT OFFICER TO**
13 **LIEUTENANT PROGRAM.**

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

16 “(a) *The President may appoint temporary commis-*
17 *sioned officers—*

18 “(1) *in the Regular Coast Guard in a grade, not*
19 *above lieutenant, appropriate to their qualifications,*
20 *experience, and length of service, as the needs of the*
21 *Coast Guard may require, from among the commis-*
22 *sioned warrant officers, warrant officers, and enlisted*
23 *members of the Coast Guard, and from licensed offi-*
24 *cers of the United States merchant marine; and*

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

6 **SEC. 405. ENHANCED STATUS QUO OFFICER PROMOTION**
7 **SYSTEM.**

8 (a) Section 253(a) of title 14, United States Code, is
9 amended—

10 (1) by inserting “and” after “considered,”; and

11 (2) by striking “consideration, and the number
12 of officers the board may recommend for promotion”
13 and inserting “consideration”.

14 (b) Section 258 of such title is amended—

15 (1) by inserting “(a)” before “The Secretary”;

16 and

17 (2) by adding at the end the following:

18 “(b) In addition to the information provided pursuant
19 to subsection (a), the Secretary may furnish the selection
20 board—

21 “(1) specific direction relating to the needs of the
22 service for officers having particular skills, including
23 direction relating to the need for a minimum number
24 of officers with particular skills within a specialty;
25 and

1 “(2) such other guidance that the Secretary be-
2 lieves may be necessary to enable the board to prop-
3 erly perform its functions.

4 *Selections made based on the direction and guidance pro-
5 vided under this subsection shall not exceed the maximum
6 percentage of officers who may be selected from below the
7 announced promotion zone at any given selection board
8 convened under section 251 of this title.”.*

9 (c) Section 259(a) of such title is amended by striking
10 “board” the second place it appears and inserting “board,
11 giving due consideration to the needs of the service for offi-
12 cers with particular skills so noted in the specific direction
13 furnished pursuant to section 258 of this title,”.

14 (d) Section 260(b) of such title is amended by inserting
15 “to meet the needs of the service (as noted in the specific
16 direction furnished the board under section 258 of this
17 title)” after “qualified for promotion”.

18 **SEC. 406. APPOINTMENT OF CIVILIAN COAST GUARD**

19 **JUDGES.**

20 Section 875 of the Homeland Security Act of 2002 (6
21 U.S.C. 455) is amended—

22 (1) by redesignating subsection (c) as subsection
23 (d); and

24 (2) by inserting after subsection (b) the fol-
25 lowing:

1 “(c) *APPOINTMENT OF JUDGES.*—*The Secretary may*
2 *appoint civilian employees of the Department of Homeland*
3 *Security as appellate military judges, available for assign-*
4 *ment to the Coast Guard Court of Criminal Appeals as pro-*
5 *vided for in section 866(a) of title 10, United States Code.”.*

6 **SEC. 407. COAST GUARD PARTICIPATION IN THE ARMED**
7 **FORCES RETIREMENT HOME SYSTEM.**

8 (a) *ELIGIBILITY UNDER THE ARMED FORCES RETIRE-*
9 *MENT HOME ACT.*—*Section 1502 of the Armed Forces Re-*
10 *tirement Home Act of 1991 (24 U.S.C. 401) is amended—*

11 (1) *by striking “does not include the Coast*
12 *Guard when it is not operating as a service of the*
13 *Navy.” in paragraph (4) and inserting “has the*
14 *meaning given such term in section 101(4) of title*
15 *10.”;*

16 (2) *by striking “and” in paragraph (5)(C);*

17 (3) *by striking “Affairs.” in paragraph (5)(D)*
18 *and inserting “Affairs; and”;*

19 (4) *by adding at the end of paragraph (5) the*
20 *following:*

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

23 (5) *by adding at the end of paragraph (6) the*
24 *following:*

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

3 (b) *DEDUCTIONS.*—

4 (1) *Section 2772 of title 10, United States Code,*
5 *is amended—*

6 (A) *by striking “of the military depart-*
7 *ment” in subsection (a);*

8 (B) *by striking “Armed Forces Retirement*
9 *Home Board” in subsection (b) and inserting*
10 *“Chief Operating Officer of the Armed Forces*
11 *Retirement Home”; and*

12 (C) *by striking subsection (c).*

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

15 (A) *by striking “Armed Forces Retirement*
16 *Home Board,” in paragraph (3) and inserting*
17 *“Chief Operating Officer of the Armed Forces*
18 *Retirement Home,”; and*

19 (B) *by striking “does not include the Coast*
20 *Guard when it is not operating as a service of*
21 *the Navy.” in paragraph (4) and inserting “has*
22 *the meaning given such term in section 101(4) of*
23 *title 10.”.*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
2 *section shall take effect on the first day of the first pay pe-*
3 *riod beginning on or after January 1, 2010.*

4 **SEC. 408. CREW WAGES ON PASSENGER VESSELS.**

5 (a) *FOREIGN AND INTERCOASTAL VOYAGES.*—

6 (1) *CAP ON PENALTY WAGES.*—*Section 10313(g)*
7 *of title 46, United States Code, is amended—*

8 (A) *by striking “When” and inserting “(1)*
9 *Subject to paragraph (2), when”; and*

10 (B) *by adding at the end the following:*

11 “(2) *The total amount required to be paid under para-*
12 *graph (1) with respect to all claims in a class action suit*
13 *by seamen on a passenger vessel capable of carrying more*
14 *than 500 passengers for wages under this section against*
15 *a vessel master, owner, or operator or the employer of the*
16 *seamen shall not exceed 10 times the unpaid wages that*
17 *are the subject of the claims.*

18 “(3) *A class action suit for wages under this subsection*
19 *must be commenced within 3 years after the later of—*

20 (A) *the date of the end of the last voyage for*
21 *which the wages are claimed; or*

22 (B) *the receipt, by a seaman who is a claimant*
23 *in the suit, of a payment of wages that are the subject*
24 *of the suit that is made in the ordinary course of em-*
25 *ployment.”.*

1 (2) *DEPOSITS.*—Section 10315 of such title is
2 amended by adding at the end the following:

3 “(f) *DEPOSITS IN SEAMAN ACCOUNT.*—By written re-
4 quest signed by the seaman, a seaman employed on a pas-
5 senger vessel capable of carrying more than 500 passengers
6 may authorize the master, owner, or operator of the vessel,
7 or the employer of the seaman, to make deposits of wages
8 of the seaman into a checking, savings, investment, or re-
9 tirement account, or other account to secure a payroll or
10 debit card for the seaman if—

11 “(1) the wages designated by the seaman for such
12 deposit are deposited in a United States or inter-
13 national financial institution designated by the sea-
14 man;

15 “(2) such deposits in the financial institution
16 are fully guaranteed under commonly accepted inter-
17 national standards by the government of the country
18 in which the financial institution is licensed;

19 “(3) a written wage statement or pay stub, in-
20 cluding an accounting of any direct deposit, is deliv-
21 ered to the seaman no less often than monthly; and

22 “(4) while on board the vessel on which the sea-
23 man is employed, the seaman is able to arrange for
24 withdrawal of all funds on deposit in the account in
25 which the wages are deposited.”.

1 **(b) COASTWISE VOYAGES.**—

2 **(1) CAP ON PENALTY WAGES.**—*Section 10504(c)*
3 *of such title is amended—*

4 **(A)** *by striking “When” and inserting “(1)*
5 *Subject to subsection (d), and except as provided*
6 *in paragraph (2), when”;* and

7 **(B)** *by adding at the end the following:*

8 *“(2) The total amount required to be paid under para-*
9 *graph (1) with respect to all claims in a class action suit*
10 *by seamen on a passenger vessel capable of carrying more*
11 *than 500 passengers for wages under this section against*
12 *a vessel master, owner, or operator or the employer of the*
13 *seamen shall not exceed 10 times the unpaid wages that*
14 *are the subject of the claims.*

15 *“(3) A class action suit for wages under this subsection*
16 *must be commenced within 3 years after the later of—*

17 **(A)** *the date of the end of the last voyage for*
18 *which the wages are claimed; or*

19 **(B)** *the receipt, by a seaman who is a claimant*
20 *in the suit, of a payment of wages that are the subject*
21 *of the suit that is made in the ordinary course of em-*
22 *ployment.”.*

23 **(2) DEPOSITS.**—*Section 10504 of such title is*
24 *amended by adding at the end the following:*

1 “(f) *DEPOSITS IN SEAMAN ACCOUNT.*—By written re-
2 quest signed by the seaman, a seaman employed on a pas-
3 senger vessel capable of carrying more than 500 passengers
4 may authorize the master, owner, or operator of the vessel,
5 or the employer of the seaman, to make deposits of wages
6 of the seaman into a checking, savings, investment, or re-
7 tirement account, or other account to secure a payroll or
8 debit card for the seaman if—

9 “(1) the wages designated by the seaman for such
10 deposit are deposited in a United States or inter-
11 national financial institution designated by the sea-
12 man;

13 “(2) such deposits in the financial institution
14 are fully guaranteed under commonly accepted inter-
15 national standards by the government of the country
16 in which the financial institution is licensed;

17 “(3) a written wage statement or pay stub, in-
18 cluding an accounting of any direct deposit, is deliv-
19 ered to the seaman no less often than monthly; and

20 “(4) while on board the vessel on which the sea-
21 man is employed, the seaman is able to arrange for
22 withdrawal of all funds on deposit in the account in
23 which the wages are deposited.”.

1 **SEC. 409. PROTECTION AND FAIR TREATMENT OF SEA-**
2 **FARERS.**

3 (a) *IN GENERAL.*—Chapter 111 of title 46, United
4 States Code, is amended by adding at the end the following
5 new section:

6 **“§ 11113. Protection and fair treatment of seafarers**

7 “(a) *PURPOSE.*—The purpose of this section is to en-
8 sure the protection and fair treatment of seafarers.

9 “(b) *FUND.*—

10 “(1) *ESTABLISHMENT.*—There is established in
11 the Treasury a special fund known as the ‘Support of
12 Seafarers Fund’.

13 “(2) *USE OF AMOUNTS IN FUND.*—The amounts
14 covered into the Fund shall be available to the Sec-
15 retary, without further appropriation and without
16 fiscal year limitation, to—

17 “(A) pay necessary support, pursuant to
18 subsection (c)(1)(A) of this section; and

19 “(B) reimburse a shipowner for necessary
20 support, pursuant to subsection (c)(1)(B) of this
21 section.

22 “(3) *AMOUNTS CREDITED TO FUND.*—Notwith-
23 standing any other provision of law, the Fund may
24 receive—

1 “(A) any moneys ordered to be paid to the
2 Fund in the form of community service pursuant
3 to section 3563(b) of title 18;

4 “(B) amounts reimbursed or recovered pur-
5 suant to subsection (d) of this section;

6 “(C) amounts appropriated to the Fund
7 pursuant to subsection (g) of this section; and

8 “(D) appropriations available to the Sec-
9 retary for transfer.

10 “(4) PREREQUISITE FOR COMMUNITY SERVICE
11 CREDITS.—The Fund may receive credits pursuant to
12 paragraph (3)(A) of this subsection only when the un-
13 obligated balance of the Fund is less than \$5,000,000.

14 “(5) REPORT REQUIRED.—

15 “(A) Except as provided in subparagraph
16 (B) of this paragraph, the Secretary shall not ob-
17 ligate any amount in the Fund in a given fiscal
18 year unless the Secretary has submitted to Con-
19 gress, concurrent with the President’s budget sub-
20 mission for that fiscal year, a report that de-
21 scribes—

22 “(i) the amounts credited to the Fund,
23 pursuant to paragraph (3) of this sub-
24 section, for the preceding fiscal year;

1 “(ii) a detailed description of the ac-
2 tivities for which amounts were charged;
3 and

4 “(iii) the projected level of expenditures
5 from the Fund for the coming fiscal year,
6 based on—

7 “(I) on-going activities; and

8 “(II) new cases, derived from his-
9 toric data.

10 “(B) The limitation in subparagraph (A) of
11 this paragraph shall not apply to obligations
12 during the first fiscal year during which
13 amounts are credited to the Fund.

14 “(6) FUND MANAGER.—The Secretary shall des-
15 ignate a Fund manager, who shall—

16 “(A) ensure the visibility and account-
17 ability of transactions utilizing the Fund;

18 “(B) prepare the report required by para-
19 graph (5); and

20 “(C) monitor the unobligated balance of the
21 Fund and provide notice to the Secretary and
22 the Attorney General whenever the unobligated
23 balance of the Fund is less than \$5,000,000.

24 “(c) IN GENERAL.—

1 “(1) *AUTHORITY.*—*The Secretary is author-*
2 *ized—*

3 “(A) *to pay, in whole or in part, without*
4 *further appropriation and without fiscal year*
5 *limitation, from amounts in the Fund, necessary*
6 *support of—*

7 “(i) *any seafarer who enters, remains,*
8 *or has been paroled into the United States*
9 *and is involved in an investigation, report-*
10 *ing, documentation, or adjudication of any*
11 *matter that is related to the administration*
12 *or enforcement of any treaty, law, or regu-*
13 *lation by the Coast Guard; and*

14 “(ii) *any seafarer whom the Secretary*
15 *finds to have been abandoned in the United*
16 *States; and*

17 “(B) *to reimburse, in whole or in part,*
18 *without further appropriation and without fiscal*
19 *year limitation, from amounts in the Fund, a*
20 *shipowner, who has filed a bond or surety satis-*
21 *factory pursuant to subparagraph (A) and pro-*
22 *vided necessary support of a seafarer who has*
23 *been paroled into the United States to facilitate*
24 *an investigation, reporting, documentation, or*
25 *adjudication of any matter that is related to the*

1 *administration or enforcement of any treaty,*
2 *law, or regulation by the Coast Guard, for costs*
3 *of necessary support, when the Secretary deems*
4 *reimbursement necessary to avoid serious injus-*
5 *tice.*

6 “(2) *LIMITATION.*—*Nothing in this section shall*
7 *be construed—*

8 “(A) *to create a right, benefit, or entitle-*
9 *ment to necessary support; or*

10 “(B) *to compel the Secretary to pay, or re-*
11 *imburse the cost of, necessary support.*

12 “(d) *REIMBURSEMENTS; RECOVERY.*—

13 “(1) *IN GENERAL.*—*Any shipowner shall reim-*
14 *burse the Fund an amount equal to the total amount*
15 *paid from the Fund for necessary support of the sea-*
16 *farer, plus a surcharge of 25 percent of such total*
17 *amount if—*

18 “(A)(i) *the shipowner, during the course of*
19 *an investigation, reporting, documentation, or*
20 *adjudication of any matter that the Coast Guard*
21 *referred to a United States Attorney or the At-*
22 *torney General, fails to provide necessary sup-*
23 *port of a seafarer who has been paroled into the*
24 *United States to facilitate the investigation, re-*
25 *porting, documentation, or adjudication; and*

1 “(i) a criminal penalty is subsequently im-
2 posed against the shipowner; or

3 “(B) the shipowner, under any cir-
4 cumstance, abandons a seafarer in the United
5 States, as decided by the Secretary.

6 “(2) ENFORCEMENT.—If a shipowner fails to re-
7 imburse the Fund as required under paragraph (1) of
8 this subsection, the Secretary may—

9 “(A) proceed in rem against any vessel of
10 the shipowner in the Federal district court for
11 the district in which such vessel is found; and

12 “(B) withhold or revoke the clearance, re-
13 quired by section 60105 of this title, of any vessel
14 of the shipowner wherever such vessel is found.

15 “(3) Whenever clearance is withheld or revoked
16 pursuant to paragraph (2)(B) of this subsection,
17 clearance may be granted if the shipowner reimburses
18 the Fund the amount required under paragraph (1)
19 of this subsection.

20 “(e) SURETY; ENFORCEMENT OF TREATIES, LAWS,
21 AND REGULATIONS.—

22 “(1) BOND AND SURETY AUTHORITY.—The Sec-
23 retary is authorized to require a bond or surety satis-
24 factory as an alternative to withholding or revoking
25 clearance required under section 60105 of this title if,

1 *in the opinion of the Secretary, such bond or surety*
2 *satisfactory is necessary to facilitate an investigation,*
3 *reporting, documentation, or adjudication of any*
4 *matter that is related to the administration or en-*
5 *forcement of any treaty, law, or regulation by the*
6 *Coast Guard if the surety corporation providing the*
7 *bond is authorized by the Secretary of the Treasury*
8 *under section 9305 of title 31 to provide surety bonds*
9 *under section 9304 of that title.*

10 “(2) *APPLICATION.*—*The authority to require a*
11 *bond or a surety satisfactory or to request the with-*
12 *holding or revocation of the clearance required under*
13 *section 60105 of this title applies to any investiga-*
14 *tion, reporting, documentation, or adjudication of*
15 *any matter that is related to the administration or*
16 *enforcement of any treaty, law, or regulation by the*
17 *Coast Guard.*

18 “(f) *DEFINITIONS.*—*In this section:*

19 “(1) *ABANDONS; ABANDONED.*—*The term ‘aban-*
20 *dons’ or ‘abandoned’ means a shipowner’s unilateral*
21 *severance of ties with a seafarer or the shipowner’s*
22 *failure to provide necessary support of a seafarer.*

23 “(2) *BOND OR SURETY SATISFACTORY.*—*The*
24 *term ‘bond or surety satisfactory’ means a negotiated*
25 *instrument, the terms of which may, at the discretion*

1 of the Secretary, include provisions that require the
2 shipowner to—

3 “(A) provide necessary support of a seafarer
4 who has or may have information pertinent to
5 an investigation, reporting, documentation, or
6 adjudication of any matter that is related to the
7 administration or enforcement of any treaty,
8 law, or regulation by the Secretary;

9 “(B) facilitate an investigation, reporting,
10 documentation, or adjudication of any matter
11 that is related to the administration or enforce-
12 ment of any treaty, law, or regulation by the
13 Secretary;

14 “(C) stipulate to certain incontrovertible
15 facts, including, but not limited to, the owner-
16 ship or operation of the vessel, or the authen-
17 ticity of documents and things from the vessel;

18 “(D) facilitate service of correspondence and
19 legal papers;

20 “(E) enter an appearance in United States
21 district court;

22 “(F) comply with directions regarding pay-
23 ment of funds;

24 “(G) name an agent in the United States
25 for service of process;

1 “(H) make stipulations as to the authen-
2 ticity of certain documents in United States dis-
3 trict court;

4 “(I) provide assurances that no discrimina-
5 tory or retaliatory measures will be taken
6 against a seafarer involved in an investigation,
7 reporting, documentation, or adjudication of any
8 matter that is related to the administration or
9 enforcement of any treaty, law, or regulation by
10 the Secretary;

11 “(J) provide financial security in the form
12 of cash, bond, or other means acceptable to the
13 Secretary; and

14 “(K) provide for any other appropriate
15 measures as the Secretary considers necessary to
16 ensure the Government is not prejudiced by
17 granting the clearance required by section 60105
18 of title 46.

19 “(3) FUND.—The term ‘Fund’ means the Sup-
20 port of Seafarers Fund, established pursuant to this
21 section.

22 “(4) NECESSARY SUPPORT.—The term ‘necessary
23 support’ means normal wages, lodging, subsistence,
24 clothing, medical care (including hospitalization), re-

1 *patriation, and any other expense the Secretary*
2 *deems appropriate.*

3 “(5) *SEAFARER.*—*The term ‘seafarer’ means an*
4 *alien crewman who is employed or engaged in any*
5 *capacity on board a vessel subject to the jurisdiction*
6 *of the United States.*

7 “(6) *SHIPOWNER.*—*The term ‘shipowner’ means*
8 *the individual or entity that owns, has an ownership*
9 *interest in, or operates a vessel subject to the jurisdic-*
10 *tion of the United States.*

11 “(7) *VESSEL SUBJECT TO THE JURISDICTION OF*
12 *THE UNITED STATES.*—*The term ‘vessel subject to the*
13 *jurisdiction of the United States’ has the same mean-*
14 *ing it has in section 70502(c) of this title, except that*
15 *it excludes a vessel owned or bareboat chartered and*
16 *operated by the United States, by a State or political*
17 *subdivision thereof, or by a foreign nation, except*
18 *when that vessel is engaged in commerce.*

19 “(g) *REGULATIONS.*—*The Secretary may prescribe*
20 *regulations to implement this section.*

21 “(h) *AUTHORIZATION OF APPROPRIATIONS.*—*There*
22 *are authorized to be appropriated to the Fund \$1,500,000*
23 *for each of fiscal years 2010, 2011, and 2012.”.*

1 (b) *CLERICAL AMENDMENT.*—The chapter analysis for
2 chapter 111 of title 46, United States Code, is amended by
3 adding at the end the following new item:

“11113. Protection and fair treatment of seafarers”.

4 **TITLE V—ACQUISITION REFORM**

5 **SEC. 501. CHIEF ACQUISITION OFFICER.**

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

8 **“§ 55. Chief Acquisition Officer**

9 “(a) *IN GENERAL.*—There shall be in the Coast Guard
10 a Chief Acquisition Officer selected by the Commandant
11 who shall be a Rear Admiral or civilian from the Senior
12 Executive Service (career reserved). The Chief Acquisition
13 Officer shall serve at the Assistant Commandant level and
14 have acquisition management as that individual’s primary
15 duty.

16 “(b) *QUALIFICATIONS.*—The Chief Acquisition Officer
17 shall be an acquisition professional with a Level III certifi-
18 cation and must have at least 10 years experience in an
19 acquisition position, of which at least 4 years were spent
20 as—

21 “(1) the program executive officer;

22 “(2) the program manager of a Level 1 or Level
23 2 acquisition project or program;

24 “(3) the deputy program manager of a Level 1
25 or Level 2 acquisition; or

1 “(4) a combination of such positions.

2 “(c) *FUNCTIONS OF THE CHIEF ACQUISITION OFFI-*
3 *CER.—The functions of the Chief Acquisition Officer in-*
4 *clude—*

5 “(1) *monitoring the performance of programs*
6 *and projects on the basis of applicable performance*
7 *measurements and advising the Commandant,*
8 *through the chain of command, regarding the appro-*
9 *priate business strategy to achieve the missions of the*
10 *Coast Guard;*

11 “(2) *maximizing the use of full and open com-*
12 *petition at the prime contract and subcontract levels*
13 *in the acquisition of property, capabilities, and serv-*
14 *ices by the Coast Guard by establishing policies, pro-*
15 *cedures, and practices that ensure that the Coast*
16 *Guard receives a sufficient number of competitive*
17 *proposals from responsible sources to fulfill the Gov-*
18 *ernment’s requirements, including performance and*
19 *delivery schedules, at the lowest cost or best value con-*
20 *sidering the nature of the property or service pro-*
21 *cured;*

22 “(3) *making acquisition decisions in concurrence*
23 *with the technical authority, or technical authorities,*
24 *as appropriate, of the Coast Guard, as designated by*
25 *the Commandant, consistent with all other applicable*

1 *laws and decisions establishing procedures within the*
2 *Coast Guard;*

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

6 *“(5) managing the direction of acquisition policy*
7 *for the Coast Guard, including implementation of the*
8 *unique acquisition policies, regulations, and stand-*
9 *ards of the Coast Guard;*

10 *“(6) developing and maintaining an acquisition*
11 *career management program in the Coast Guard to*
12 *ensure that there is an adequate acquisition work-*
13 *force;*

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

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

22 *“(9) reporting to the Commandant, through the*
23 *chain of command, on the progress made in improv-*
24 *ing acquisition management capability.”.*

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

“55. *Chief Acquisition Officer*”.

4 (c) *SELECTION DEADLINE.*—*As soon as practicable*
 5 *after the date of enactment of this Act, but no later than*
 6 *October 1, 2011, the Commandant of the Coast Guard shall*
 7 *select a Chief Acquisition Officer under section 55 of title*
 8 *14, United States Code.*

9 **SEC. 502. ACQUISITIONS.**

10 (a) *IN GENERAL.*—*Part I of title 14, United States*
 11 *Code, is amended by inserting after chapter 13 the fol-*
 12 *lowing:*

13 “CHAPTER 15. ACQUISITIONS

 “SUBCHAPTER 1—GENERAL PROVISIONS

“Sec.

“561. *Acquisition directorate*

“562. *Senior acquisition leadership team*

“563. *Improvements in Coast Guard acquisition management*

“564. *Recognition of Coast Guard personnel for excellence in acquisition*

“565. *Prohibition on use of lead systems integrators*

“566. *Required contract terms*

“567. *Department of Defense consultation*

“568. *Undefinitized contractual actions*

 “SUBCHAPTER 2—IMPROVED ACQUISITION PROCESS AND PROCEDURES

“Sec.

“571. *Identification of major system acquisitions*

“572. *Acquisition*

“573. *Preliminary development and demonstration*

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

“575. *Acquisition program baseline breach*

 “SUBCHAPTER 3—DEFINITIONS

“Sec.

“581. *Definitions*

1 “SUBCHAPTER 1—GENERAL PROVISIONS

2 **“§ 561. Acquisition directorate**

3 “(a) *ESTABLISHMENT.*—*The Commandant of the*
4 *Coast Guard shall establish an acquisition directorate to*
5 *provide guidance and oversight for the implementation and*
6 *management of all Coast Guard acquisition processes, pro-*
7 *grams, and projects.*

8 “(b) *MISSION.*—*The mission of the acquisition direc-*
9 *torate is—*

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

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

18 **“§ 562. Senior acquisition leadership team**

19 “(a) *ESTABLISHMENT.*—*The Commandant shall estab-*
20 *lish a senior acquisition leadership team within the Coast*
21 *Guard comprised of—*

22 “(1) *the Vice Commandant;*

23 “(2) *the Deputy and Assistant Commandants;*

24 “(3) *appropriate senior staff members of each*
25 *Coast Guard directorate;*

1 “(4) appropriate senior staff members for each
2 assigned field activity or command; and

3 “(5) any other Coast Guard officer or employee
4 designated by the Commandant.

5 “(b) FUNCTION.—The senior acquisition leadership
6 team shall—

7 “(1) meet at the call of the Commandant at such
8 places and such times as the Commandant may re-
9 quire;

10 “(2) provide advice and information on oper-
11 ational and performance requirements of the Coast
12 Guard;

13 “(3) identify gaps and vulnerabilities in the
14 operational readiness of the Coast Guard;

15 “(4) make recommendations to the Commandant
16 and the Chief Acquisition Officer to remedy the iden-
17 tified gaps and vulnerabilities in the operational
18 readiness of the Coast Guard; and

19 “(5) contribute to the development of a profes-
20 sional, experienced acquisition workforce by providing
21 acquisition-experience tours of duty and educational
22 development for officers and employees of the Coast
23 Guard.

1 **“§ 563. Improvements in Coast Guard acquisition**
2 **management**

3 “(a) *PROJECT AND PROGRAM MANAGERS.*—

4 “(1) *PROJECT OR PROGRAM MANAGER DE-*
5 *FINED.*—*In this section, the term ‘project or program*
6 *manager’ means an individual designated—*

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

10 “(B) *to manage cost, schedule, and perform-*
11 *ance of the acquisition or project or program.*

12 “(2) *LEVEL 1 PROJECTS.*—*An individual may*
13 *not be assigned as the project or program manager for*
14 *a Level 1 acquisition unless the individual holds a*
15 *Level III acquisition certification as a program man-*
16 *ager.*

17 “(3) *LEVEL 2 PROJECTS.*—*An individual may*
18 *not be assigned as the project or program manager for*
19 *a Level 2 acquisition unless the individual holds a*
20 *Level II acquisition certification as a program man-*
21 *ager.*

22 “(b) *GUIDANCE ON TENURE AND ACCOUNTABILITY OF*
23 *PROGRAM AND PROJECT MANAGERS.*—*Not later than one*
24 *year after the date of enactment of the Coast Guard Author-*
25 *ization Act for Fiscal years 2010 and 2011, the Com-*
26 *mandant shall issue guidance to address the qualifications,*

1 *resources, responsibilities, tenure, and accountability of*
2 *program and project managers for the management of ac-*
3 *quisition programs and projects. The guidance shall ad-*
4 *dress, at a minimum—*

5 “(1) *the qualifications required for project or*
6 *program managers, including the number of years of*
7 *acquisition experience and the professional training*
8 *levels to be required of those appointed to project or*
9 *program management positions; and*

10 “(2) *authorities available to project or program*
11 *managers, including, to the extent appropriate, the*
12 *authority to object to the addition of new program re-*
13 *quirements that would be inconsistent with the pa-*
14 *rameters established for an acquisition program.*

15 “(c) *ACQUISITION WORKFORCE.—*

16 “(1) *IN GENERAL.—The Commandant shall des-*
17 *ignate a sufficient number of positions to be in the*
18 *Coast Guard’s acquisition workforce to perform acqui-*
19 *sition-related functions at Coast Guard headquarters*
20 *and field activities.*

21 “(2) *REQUIRED POSITIONS.—The Commandant*
22 *shall ensure that members of the acquisition workforce*
23 *have expertise, education, and training in at least 1*
24 *of the following acquisition career fields:*

25 “(A) *Acquisition logistics.*

1 “(B) *Auditing.*

2 “(C) *Business, cost estimating, and finan-*
3 *cial management.*

4 “(D) *Contracting.*

5 “(E) *Facilities engineering.*

6 “(F) *Industrial or contract property man-*
7 *agement.*

8 “(G) *Information technology.*

9 “(H) *Manufacturing, production, and qual-*
10 *ity assurance.*

11 “(I) *Program management.*

12 “(J) *Purchasing.*

13 “(K) *Science and technology.*

14 “(L) *Systems planning, research, develop-*
15 *ment, and engineering.*

16 “(M) *Test and evaluation.*

17 “(3) *ACQUISITION WORKFORCE EXPEDITED HIR-*
18 *ING AUTHORITY.—*

19 “(A) *IN GENERAL.—For purposes of sections*
20 *3304, 5333, and 5753 of title 5, the Com-*
21 *mandant may—*

22 “(i) *designate any category of acquisi-*
23 *tion positions within the Coast Guard as*
24 *shortage category positions; and*

1 “(ii) use the authorities in such sec-
2 tions to recruit and appoint highly quali-
3 fied person directly to positions so des-
4 ignated.

5 “(B) *LIMITATION.*—*The Commandant may*
6 *not appoint a person to a position of employ-*
7 *ment under this paragraph after September 30,*
8 *2012.*

9 “(d) *MANAGEMENT INFORMATION SYSTEM.*—

10 “(1) *IN GENERAL.*—*The Commandant shall es-*
11 *tablish a management information system capability*
12 *to improve acquisition workforce management and re-*
13 *porting.*

14 “(2) *INFORMATION MAINTAINED.*—*Information*
15 *maintained with such capability shall include the fol-*
16 *lowing standardized information on individuals as-*
17 *signed to positions in the workforce:*

18 “(A) *Qualifications, assignment history,*
19 *and tenure of those individuals assigned to posi-*
20 *tions in the acquisition workforce or holding ac-*
21 *quisition-related certifications.*

22 “(B) *Promotion rates for officers and mem-*
23 *bers of the Coast Guard in the acquisition work-*
24 *force.*

1 “(e) *CAREER PATHS.*—*To establish acquisition man-*
2 *agement as a core competency of the Coast Guard, the Com-*
3 *mandant shall—*

4 “(1) *ensure that career paths for officers, mem-*
5 *bers, and employees of the Coast Guard who wish to*
6 *pursue careers in acquisition are identified in terms*
7 *of the education, training, experience, and assign-*
8 *ments necessary for career progression of those offi-*
9 *cers, members, and employees to the most senior posi-*
10 *tions in the acquisition workforce; and*

11 “(2) *publish information on such career paths.*

12 “§ 564. ***Recognition of Coast Guard personnel for ex-***
13 ***cellence in acquisition***

14 “(a) *IN GENERAL.*—*Not later than 180 days after the*
15 *date of enactment of the Coast Guard Authorization Act for*
16 *Fiscal Years 2010 and 2011, the Commandant shall com-*
17 *mence implementation of a program to recognize excellent*
18 *performance by individuals and teams comprised of officers,*
19 *members, and employees of the Coast Guard that contrib-*
20 *uted to the long-term success of a Coast Guard acquisition*
21 *project or program.*

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

23 “(1) *specific award categories, criteria, and eli-*
24 *gibility and manners of recognition;*

1 “(2) procedures for the nomination by personnel
2 of the Coast Guard of individuals and teams com-
3 prised of officers, members, and employees of the
4 Coast Guard for recognition under the program; and

5 “(3) procedures for the evaluation of nomina-
6 tions for recognition under the program by one or
7 more panels of individuals from the Government, aca-
8 demia, and the private sector who have such expertise
9 and are appointed in such manner as the Com-
10 mandant shall establish for the purposes of this pro-
11 gram.

12 “(c) *AWARD OF CASH BONUSES.*—As part of the pro-
13 gram required by subsection (a), the Commandant, subject
14 to the availability of appropriations, may award to any
15 civilian employee recognized pursuant to the program a
16 cash bonus to the extent that the performance of such indi-
17 vidual so recognized warrants the award of such bonus.

18 **“§ 565. Prohibition on use of lead systems integrators**

19 “(a) *IN GENERAL.*—

20 “(1) *USE OF LEAD SYSTEMS INTEGRATOR.*—*Ex-*
21 *cept as provided in subsection (b), the Commandant*
22 *may not use a private sector entity as a lead systems*
23 *integrator for an acquisition contract awarded or de-*
24 *livery order or task order issued after the date of en-*

1 *actment of the Coast Guard Authorization Act for*
2 *Fiscal Years 2010 and 2011.*

3 “(2) *FULL AND OPEN COMPETITION.*—*The Com-*
4 *mandant and any lead systems integrator engaged by*
5 *the Coast Guard, pursuant to the exceptions described*
6 *in subsection (b), shall use full and open competition*
7 *for any acquisition contract awarded after the date of*
8 *enactment of that Act, unless otherwise excepted in*
9 *accordance with the Competition in Contracting Act*
10 *of 1984 (41 U.S.C. 251 note), the amendments made*
11 *by that Act, and the Federal Acquisition Regulations.*

12 “(3) *NO EFFECT ON SMALL BUSINESS ACT.*—
13 *Nothing in this subsection shall be construed to super-*
14 *sede or otherwise affect the authorities provided by*
15 *and under the Small Business Act (15 U.S.C. 631 et*
16 *seq.).*

17 “(b) *EXCEPTIONS.*—

18 “(1) *NATIONAL DISTRESS AND RESPONSE SYS-*
19 *TEM MODERNIZATION PROGRAM; NATIONAL SECURITY*
20 *CUTTERS 2 AND 3.*—*Notwithstanding subsection (a),*
21 *the Commandant may use a private sector entity as*
22 *a lead systems integrator for the Coast Guard to com-*
23 *plete the National Distress and Response System*
24 *Modernization Program, the C4ISR projects directly*
25 *related to the Integrated Deepwater Program, and*

1 *National Security Cutters 2 and 3 if the Secretary of*
2 *Homeland Security certifies that—*

3 “(A) *the acquisition is in accordance with*
4 *the Competition in Contracting Act of 1984 (41*
5 *U.S.C. 251 note), the amendments made by that*
6 *Act, and the Federal Acquisition Regulations;*
7 *and*

8 “(B) *the acquisition and the use of a pri-*
9 *vate sector entity as a lead systems integrator for*
10 *the acquisition is in the best interest of the Fed-*
11 *eral Government.*

12 “(2) *TERMINATION DATE FOR EXCEPTIONS.—Ex-*
13 *cept for the modification of delivery or task orders*
14 *pursuant to Parts 4 and 42 of the Federal Acquisi-*
15 *tion Regulations, the Commandant may not use a*
16 *private sector entity as a lead systems integrator after*
17 *the earlier of—*

18 “(A) *September 30, 2012; or*

19 “(B) *the date on which the Commandant*
20 *certifies in writing to the appropriate congress-*
21 *sional committees that the Coast Guard has*
22 *available and can retain sufficient contracting*
23 *personnel and expertise within the Coast Guard,*
24 *through an arrangement with other Federal*
25 *agencies, or through contracts or other arrange-*

1 *ments with private sector entities, to perform the*
2 *functions and responsibilities of the lead system*
3 *integrator in an efficient and cost-effective man-*
4 *ner.*

5 **“§ 566. Required contract terms**

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

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

20 “(2) *requires that the Commandant shall main-*
21 *tain the authority to establish, approve, and main-*
22 *tain technical requirements;*

23 “(3) *requires that any measurement of contractor*
24 *and subcontractor performance be based on the status*
25 *of all work performed, including the extent to which*

1 *the work performed met all performance, cost, and*
2 *schedule requirements;*

3 *“(4) specifies that, for the acquisition or upgrade*
4 *of air, surface, or shore capabilities and assets for*
5 *which compliance with TEMPEST certification is a*
6 *requirement, the standard for determining such com-*
7 *pliance will be the air, surface, or shore standard then*
8 *used by the Department of the Navy for that type of*
9 *capability or asset; and*

10 *“(5) for any contract awarded to acquire an Off-*
11 *shore Patrol Cutter, includes provisions specifying the*
12 *service life, fatigue life, and days underway in gen-*
13 *eral Atlantic and North Pacific Sea conditions, max-*
14 *imum range, and maximum speed the cutter will be*
15 *built to achieve.*

16 *“(b) PROHIBITED CONTRACT PROVISIONS.—The Com-*
17 *mandant shall ensure that any contract awarded or deliv-*
18 *ery order or task order issued by the Coast Guard after the*
19 *date of enactment of the Coast Guard Authorization Act for*
20 *Fiscal Years 2010 and 2011 does not include any provision*
21 *allowing for equitable adjustment that is not consistent with*
22 *the Federal Acquisition Regulations.*

23 *“(c) INTEGRATED PRODUCT TEAMS.—Integrated prod-*
24 *uct teams, and all teams that oversee integrated product*

1 *teams, shall be chaired by officers, members, or employees*
2 *of the Coast Guard.*

3 “(d) *DEEPWATER TECHNICAL AUTHORITIES.—The*
4 *Commandant shall maintain or designate the technical au-*
5 *thorities to establish, approve, and maintain technical re-*
6 *quirements. Any such designation shall be made in writing*
7 *and may not be delegated to the authority of the Chief Ac-*
8 *quisition Officer established by section 55 of this title.*

9 “**§ 567. Department of Defense consultation**

10 “(a) *IN GENERAL.—The Commandant shall make ar-*
11 *rangements as appropriate with the Secretary of Defense*
12 *for support in contracting and management of Coast Guard*
13 *acquisition programs. The Commandant shall also seek op-*
14 *portunities to make use of Department of Defense contracts,*
15 *and contracts of other appropriate agencies, to obtain the*
16 *best possible price for assets acquired for the Coast Guard.*

17 “(b) *INTER-SERVICE TECHNICAL ASSISTANCE.—The*
18 *Commandant shall seek to enter into a memorandum of un-*
19 *derstanding or a memorandum of agreement with the Sec-*
20 *retary of the Navy to obtain the assistance of the Office of*
21 *the Assistant Secretary of the Navy for Research, Develop-*
22 *ment, and Acquisition, including the Navy Systems Com-*
23 *mand, with the oversight of Coast Guard major acquisition*
24 *programs. The memorandum of understanding or memo-*
25 *randum of agreement shall, at a minimum, provide for—*

1 “(1) *the exchange of technical assistance and*
2 *support that the Assistant Commandants for Acquisi-*
3 *tion, Human Resources, Engineering, and Informa-*
4 *tion technology may identify;*

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

7 “(3) *the exchange of personnel between the Coast*
8 *Guard and the Office of the Assistant Secretary of the*
9 *Navy for Research, Development, and Acquisition, in-*
10 *cluding Naval Systems Commands, to facilitate the*
11 *development of organic capabilities in the Coast*
12 *Guard.*

13 “(c) *TECHNICAL REQUIREMENT APPROVAL PROCE-*
14 *DURES.—The Chief Acquisition Officer shall adopt, to the*
15 *extent practicable, procedures modeled after those used by*
16 *the Navy Senior Acquisition Official to approve all tech-*
17 *nical requirements.*

18 “§ 568. ***Undefinitized contractual actions***

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

23 “(b) *REQUESTS FOR UNDEFINITIZED CONTRACTUAL*
24 *ACTIONS.—Any request to the Head of Contracting Activity*
25 *for approval of an undefinitized contractual action shall*

1 *include a description of the anticipated effect on require-*
2 *ments of the Coast Guard if a delay is incurred for the*
3 *purposes of determining contractual terms, specifications,*
4 *and price before performance is begun under the contractual*
5 *action.*

6 “(c) *REQUIREMENTS FOR UNDEFINITIZED CONTRAC-*
7 *TUAL ACTIONS.—*

8 “(1) *DEADLINE FOR AGREEMENT ON TERMS,*
9 *SPECIFICATIONS, AND PRICE.—A contracting officer of*
10 *the Coast Guard may not enter into an undefinitized*
11 *contractual action unless the contractual action pro-*
12 *vides for agreement upon contractual terms, specifica-*
13 *tion, and price by the earlier of—*

14 “(A) *the end of the 180-day period begin-*
15 *ning on the date on which the contractor submits*
16 *a qualifying proposal to definitize the contrac-*
17 *tual terms, specifications, and price; or*

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

22 “(2) *LIMITATION ON OBLIGATIONS.—*

23 “(A) *IN GENERAL.—Except as provided in*
24 *subparagraph (B), the contracting officer for an*
25 *undefinitized contractual action may not obli-*

1 *gate under such contractual action an amount*
2 *that exceeds 50 percent of the negotiated overall*
3 *ceiling price until the contractual terms, speci-*
4 *fications, and price are definitized for such con-*
5 *tractual action.*

6 “(B) *EXCEPTION.—Notwithstanding sub-*
7 *paragraph (A), if a contractor submits a quali-*
8 *fying proposal to definitize an undefinitized con-*
9 *tractual action before an amount that exceeds 50*
10 *percent of the negotiated overall ceiling price is*
11 *obligated on such action, the contracting officer*
12 *for such action may not obligate with respect to*
13 *such contractual action an amount that exceeds*
14 *75 percent of the negotiated overall ceiling price*
15 *until the contractual terms, specifications, and*
16 *price are definitized for such contractual action.*

17 “(3) *WAIVER.—The Commandant may waive the*
18 *application of this subsection with respect to a con-*
19 *tract if the Commandant determines that the waiver*
20 *is necessary to support—*

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

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

1 “(C) *an operation in response to an emer-*
2 *gency that poses an unacceptable threat to*
3 *human health or safety or to the marine environ-*
4 *ment; or*

5 “(D) *an operation in response to a natural*
6 *disaster or major disaster or emergency des-*
7 *ignated by the President under the Robert T.*
8 *Stafford Disaster Relief and Emergency Assist-*
9 *ance Act (42 U.S.C. 5121 et seq.).*

10 “(4) *LIMITATION ON APPLICATION.—This sub-*
11 *section does not apply to an undefinitized contractual*
12 *action for the purchase of initial spares.*

13 “(d) *INCLUSION OF NONURGENT REQUIREMENTS.—*
14 *Requirements for spare parts and support equipment that*
15 *are not needed on an urgent basis may not be included in*
16 *an undefinitized contractual action by the Coast Guard for*
17 *spare parts and support equipment that are needed on an*
18 *urgent basis unless the Commandant approves such inclu-*
19 *sion as being—*

20 “(1) *good business practice; and*

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

22 “(e) *MODIFICATION OF SCOPE.—The scope of an*
23 *undefinitized contractual action under which performance*
24 *has begun may not be modified unless the Commandant ap-*
25 *proves such modification as being—*

1 “(1) *good business practice; and*

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

3 “(f) *ALLOWABLE PROFIT.—The Commandant shall en-*
4 *sure that the profit allowed on an undefinitized contractual*
5 *action for which the final price is negotiated after a sub-*
6 *stantial portion of the performance required is completed*
7 *reflects—*

8 “(1) *the possible reduced cost risk of the con-*
9 *tractor with respect to costs incurred during perform-*
10 *ance of the contract before the final price is nego-*
11 *tiated; and*

12 “(2) *the reduced cost risk of the contractor with*
13 *respect to costs incurred during performance of the re-*
14 *maining portion of the contract.*

15 “(g) *DEFINITIONS.—In this section:*

16 “(1) *UNDEFINITIZED CONTRACTUAL ACTION.—*

17 “(A) *IN GENERAL.—Except as provided in*
18 *subparagraph (B), the term ‘undefinitized con-*
19 *tractual action’ means a new procurement action*
20 *entered into by the Coast Guard for which the*
21 *contractual terms, specifications, or price are not*
22 *agreed upon before performance is begun under*
23 *the action.*

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

4 “(i) *foreign military sales;*

5 “(ii) *purchases in an amount not in*
6 *excess of the amount of the simplified acqui-*
7 *sition threshold; or*

8 “(iii) *special access programs.*

9 “(2) *QUALIFYING PROPOSAL.*—*The term ‘quali-*
10 *fying proposal’ means a proposal that contains suffi-*
11 *cient information to enable complete and meaningful*
12 *audits of the information contained in the proposal as*
13 *determined by the contracting officer.*

14 “*SUBCHAPTER 2—IMPROVED ACQUISITION PROCESS AND*
15 *PROCEDURES*

16 “§ **571. Identification of major system acquisitions**

17 “(a) *IN GENERAL.*—

18 “(1) *SUPPORT MECHANISMS.*—*The Commandant*
19 *shall develop and implement mechanisms to support*
20 *the establishment of mature and stable operational re-*
21 *quirements for acquisitions under this subchapter.*

22 “(2) *MISSION ANALYSIS; AFFORDABILITY ASSESS-*
23 *MENT.*—*The Commandant may not initiate a Level 1*
24 *or Level 2 acquisition project or program until the*
25 *Commandant—*

1 “(A) completes a mission analysis that—
2 “(i) identifies any gaps in capability;
3 and
4 “(ii) develops a clear mission need;
5 and
6 “(B) prepares a preliminary affordability
7 assessment for the project or program.

8 “(b) ELEMENTS.—

9 “(1) REQUIREMENTS.—The mechanisms required
10 by subsection (a) shall ensure the implementation of
11 a formal process for the development of a mission-
12 needs statement, concept-of-operations document, ca-
13 pability development plan, and resource proposal for
14 the initial project or program funding, and shall en-
15 sure the project or program is included in the Coast
16 Guard Capital Investment Plan.

17 “(2) ASSESSMENT OF TRADE-OFFS.—In con-
18 ducting an affordability assessment under subsection
19 (a)(2)(B), the Commandant shall develop and imple-
20 ment mechanisms to ensure that trade-offs among
21 cost, schedule, and performance are considered in the
22 establishment of preliminary operational require-
23 ments for development and production of new assets
24 and capabilities for Level 1 and Level 2 acquisitions
25 projects and programs.

1 “(c) *HUMAN RESOURCE CAPITAL PLANNING.*—The
2 *Commandant shall develop staffing predictions, define*
3 *human capital performance initiatives, and identify pre-*
4 *liminary training needs for any such project or program.*

5 “(d) *DHS ACQUISITION APPROVAL.*—A Level 1 or
6 *Level 2 acquisition project or program may not be imple-*
7 *mented unless it is approved by the Department of Home-*
8 *land Security Acquisition Review Board or the Joint Re-*
9 *view Board.*

10 **“§ 572. Acquisition**

11 “(a) *IN GENERAL.*—The *Commandant may not estab-*
12 *lish a Level 1 or Level 2 acquisition project or program*
13 *approved under section 571(d) until the Commandant—*

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

16 “(2) *establishes the feasibility of alternatives;*

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

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

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

23 “(b) *ANALYSIS OF ALTERNATIVES.*—

24 “(1) *IN GENERAL.*—The *Commandant shall con-*
25 *duct an analysis of alternatives for the asset or capa-*

1 *bility to be acquired in an analyze and select phase*
2 *of the acquisition process.*

3 “(2) *REQUIREMENTS.*—*The analysis of alter-*
4 *natives shall be conducted by a federally funded re-*
5 *search and development center, a qualified entity of*
6 *the Department of Defense, or a similar independent*
7 *third party entity that has appropriate acquisition*
8 *expertise and has no substantial financial interest in*
9 *any part of the acquisition project or program that*
10 *is the subject of the analysis. At a minimum, the*
11 *analysis of alternatives shall include—*

12 “(A) *an assessment of the technical matu-*
13 *urity, and technical and other risks;*

14 “(B) *an examination of capability, inter-*
15 *operability, and other disadvantages;*

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

20 “(D) *a discussion of key assumptions and*
21 *variables, and sensitivity to change in such as-*
22 *sumptions and variables;*

23 “(E) *when an alternative is an existing*
24 *asset or prototype, an evaluation of relevant safe-*
25 *ty and performance records and costs;*

1 “(F) a calculation of life-cycle costs includ-
2 ing—

3 “(i) an examination of likely research
4 and development costs and the levels of un-
5 certainty associated with such estimated
6 costs;

7 “(ii) an examination of likely produc-
8 tion and deployment costs and levels of un-
9 certainty associated with such estimated
10 costs;

11 “(iii) an examination of likely oper-
12 ating and support costs and the levels of
13 uncertainty associated with such estimated
14 costs;

15 “(iv) if they are likely to be signifi-
16 cant, an examination of likely disposal costs
17 and the levels of uncertainty associated with
18 such estimated costs; and

19 “(v) such additional measures as the
20 Commandant or the Secretary of Homeland
21 Security determines to be necessary for ap-
22 propriate evaluation of the asset; and

23 “(G) the business case for each viable alter-
24 native.

25 “(c) TEST AND EVALUATION MASTER PLAN.—

1 “(1) *IN GENERAL.*—*For any Level 1 or Level 2*
2 *acquisition project or program the Chief Acquisition*
3 *Officer shall approve a test and evaluation master*
4 *plan specific to the acquisition project or program for*
5 *the capability, asset, or subsystems of the capability*
6 *or asset and intended to minimize technical, cost, and*
7 *schedule risk as early as practicable in the develop-*
8 *ment of the project or program.*

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

11 “(A) *set forth an integrated test and evalua-*
12 *tion strategy that will verify that capability-level*
13 *or asset-level and subsystem-level design and de-*
14 *velopment, including performance and*
15 *supportability, have been sufficiently proven be-*
16 *fore the capability, asset, or subsystem of the ca-*
17 *pability or asset is approved for production; and*

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

22 “(3) *OTHER COMPONENTS OF THE MASTER*
23 *PLAN.*—*At a minimum, the master plan shall iden-*
24 *tify—*

1 “(A) the key performance parameters to be
2 resolved through the integrated test and evalua-
3 tion strategy;

4 “(B) critical operational issues to be as-
5 sessed in addition to the key performance pa-
6 rameters;

7 “(C) specific development test and evalua-
8 tion phases and the scope of each phase;

9 “(D) modeling and simulation activities to
10 be performed, if any, and the scope of such ac-
11 tivities;

12 “(E) early operational assessments to be
13 performed, if any, and the scope of such assess-
14 ments;

15 “(F) operational test and evaluation phases;

16 “(G) an estimate of the resources, including
17 funds, that will be required for all test, evalua-
18 tion, assessment, modeling, and simulation ac-
19 tivities; and

20 “(H) the Government entity or independent
21 entity that will perform the test, evaluation, as-
22 sessment, modeling, and simulation activities.

23 “(4) UPDATE.—The Chief Acquisition Officer
24 shall approve an updated master plan whenever there

1 *is a revision to project or program test and evalua-*
2 *tion strategy, scope, or phasing.*

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

4 *“(A) proceed beyond that phase of the ac-*
5 *quisition process that entails approving the sup-*
6 *porting acquisition of a capability or asset before*
7 *the master plan is approved by the Chief Acqui-*
8 *sition Officer; or*

9 *“(B) award any production contract for a*
10 *capability, asset, or subsystem for which a mas-*
11 *ter plan is required under this subsection before*
12 *the master plan is approved by the Chief Acqui-*
13 *sition Officer.*

14 *“(d) LIFE-CYCLE COST ESTIMATES.—*

15 *“(1) IN GENERAL.—The Commandant shall im-*
16 *plement mechanisms to ensure the development and*
17 *regular updating of life-cycle cost estimates for each*
18 *Level 1 or Level 2 acquisition to ensure that these es-*
19 *timates are considered in decisions to develop or*
20 *produce new or enhanced capabilities and assets.*

21 *“(2) TYPES OF ESTIMATES.—In addition to life-*
22 *cycle cost estimates that may be developed by acqui-*
23 *sition program offices, the Commandant shall require*
24 *that an independent life-cycle cost estimate be devel-*

1 *oped for each Level 1 or Level 2 acquisition project*
2 *or program.*

3 *“(3) REQUIRED UPDATES.—For each Level 1 or*
4 *Level 2 acquisition project or program the Com-*
5 *mandant shall require that life-cycle cost estimates*
6 *shall be updated before each milestone decision is con-*
7 *cluded and the project or program enters a new ac-*
8 *quisition phase.*

9 *“(e) DHS ACQUISITION APPROVAL.—A project or pro-*
10 *gram may not enter the obtain phase under section 573 un-*
11 *less the Department of Homeland Security Acquisition Re-*
12 *view Board or the Joint Review Board (or other entity to*
13 *which such responsibility is delegated by the Secretary of*
14 *Homeland Security) has approved the analysis of alter-*
15 *natives for the project. The Joint Review Board may also*
16 *approve the low rates initial production quantity for the*
17 *project or program if such an initial production quantity*
18 *is planned by the acquisition project or program and*
19 *deemed appropriate by the Joint Review Board.*

20 **“§ 573. Preliminary development and demonstration**

21 *“(a) IN GENERAL.—The Commandant shall ensure*
22 *that developmental test and evaluation, operational test and*
23 *evaluation, life cycle cost estimates, and the development*
24 *and demonstration requirements are met to confirm that*
25 *the projects or programs meet the requirements described*

1 *in the mission-needs statement and the operational-require-*
2 *ments document and the following development and dem-*
3 *onstration objectives:*

4 “(1) *To demonstrate that the most promising de-*
5 *sign, manufacturing, and production solution is based*
6 *upon a stable, producible, and cost-effective product*
7 *design.*

8 “(2) *To ensure that the product capabilities meet*
9 *contract specifications, acceptable operational per-*
10 *formance requirements, and system security require-*
11 *ments.*

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

14 “(b) *TESTS AND EVALUATIONS.—*

15 “(1) *IN GENERAL.—The Commandant shall en-*
16 *sure that the Coast Guard conducts developmental*
17 *tests and evaluations and operational tests and eval-*
18 *uations of a capability or asset and the subsystems of*
19 *the capability or asset for which a master plan has*
20 *been prepared under section 572(c)(1).*

21 “(2) *USE OF THIRD PARTIES.—The Com-*
22 *mandant shall ensure that the Coast Guard uses inde-*
23 *pendent third parties with expertise in testing and*
24 *evaluating the capabilities or assets and the sub-*
25 *systems of the capabilities or assets being acquired to*

1 *conduct developmental tests and evaluations and*
2 *operational tests and evaluations whenever the Coast*
3 *Guard lacks the capability to conduct the tests and*
4 *evaluations required by a master plan.*

5 “(3) *COMMUNICATION OF SAFETY CONCERNS.—*
6 *The Commandant shall require that safety concerns*
7 *identified during developmental or operational tests*
8 *and evaluations or through independent or Govern-*
9 *ment-conducted design assessments of capabilities or*
10 *assets and subsystems of capabilities or assets to be*
11 *acquired by the Coast Guard shall be communicated*
12 *as soon as practicable, but not later than 30 days*
13 *after the completion of the test or assessment event or*
14 *activity that identified the safety concern, to the pro-*
15 *gram manager for the capability or asset and the sub-*
16 *systems concerned and to the Chief Acquisition Offi-*
17 *cer.*

18 “(4) *ASSET ALREADY IN LOW, INITIAL, OR FULL-*
19 *RATE PRODUCTION.—If operational test and evalua-*
20 *tion on a capability or asset already in low, initial,*
21 *or full-rate production identifies a safety concern*
22 *with the capability or asset or any subsystems of the*
23 *capability or asset not previously identified during*
24 *developmental or operational test and evaluation, the*
25 *Commandant shall—*

1 “(A) notify the program manager and the
2 Chief Acquisition Officer of the safety concern as
3 soon as practicable, but not later than 30 days
4 after the completion of the test and evaluation
5 event or activity that identified the safety con-
6 cern; and

7 “(B) notify the Chief Acquisition Officer
8 and include in such notification—

9 “(i) an explanation of the actions that
10 will be taken to correct or mitigate the safe-
11 ty concern in all capabilities or assets and
12 subsystems of the capabilities or assets yet
13 to be produced, and the date by which those
14 actions will be taken;

15 “(ii) an explanation of the actions that
16 will be taken to correct or mitigate the safe-
17 ty concern in previously produced capabili-
18 ties or assets and subsystems of the capabili-
19 ties or assets, and the date by which those
20 actions will be taken; and

21 “(iii) an assessment of the adequacy of
22 current funding to correct or mitigate the
23 safety concern in capabilities or assets and
24 subsystems of the capabilities or assets and

1 *in previously produced capabilities or assets*
2 *and subsystems.*

3 “(c) *TECHNICAL CERTIFICATION.*—

4 “(1) *IN GENERAL.*—*The Commandant shall en-*
5 *sure that any Level 1 or Level 2 acquisition project*
6 *or program is certified by the technical authority of*
7 *the Coast Guard after review by an independent third*
8 *party with capabilities in the mission area, asset, or*
9 *particular asset component.*

10 “(2) *TEMPEST TESTING.*—*The Commandant*
11 *shall—*

12 “(A) *cause all electronics on all aircraft,*
13 *surface, and shore assets that require TEMPEST*
14 *certification and that are delivered after the date*
15 *of enactment of the Coast Guard Authorization*
16 *Act for Fiscal Years 2010 and 2011 to be tested*
17 *in accordance with master plan standards and*
18 *communications security standards by an inde-*
19 *pendent third party that is authorized by the*
20 *Federal Government to perform such testing; and*

21 “(B) *certify that the assets meet all applica-*
22 *ble TEMPEST requirements.*

23 “(3) *VESSEL CLASSIFICATION.*—*The Com-*
24 *mandant shall cause each cutter, other than the Na-*
25 *tional Security Cutter, acquired by the Coast Guard*

1 *and delivered after the date of enactment of the Coast*
2 *Guard Authorization Act for Fiscal Years 2010 and*
3 *2011 is to be classed by the American Bureau of*
4 *Shipping before final acceptance.*

5 “(d) *ACQUISITION DECISION.—The Commandant may*
6 *not proceed to full scale production, deployment, and sup-*
7 *port of a Level 1 or Level 2 acquisition project or program*
8 *unless the Department of Homeland Security Acquisition*
9 *Review Board has verified that the delivered asset or system*
10 *meets the project or program performance and cost goals.*

11 **“§ 574. Acquisition, production, deployment, and sup-**
12 **port**

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

14 “(1) *ensure there is a stable and efficient produc-*
15 *tion and support capability to develop an asset or*
16 *system;*

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

19 “(3) *conduct acceptance tests and trails upon the*
20 *delivery of each asset or system to ensure the delivered*
21 *asset or system achieves full operational capability.*

22 “(b) *ELEMENTS.—The Commandant shall—*

23 “(1) *execute the productions contracts;*

1 “(2) ensure the delivered products meet oper-
2 ational cost and schedules requirements established in
3 the acquisition program baseline;

4 “(3) validate manpower and training require-
5 ments to meet system needs to operate, maintain, sup-
6 port, and instruct the system; and

7 “(4) prepare a project or program transition
8 plan to enter into programmatic sustainment, oper-
9 ations, and support.

10 **“§ 575. Acquisition program baseline breach**

11 “(a) *IN GENERAL.*—The Commandant shall submit a
12 report to the appropriate congressional committees as soon
13 as possible, but not later than 30 days, after the Chief Ac-
14 quisition Officer of the Coast Guard becomes aware of the
15 breach of an acquisition program baseline for any Level 1
16 or Level 2 acquisition program, by—

17 “(1) a likely cost overrun greater than 15 per-
18 cent of the acquisition program baseline for that indi-
19 vidual capability or asset or a class of capabilities or
20 assets;

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

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

1 *satisfy any key performance threshold or parameter*
2 *under the acquisition program baseline.*

3 “(b) *CONTENT.—The report submitted under sub-*
4 *section (a) shall include—*

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

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

9 “(3) *an updated acquisition program baseline*
10 *and the complete history of changes to the original ac-*
11 *quisition program baseline;*

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

14 “(5) *a full life-cycle cost analysis for the capa-*
15 *bility or asset or class of capabilities or assets;*

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

18 “(7) *a description of how progress in the remedi-*
19 *ation plan will be measured and monitored.*

20 “(c) *SUBSTANTIAL VARIANCES IN COSTS OR SCHED-*
21 *ULE.—If a likely cost overrun is greater than 25 percent*
22 *or a likely delay is greater than 12 months from the costs*
23 *and schedule described in the acquisition program baseline*
24 *for any Level 1 or Level 2 acquisition project or program*
25 *of the Coast Guard, the Commandant shall include in the*

1 *report a written certification, with a supporting expla-*
2 *nation, that—*

3 “(1) *the capability or asset or capability or asset*
4 *class to be acquired under the project or program is*
5 *essential to the accomplishment of Coast Guard mis-*
6 *sions;*

7 “(2) *there are no alternatives to such capability*
8 *or asset or capability or asset class which will provide*
9 *equal or greater capability in both a more cost-effec-*
10 *tive and timely manner;*

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

13 “(4) *the management structure for the acquisi-*
14 *tion program is adequate to manage and control per-*
15 *formance, cost, and schedule.*

16 “SUBCHAPTER 3—DEFINITIONS

17 **“§ 581. Definitions**

18 *“In this chapter:*

19 “(1) *APPROPRIATE CONGRESSIONAL COMMIT-*
20 *TEES.—The term ‘appropriate congressional commit-*
21 *tees’ means the House of Representatives Committee*
22 *on Transportation and Infrastructure and the Senate*
23 *Committee on Commerce, Science, and Transpor-*
24 *tation.*

1 “(2) *CHIEF ACQUISITION OFFICER.*—*The term*
2 *‘Chief Acquisition Officer’ means the officer appointed*
3 *under section 55 of this title.*

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

6 “(4) *JOINT REVIEW BOARD.*—*The term ‘Joint*
7 *Review Board’ means the Department of Homeland*
8 *Security’s Investment Review Board, Joint Require-*
9 *ments Council, or other entity within the Department*
10 *designated by the Secretary as the Joint Review*
11 *Board for purposes of this chapter.*

12 “(5) *LEVEL 1 ACQUISITION.*—*The term ‘Level 1*
13 *acquisition’ means—*

14 “(A) *an acquisition by the Coast Guard—*

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

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

19 “(B) *any acquisition that the Chief Acquisi-*
20 *tion Officer of the Coast Guard determines to*
21 *have a special interest—*

22 “(i) *due to—*

23 “(I) *the experimental or tech-*
24 *nically immature nature of the asset;*

1 “(II) *the technological complexity*
2 *of the asset;*

3 “(III) *the commitment of re-*
4 *sources; or*

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

7 “(ii) *because such acquisition is a joint*
8 *acquisition.*

9 “(6) *LEVEL 2 ACQUISITION.—The term ‘Level 2*
10 *acquisition’ means an acquisition by the Coast*
11 *Guard—*

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

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

18 “(7) *LIFE-CYCLE COST.—The term ‘life-cycle*
19 *cost’ means all costs for development, procurement,*
20 *construction, and operations and support for a par-*
21 *ticular capability or asset, without regard to funding*
22 *source or management control.*

23 “(8) *SAFETY CONCERN.—The term ‘safety con-*
24 *cern’ means any hazard associated with a capability*
25 *or asset or a subsystem of a capability or asset that*

1 *is likely to cause serious bodily injury or death to a*
 2 *typical Coast Guard user in testing, maintaining, re-*
 3 *pairing, or operating the capability, asset, or sub-*
 4 *system or any hazard associated with the capability,*
 5 *asset, or subsystem that is likely to cause major dam-*
 6 *age to the capability, asset, or subsystem during the*
 7 *course of its normal operation by a typical Coast*
 8 *Guard user.”.*

9 **(b) CONFORMING AMENDMENT.**—*The part analysis for*
 10 *part I of title 14, United States Code, is amended by insert-*
 11 *ing after the item relating to chapter 13 the following:*

“15. Acquisitions561”.

12 **SEC. 503. REPORT AND GUIDANCE ON EXCESS PASS-**
 13 **THROUGH CHARGES.**

14 **(a) COMPTROLLER GENERAL REPORT.**—

15 **(1) IN GENERAL.**—*Not later than 1 year after*
 16 *the date of enactment of this Act, the Comptroller*
 17 *General shall issue a report on pass-through charges*
 18 *on contracts, subcontracts, delivery orders, and task*
 19 *orders that were executed by a lead systems integrator*
 20 *under contract to the Coast Guard during the 3 full*
 21 *calendar years preceding the date of enactment of this*
 22 *Act.*

23 **(2) MATTERS COVERED.**—*The report under this*
 24 *subsection—*

1 (A) shall assess the extent to which the
2 Coast Guard paid excessive pass-through charges
3 to contractors or subcontractors that provided
4 little or no value to the performance of a con-
5 tract or the production of a procured asset; and

6 (B) shall assess the extent to which the
7 Coast Guard has been particularly vulnerable to
8 excessive pass-through charges on any specific
9 category of contracts or by any specific category
10 of contractors.

11 (b) *GUIDANCE REQUIRED.*—

12 (1) *IN GENERAL.*—Not later than 180 days after
13 the date of enactment of this Act, the Commandant
14 shall prescribe guidance to ensure that pass-through
15 charges on contracts, subcontracts, delivery orders,
16 and task orders that are executed with a private enti-
17 ty acting as a lead systems integrator by or on behalf
18 of the Coast Guard are not excessive in relation to the
19 cost of work performed by the relevant contractor or
20 subcontractor. The guidance shall, at a minimum—

21 (A) set forth clear standards for deter-
22 mining when no, or negligible, value has been
23 added to a contract by a contractor or subcon-
24 tractor;

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

4 (C) identify any exceptions determined by
5 the Commandant to be in the best interest of the
6 Government.

7 (2) *SCOPE OF GUIDANCE.*—The guidance pre-
8 scribed under this subsection—

9 (A) shall not apply to any firm, fixed-price
10 contract or subcontract, delivery order, or task
11 order that is—

12 (i) awarded on the basis of adequate
13 price competition, as determined by the
14 Commandant; or

15 (ii) for the acquisition of a commercial
16 item, as defined in section 4(12) of the Of-
17 fice of Federal Procurement Policy Act (41
18 U.S.C. 403(12)); and

19 (B) may include such additional exceptions
20 as the Commandant determines to be necessary
21 in the interest of the United States.

22 (c) *EXCESSIVE PASS-THROUGH CHARGE DEFINED.*—
23 In this section the term “excessive pass-through charge”,
24 with respect to a contractor or subcontractor that adds no,
25 or negligible, value to a contract or subcontract, means a

1 *charge to the Government by the contractor or subcontractor*
2 *that is for overhead or profit on work performed by a lower-*
3 *tier contractor or subcontractor, other than reasonable*
4 *charges for the direct costs of managing lower-tier contrac-*
5 *tors and subcontracts and overhead and profit based on*
6 *such direct costs.*

7 *(d) APPLICATION OF GUIDANCE.—The guidance pre-*
8 *scribed under this section shall apply to contracts awarded*
9 *to a private entity acting as a lead systems integrator by*
10 *or on behalf of the Coast Guard on or after the date that*
11 *is 360 days after the date of enactment of this Act.*

12 **TITLE VI—SHIPPING AND** 13 **NAVIGATION**

14 **SEC. 601. TECHNICAL AMENDMENTS TO CHAPTER 313 OF** 15 **TITLE 46, UNITED STATES CODE.**

16 *(a) IN GENERAL.—Chapter 313 of title 46, United*
17 *States Code, is amended—*

18 *(1) by striking “of Transportation” in sections*
19 *31302, 31306, 31321, 31330, and 31343 each place it*
20 *appears;*

21 *(2) by striking “and” after the semicolon in sec-*
22 *tion 31301(5)(F);*

23 *(3) by striking “office.” in section 31301(6) and*
24 *inserting “office; and”; and*

1 (4) *by adding at the end of section 31301 the fol-*
2 *lowing:*

3 “(7) ‘Secretary’ means the Secretary of the De-
4 *partment of Homeland Security, unless otherwise*
5 *noted.”.*

6 (b) *SECRETARY AS MORTGAGEE.—Section 31308 of*
7 *such title is amended by striking “When the Secretary of*
8 *Commerce or Transportation is a mortgagee under this*
9 *chapter, the Secretary” and inserting “The Secretary of*
10 *Commerce or Transportation, as a mortgagee under this*
11 *chapter,”.*

12 (c) *SECRETARY OF TRANSPORTATION.—Section*
13 *31329(d) of such title is amended by striking “Secretary.”*
14 *and inserting “Secretary of Transportation.”.*

15 (d) *MORTGAGEE.—*

16 (1) *Section 31330(a)(1) of such title, as amended*
17 *by subsection (a)(1) of this section, is amended—*

18 (A) *by inserting “or” after the semicolon in*
19 *subparagraph (B);*

20 (B) *by striking “Secretary; or” in subpara-*
21 *graph (C) and inserting “Secretary.”; and*

22 (C) *by striking subparagraph (D).*

23 (2) *Section 31330(a)(2) is amended—*

24 (A) *by inserting “or” after the semicolon in*
25 *subparagraph (B);*

1 (B) by striking “faith; or” in subparagraph
2 (C) and inserting “faith.”; and
3 (C) by striking subparagraph (D).

4 **SEC. 602. CLARIFICATION OF RULEMAKING AUTHORITY.**

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

7 **“§ 70122. Regulations**

8 “Unless otherwise provided, the Secretary may issue
9 regulations necessary to implement this chapter.”.

10 (b) *CLERICAL AMENDMENT.*—The table of contents for
11 chapter 701 of such title is amended by adding at the end
12 the following new item:

“70122. Regulations”.

13 **SEC. 603. ICEBREAKERS.**

14 (a) *ANALYSES.*—Not later than 90 days after the date
15 of enactment of this Act or the date of completion of the
16 ongoing High Latitude Study to assess polar ice-breaking
17 mission requirements, whichever occurs later, the Com-
18 mandant of the Coast Guard shall require a nongovern-
19 mental, independent third party (other than the National
20 Academy of Sciences) which has extensive experience in the
21 analysis of military procurements to—

22 (1) conduct a comparative cost-benefit analysis,
23 taking into account future Coast Guard budget projec-
24 tions (which assume Coast Guard budget growth of no

1 *more than inflation) and other recapitalization needs,*
2 *of—*

3 *(A) rebuilding, renovating, or improving*
4 *the existing fleet of polar icebreakers for oper-*
5 *ation by the Coast Guard,*

6 *(B) constructing new polar icebreakers for*
7 *operation by the Coast Guard,*

8 *(C) construction of new polar icebreakers by*
9 *the National Science Foundation for operation*
10 *by the Foundation,*

11 *(D) rebuilding, renovating, or improving*
12 *the existing fleet of polar icebreakers by the Na-*
13 *tional Science Foundation for operation by the*
14 *Foundation, and*

15 *(E) any combination of the activities de-*
16 *scribed in subparagraph (A), (B), (C), or (D) to*
17 *carry out the missions of the Coast Guard and*
18 *the National Science Foundation;*

19 *(2) conduct an analysis of the impact on mission*
20 *capacity and the ability of the United States to*
21 *maintain a presence in the polar regions through the*
22 *year 2020 if recapitalization of the polar icebreaker*
23 *fleet, either by constructing new polar icebreakers or*
24 *rebuilding, renovating, or improving the existing fleet*
25 *of polar icebreakers, is not fully funded; and*

1 (3) *conduct a comprehensive analysis of the im-*
2 *act on all Coast Guard activities, including oper-*
3 *ations, maintenance, procurements, and end strength,*
4 *of the acquisition of polar icebreakers described in*
5 *paragraph (1) by the Coast Guard or the National*
6 *Science Foundation assuming that total Coast Guard*
7 *funding will not increase more than the annual rate*
8 *of inflation.*

9 **(b) REPORTS TO CONGRESS.—**

10 (1) *Not later than one year and 90 days after*
11 *the date of enactment of this Act or the date of com-*
12 *pletion of the ongoing High Latitude Study to assess*
13 *polar ice-breaking mission requirements, whichever*
14 *occurs later, the Commandant of the Coast Guard*
15 *shall submit a report containing the results of the*
16 *study, together with recommendations the Com-*
17 *mandant deems appropriate under section 93(a)(24)*
18 *of title 14, United States Code, to the Senate Com-*
19 *mittee on Commerce, Science, and Transportation*
20 *and the House of Representatives Committee on*
21 *Transportation and Infrastructure.*

22 (2) *Not later than 1 year after the date of enact-*
23 *ment of this Act, the Commandant shall submit re-*
24 *ports containing the results of the analyses required*
25 *under paragraphs (1) and (2) of subsection (a), to-*

1 *gether with recommendations the Commandant deems*
2 *appropriate under section 93(a)(24) of title 14,*
3 *United States Code, to the Senate Committee on Com-*
4 *merce, Science, and Transportation and the House of*
5 *Representatives Committee on Transportation and*
6 *Infrastructure.*

7 **SEC. 604. PHASEOUT OF VESSELS SUPPORTING OIL AND**
8 **GAS DEVELOPMENT.**

9 *Section 705 of the Security and Accountability for*
10 *Every Port Act of 2006 (Public Law 109–347; 120 Stat.*
11 *1945) is amended to read as follows:*

12 **“SEC. 705. PHASEOUT OF VESSELS SUPPORTING OIL AND**
13 **GAS DEVELOPMENT.**

14 *“(a) IN GENERAL.—Notwithstanding section 12111(d)*
15 *of title 46, United States Code, a foreign-flag vessel may*
16 *be chartered by, or on behalf of, a lessee to be employed*
17 *for the setting, relocation, or recovery of anchors or other*
18 *mooring equipment of a mobile offshore drilling unit that*
19 *is located over the Outer Continental Shelf (as defined in*
20 *section 2(a) of the Outer Continental Shelf Lands Act (43*
21 *U.S.C. 1331(a)) for operations in support of exploration,*
22 *or flow-testing and stimulation of wells, for offshore mineral*
23 *or energy resources in the Beaufort Sea or the Chukchi Sea*
24 *adjacent to Alaska—*

1 “(1) until December 31, 2012, if the Secretary of
2 Transportation determines, after publishing notice in
3 the Federal Register, that insufficient vessels docu-
4 mented under section 12111(d) of title 46, United
5 States Code, are reasonably available and suitable for
6 these support operations and all such reasonably
7 available and suitable vessels are employed in support
8 of such operations; and

9 “(2) for an additional 2-year period beginning
10 January 1, 2013, if the Secretary of Transportation
11 determines—

12 “(A) that, as of December 31, 2012, the les-
13 see has entered into a binding agreement to em-
14 ploy a suitable vessel or vessels to be documented
15 under such section 12111(d) in sufficient num-
16 bers and with sufficient suitability to replace
17 any foreign-flag vessel or vessels operating under
18 this section; and

19 “(B) after publishing notice in the Federal
20 Register, that insufficient vessels documented
21 under such section 12111(d) are reasonably
22 available and suitable for these support oper-
23 ations and all such reasonably available and
24 suitable vessels are employed in support of such
25 operations.

1 “(b) *LESSEE DEFINED.*—*In this section, the term ‘les-*
2 *see’ means the holder of a lease (defined in section 2(c) of*
3 *the Outer Continental Shelf Lands Act (43 U.S.C. 1331(c)),*
4 *who has entered into a binding agreement to employ a suit-*
5 *able vessel documented or to be documented under section*
6 *12111(d) of title 46, United States Code.*

7 “(c) *RULE OF CONSTRUCTION.*—*Nothing in subsection*
8 *(a) shall be construed to authorize employment in the coast-*
9 *wise trade of a vessel that does not meet the requirements*
10 *set forth in section 12112 of title 46, United States Code.”.*

11 **TITLE VII—VESSEL CONVEYANCE**

12 **SEC. 701. SHORT TITLE.**

13 *This title may be cited as the “Vessel Conveyance Act”.*

14 **SEC. 702. CONVEYANCE OF COAST GUARD VESSELS FOR** 15 **PUBLIC PURPOSES.**

16 (a) *IN GENERAL.*—*Whenever the transfer of ownership*
17 *of a Coast Guard vessel to an eligible entity for use for edu-*
18 *cational, cultural, historical, charitable, recreational, or*
19 *other public purposes is authorized by law, the Coast Guard*
20 *shall transfer the vessel to the General Services Administra-*
21 *tion for conveyance to the eligible entity.*

22 (b) *CONDITIONS OF CONVEYANCE.*—*The General Serv-*
23 *ices Administration may not convey a vessel to an eligible*
24 *entity as authorized by law unless the eligible entity*
25 *agrees—*

1 (1) *to provide the documentation needed by the*
2 *General Services Administration to process a request*
3 *for aircraft or vessels under section 102.37.225 of title*
4 *41, Code of Federal Regulations;*

5 (2) *to comply with the special terms, conditions,*
6 *and restrictions imposed on aircraft and vessels under*
7 *section 102–37.460 of such title;*

8 (3) *to make the vessel available to the United*
9 *States Government if it is needed for use by the Com-*
10 *mandant of the Coast Guard in time of war or a na-*
11 *tional emergency; and*

12 (4) *to hold the United States Government harm-*
13 *less for any claims arising from exposure to haz-*
14 *ardous materials, including asbestos and poly-*
15 *chlorinated biphenyls, after conveyance of the vessel,*
16 *except for claims arising from use of the vessel by the*
17 *United States Government under paragraph (3).*

18 (c) *ELIGIBLE ENTITY DEFINED.*—*In this section, the*
19 *term “eligible entity” means a State or local government,*
20 *nonprofit corporation, educational agency, community de-*
21 *velopment organization, or other entity that agrees to com-*
22 *ply with the conditions established under this section.*

1 **TITLE VIII—OIL POLLUTION**
2 **PREVENTION**

3 **SEC. 801. RULEMAKINGS.**

4 (a) *STATUS REPORT.*—

5 (1) *IN GENERAL.*—Not later than 90 days after
6 the date of enactment of this Act, the Secretary shall
7 provide a report to the Senate Committee on Com-
8 merce, Science, and Transportation and the House of
9 Representatives Committee on Transportation and
10 Infrastructure on the status of all Coast Guard
11 rulemakings required (but for which no final rule has
12 been issued as of the date of enactment of this Act)
13 under section 311 of the Federal Water Pollution Con-
14 trol Act (33 U.S.C. 1321).

15 (2) *INFORMATION REQUIRED.*—The Secretary
16 shall include in the report required in paragraph
17 (1)—

18 (A) a detailed explanation with respect to
19 each such rulemaking as to—

20 (i) what steps have been completed;

21 (ii) what areas remain to be addressed;

22 and

23 (iii) the cause of any delays; and

24 (B) the date by which a final rule may rea-
25 sonably be expected to be issued.

1 (b) *FINAL RULES.*—*The Secretary shall issue a final*
2 *rule in each pending rulemaking described in subsection (a)*
3 *as soon as practicable, but in no event later than 18 months*
4 *after the date of enactment of this Act.*

5 (c) *TOWING VESSELS.*—*No later than 1 year after the*
6 *date of enactment of this Act, the Secretary shall issue a*
7 *notice of proposed rulemaking regarding inspection require-*
8 *ments for towing vessels required under section 3306(j) of*
9 *title 46, United States Code. The Secretary shall issue a*
10 *final rule pursuant to that rulemaking no later than 2*
11 *years after the date of enactment of this Act.*

12 **SEC. 802. OIL TRANSFERS FROM VESSELS.**

13 (a) *REGULATIONS.*—*Within 1 year after the date of*
14 *enactment of this Act, the Secretary shall promulgate regu-*
15 *lations to reduce the risks of oil spills in operations involv-*
16 *ing the transfer of oil from or to a tank vessel. The regula-*
17 *tions—*

18 (1) *shall focus on operations that have the high-*
19 *est risks of discharge, including operations at night*
20 *and in inclement weather;*

21 (2) *shall consider—*

22 (A) *requirements for the use of equipment,*
23 *such as putting booms in place for transfers,*
24 *safety, and environmental impacts;*

1 (B) operational procedures such as man-
2 ning standards, communications protocols, and
3 restrictions on operations in high-risk areas; or

4 (C) both such requirements and operational
5 procedures; and

6 (3) shall take into account the safety of personnel
7 and effectiveness of available procedures and equip-
8 ment for preventing or mitigating transfer spills.

9 (b) *APPLICATION WITH STATE LAWS.*—The regulations
10 promulgated under subsection (a) do not preclude the en-
11 forcement of any State law or regulation the requirements
12 of which are at least as stringent as requirements under
13 the regulations (as determined by the Secretary) that—

14 (1) applies in State waters;

15 (2) does not conflict with, or interfere with the
16 enforcement of, requirements and operational proce-
17 dures under the regulations; and

18 (3) has been enacted or promulgated before the
19 date of enactment of this Act.

20 **SEC. 803. IMPROVEMENTS TO REDUCE HUMAN ERROR AND**
21 **NEAR MISS INCIDENTS.**

22 (a) *REPORT.*—Within 1 year after the date of enact-
23 ment of this Act, the Secretary shall transmit a report to
24 the Senate Committee on Commerce, Science, and Trans-

1 portation and the House Committee on Transportation and
2 Infrastructure that, using available data—

3 (1) identifies the types of human errors that,
4 combined, account for over 50 percent of all oil spills
5 involving vessels that have been caused by human
6 error in the past 10 years;

7 (2) identifies the most frequent types of near-
8 miss oil spill incidents involving vessels such as colli-
9 sions, allisions, groundings, and loss of propulsion in
10 the past 10 years;

11 (3) describes the extent to which there are gaps
12 in the data with respect to the information required
13 under paragraphs (1) and (2) and explains the rea-
14 son for those gaps; and

15 (4) includes recommendations by the Secretary
16 to address the identified types of errors and incidents
17 to address any such gaps in the data.

18 (b) *MEASURES.*—Based on the findings contained in
19 the report required by subsection (a), the Secretary shall
20 take appropriate action, both domestically and at the Inter-
21 national Maritime Organization, to reduce the risk of oil
22 spills caused by human error.

23 (c) *CONFIDENTIALITY OF VOLUNTARILY SUBMITTED*
24 *INFORMATION.*—The identity of a person making a vol-
25 untary disclosure under this section, and any information

1 *obtained from any such voluntary disclosure, shall be treat-*
2 *ed as confidential.*

3 (d) *DISCOVERY OF VOLUNTARILY SUBMITTED INFOR-*
4 *MATION.—*

5 (1) *IN GENERAL.—Except as provided in this*
6 *subsection, a party in a judicial proceeding may not*
7 *use discovery to obtain information or data collected*
8 *or received by the Secretary for use in the report re-*
9 *quired in subsection (a).*

10 (2) *EXCEPTION.—*

11 (A) *Notwithstanding paragraph (1), a court*
12 *may allow discovery by a party in a judicial*
13 *proceeding of information or data described in*
14 *paragraph (1) if, after an in camera review of*
15 *the information or data, the court decides that*
16 *there is a compelling reason to allow the dis-*
17 *covery.*

18 (B) *When a court allows discovery in a ju-*
19 *dicial proceeding as permitted under this para-*
20 *graph, the court shall issue a protective order—*

21 (i) *to limit the use of the information*
22 *or data to the judicial proceeding; and*

23 (ii) *to prohibit dissemination of the in-*
24 *formation or data to any person who does*

1 *not need access to the information or data*
2 *for the proceeding.*

3 *(C) A court may allow information or data*
4 *it has decided is discoverable under this para-*
5 *graph to be admitted into evidence in a judicial*
6 *proceeding only if the court places the informa-*
7 *tion or data under seal to prevent the use of the*
8 *information or data for a purpose other than for*
9 *the proceeding.*

10 (3) *APPLICATION.—Paragraph (1) shall not*
11 *apply to—*

12 *(A) any disclosure made with actual knowl-*
13 *edge that the disclosure was false, inaccurate, or*
14 *misleading; or*

15 *(B) any disclosure made with reckless dis-*
16 *regard as to the truth or falsity of that disclo-*
17 *sure.*

18 **SEC. 804. OLYMPIC COAST NATIONAL MARINE SANCTUARY.**

19 (a) *OLYMPIC COAST NATIONAL MARINE SANCTUARY*
20 *AREA TO BE AVOIDED.—The Secretary of the Department*
21 *in which the Coast Guard is operating and the Under Sec-*
22 *retary of Commerce for Oceans and Atmosphere shall revise*
23 *the area to be avoided off the coast of the State of Wash-*
24 *ington so that restrictions apply to all vessels required to*
25 *prepare a response plan pursuant to section 311(j) of the*

1 *Federal Water Pollution Control Act (33 U.S.C. 1321(j))*
2 *(other than fishing or research vessels while engaged in fish-*
3 *ing or research within the area to be avoided).*

4 **SEC. 805. PREVENTION OF SMALL OIL SPILLS.**

5 *The Under Secretary of Commerce for Oceans and At-*
6 *mosphere, in consultation with the Secretary of the Depart-*
7 *ment in which the Coast Guard is operating and other ap-*
8 *propriate agencies, shall establish an oil spill prevention*
9 *and education program for small vessels. The program shall*
10 *provide for assessment, outreach, and training and vol-*
11 *untary compliance activities to prevent and improve the*
12 *effective response to oil spills from vessels and facilities not*
13 *required to prepare a vessel response plan under the Federal*
14 *Water Pollution Control Act (33 U.S.C. 1251 et seq.), in-*
15 *cluding recreational vessels, commercial fishing vessels, ma-*
16 *rinias, and aquaculture facilities. The Under Secretary may*
17 *provide grants to sea grant colleges and institutes des-*
18 *ignated under section 207 of the National Sea Grant College*
19 *Program Act (33 U.S.C. 1126) and to State agencies, tribal*
20 *governments, and other appropriate entities to carry out—*

21 *(1) regional assessments to quantify the source,*
22 *incidence and volume of small oil spills, focusing ini-*
23 *tially on regions in the country where, in the past 10*
24 *years, the incidence of such spills is estimated to be*
25 *the highest;*

1 (2) *voluntary, incentive-based clean marina pro-*
2 *grams that encourage marina operators, recreational*
3 *boaters, and small commercial vessel operators to en-*
4 *gage in environmentally sound operating and mainte-*
5 *nance procedures and best management practices to*
6 *prevent or reduce pollution from oil spills and other*
7 *sources;*

8 (3) *cooperative oil spill prevention education*
9 *programs that promote public understanding of the*
10 *impacts of spilled oil and provide useful information*
11 *and techniques to minimize pollution, including*
12 *methods to remove oil and reduce oil contamination*
13 *of bilge water, prevent accidental spills during main-*
14 *tenance and refueling and properly cleanup and dis-*
15 *pose of oil and hazardous substances; and*

16 (4) *support for programs, including outreach*
17 *and education to address derelict vessels and the*
18 *threat of such vessels sinking and discharging oil and*
19 *other hazardous substances, including outreach and*
20 *education to involve efforts to the owners of such ves-*
21 *sels.*

22 (b) *AUTHORIZATION OF APPROPRIATIONS.—There are*
23 *authorized to be appropriated to the Under Secretary of*
24 *Commerce for Oceans and Atmosphere to carry out this sec-*

1 tion, \$10,000,000 for each of fiscal years 2010 through
2 2014.

3 **SEC. 806. IMPROVED COORDINATION WITH TRIBAL GOV-**
4 **ERNMENTS.**

5 (a) *IN GENERAL.*—Within 6 months after the date of
6 enactment of this Act, the Secretary of the Department in
7 which the Coast Guard is operating shall complete the devel-
8 opment of a tribal consultation policy, which recognizes and
9 protects to the maximum extent practicable tribal treaty
10 rights and trust assets in order to improve the Coast
11 Guard's consultation and coordination with the tribal gov-
12 ernments of federally recognized Indian tribes with respect
13 to oil spill prevention, preparedness, response and natural
14 resource damage assessment.

15 (b) *INCLUSION OF TRIBAL GOVERNMENT.*—The Sec-
16 retary of the Department in which the Coast Guard is oper-
17 ating shall ensure that, as soon as practicable after identi-
18 fying an oil spill that is likely to have a significant impact
19 on natural or cultural resources owned or directly utilized
20 by a federally recognized Indian tribe, the Coast Guard
21 will—

22 (1) ensure that representatives of the tribal gov-
23 ernment of the affected tribes are included as part of
24 the incident command system established by the Coast
25 Guard to respond to the spill;

1 (2) *share information about the oil spill with the*
2 *tribal government of the affected tribe; and*

3 (3) *to the extent practicable, involve tribal gov-*
4 *ernments in deciding how to respond to the spill.*

5 (c) *COOPERATIVE ARRANGEMENTS.—The Coast Guard*
6 *may enter into memoranda of agreement and associated*
7 *protocols with Indian tribal governments in order to estab-*
8 *lish cooperative arrangements for oil pollution prevention,*
9 *preparedness, and response. Such memoranda may be en-*
10 *tered into prior to the development of the tribal consultation*
11 *and coordination policy to provide Indian tribes grant and*
12 *contract assistance. Such memoranda of agreement and as-*
13 *sociated protocols with Indian tribal governments may in-*
14 *clude—*

15 (1) *arrangements for the assistance of the tribal*
16 *government to participate in the development of the*
17 *National Contingency Plan and local Area Contingency*
18 *Plans to the extent they affect tribal lands, cul-*
19 *tural and natural resources;*

20 (2) *arrangements for the assistance of the tribal*
21 *government to develop the capacity to implement the*
22 *National Contingency Plan and local Area Contingency*
23 *Plans to the extent they affect tribal lands, cul-*
24 *tural and natural resources;*

1 (3) *provisions on coordination in the event of a*
2 *spill, including agreements that representatives of the*
3 *tribal government will be included as part of the re-*
4 *gional response team co-chaired by the Coast Guard*
5 *and the Environmental Protection Agency to establish*
6 *policies for responding to oil spills;*

7 (4) *arrangements for the Coast Guard to provide*
8 *training of tribal incident commanders and spill re-*
9 *sponders for oil spill preparedness and response;*

10 (5) *demonstration projects to assist tribal gov-*
11 *ernments in building the capacity to protect tribal*
12 *treaty rights and trust assets from oil spills; and*

13 (6) *such additional measures the Coast Guard*
14 *determines to be necessary for oil pollution preven-*
15 *tion, preparedness, and response.*

16 (d) *FUNDING FOR TRIBAL PARTICIPATION.*—*Subject to*
17 *the availability of appropriations, the Commandant of the*
18 *Coast Guard shall provide assistance to participating tribal*
19 *governments in order to facilitate the implementation of co-*
20 *operative arrangements under subsection (c) and ensure the*
21 *participation of tribal governments in such arrangements.*
22 *There are authorized to be appropriated to the Com-*
23 *mandant \$500,000 for each of fiscal years 2010 through*
24 *2014 to be used to carry out this section.*

1 **SEC. 807. REPORT ON AVAILABILITY OF TECHNOLOGY TO**
2 **DETECT THE LOSS OF OIL.**

3 *Within 1 year after the date of enactment of this Act,*
4 *the Secretary of the Department in which the Coast Guard*
5 *is operating shall submit a report to the Senate Committee*
6 *on Commerce, Science, and Transportation and the House*
7 *of Representatives Committee on Energy and Commerce on*
8 *the availability, feasibility, and potential cost of technology*
9 *to detect the loss of oil carried as cargo or as fuel on tank*
10 *and non-tank vessels greater than 400 gross tons.*

11 **SEC. 808. USE OF OIL SPILL LIABILITY TRUST FUND.**

12 *(a) IN GENERAL.—Section 1012(a)(5) of the Oil Pollu-*
13 *tion Act of 1990 (33 U.S.C. 2712(a)(5)) is amended—*

14 *(1) by redesignating subparagraphs (B) and (C)*
15 *as subparagraphs (C) and (D), respectively; and*

16 *(2) by inserting after subparagraph (A) the fol-*
17 *lowing:*

18 *“(B) not more than \$15,000,000 in each fis-*
19 *cal year shall be available to the Under Sec-*
20 *retary of Commerce for Oceans and Atmosphere*
21 *for expenses incurred by, and activities related*
22 *to, response and damage assessment capabilities*
23 *of the National Oceanic and Atmospheric Ad-*
24 *ministration;”.*

25 *(b) AUDITS; ANNUAL REPORTS.—Section 1012 of the*
26 *Oil Pollution Act of 1990 (33 U.S.C. 2712) is amended—*

1 (1) *by striking subsection (g) and inserting the*
2 *following:*

3 “(g) *AUDITS.—*

4 “(1) *IN GENERAL.—The Comptroller General of*
5 *the United States shall conduct an audit, including*
6 *a detailed accounting of each disbursement from the*
7 *Fund in excess of \$500,000 that is—*

8 “(A) *disbursed by the National Pollution*
9 *Fund Center; and*

10 “(B) *administered and managed by the re-*
11 *ceiving Federal agencies, including final pay-*
12 *ments made to agencies and contractors and, to*
13 *the extent possible, subcontractors.*

14 “(2) *FREQUENCY.—The audits shall be con-*
15 *ducted—*

16 “(A) *at least once every 3 years after the*
17 *date of enactment of the Coast Guard Authoriza-*
18 *tion Act for Fiscal Years 2010 and 2011 until*
19 *2016; and*

20 “(B) *at least once every 5 years after the*
21 *last audit conducted under subparagraph (A).*

22 “(3) *SUBMISSION OF RESULTS.—The Comp-*
23 *troller shall submit the results of each audit conducted*
24 *under paragraph (1) to—*

1 “(A) *the Senate Committee on Commerce,*
2 *Science, and Transportation;*

3 “(B) *the House of Representatives Com-*
4 *mittee on Transportation and Infrastructure;*
5 *and*

6 “(C) *the Secretary or Administrator of each*
7 *agency referred to in paragraph (1)(B).”;* and
8 *(2) by adding at the end thereof the following:*

9 “(h) *REPORTS.—*

10 “(1) *IN GENERAL.—Within one year after the*
11 *date of enactment of the Coast Guard Authorization*
12 *Act for Fiscal Years 2010 and 2011, and annually*
13 *thereafter, the President, through the Secretary of the*
14 *Department in which the Coast Guard is operating,*
15 *shall—*

16 “(A) *provide a report on disbursements for*
17 *the preceding fiscal year from the Fund, regard-*
18 *less of whether those disbursements were subject*
19 *to annual appropriations, to—*

20 “(i) *the Senate Committee on Com-*
21 *merce, Science, and Transportation; and*

22 “(ii) *the House of Representatives*
23 *Committee on Transportation and Infra-*
24 *structure; and*

1 “(B) make the report available to the public
2 on the National Pollution Funds Center Internet
3 website.

4 “(2) CONTENTS.—The report shall include—

5 “(A) a list of each disbursement of \$250,000
6 or more from the Fund during the preceding fis-
7 cal year; and

8 “(B) a description of how each such use of
9 the Fund meets the requirements of subsection
10 (a).

11 “(3) AGENCY RECORDKEEPING.—Each Federal
12 agency that receives amounts from the Fund shall
13 maintain records describing the purposes for which
14 such funds were obligated or expended in such detail
15 as the Secretary may require for purposes of the re-
16 port required under paragraph (1).

17 “(i) AUTHORIZATIONS.—There are authorized to be
18 appropriated such sums as may be necessary to carry out
19 subsections (g) and (h).”.

20 **SEC. 809. INTERNATIONAL EFFORTS ON ENFORCEMENT.**

21 The Secretary, in consultation with the heads of other
22 appropriate Federal agencies, shall ensure that the Coast
23 Guard pursues stronger enforcement in the International
24 Maritime Organization of agreements related to oil dis-

1 *charges, including joint enforcement operations, training,*
2 *and stronger compliance mechanisms.*

3 **SEC. 810. HIGHER VOLUME PORT AREA REGULATORY DEFINITION CHANGE.**
4

5 (a) *IN GENERAL.*—*Within 1 year after the date of en-*
6 *actment of this Act, the Commandant shall initiate a rule-*
7 *making proceeding to modify the definition of the term*
8 *“higher volume port area” in section 155.1020 of the Coast*
9 *Guard regulations (33 C.F.R. 155.1020) by striking “Port*
10 *Angeles, WA” in paragraph (13) of that section and insert-*
11 *ing “Cape Flattery, WA”.*

12 (b) *EMERGENCY RESPONSE PLAN REVIEWS.*—*Within*
13 *5 years after the date of enactment of this Act, the Coast*
14 *Guard shall complete its review of any changes to emer-*
15 *gency response plans under the Federal Water Pollution*
16 *Control Act (33 U.S.C. 1251 et seq.) resulting from the*
17 *modification of the higher volume port area definition re-*
18 *quired by subsection (a).*

19 **SEC. 811. TUG ESCORTS FOR LADEN OIL TANKERS.**

20 (a) *COMPARABILITY ANALYSIS.*—

21 (1) *IN GENERAL.*—*Within 1 year after the date*
22 *of enactment of this Act, the Commandant, in con-*
23 *sultation with the Secretary of State, shall enter into*
24 *negotiations with the Government of Canada to up-*
25 *date the comparability analysis which serves as the*

1 *basis for the Cooperative Vessel Traffic Service agree-*
2 *ment between the United States and Canada for the*
3 *management of maritime traffic in Puget Sound, the*
4 *Strait of Georgia, Haro Strait, Rosario Strait, and*
5 *the Strait of Juan de Fuca. The updated analysis*
6 *shall, at a minimum, consider—*

7 (A) *requirements for laden tank vessels to be*
8 *escorted by tug boats;*

9 (B) *vessel emergency response towing capa-*
10 *bility at the entrance to the Strait of Juan de*
11 *Fuca; and*

12 (C) *spill response capability throughout the*
13 *shared water, including oil spill response plan-*
14 *ning requirements for vessels bound for one na-*
15 *tion transiting in innocent passage through the*
16 *waters of the other nation.*

17 (2) *CONSULTATION REQUIREMENT.—In con-*
18 *ducting the analysis required under this subsection,*
19 *the Commandant shall consult with the State of*
20 *Washington and affected tribal governments.*

21 (3) *RECOMMENDATIONS.—Within 18 months*
22 *after the date of enactment of this Act, the Com-*
23 *mandant shall submit recommendations based on the*
24 *analysis required under this subsection to the Senate*
25 *Committee on Commerce, Science, and Transpor-*

1 *tation and the House of Representatives Committee*
2 *on Transportation and Infrastructure. The rec-*
3 *ommendations shall consider a full range of options*
4 *for the management of maritime traffic, including*
5 *Federal legislation, promulgation of Federal rules,*
6 *and the establishment of cooperative agreements for*
7 *shared funding of spill prevention and response sys-*
8 *tems.*

9 *(b) DUAL ESCORT VESSELS FOR DOUBLE HULLED*
10 *TANKERS IN PRINCE WILLIAM SOUND, ALASKA.—*

11 *(1) IN GENERAL.—Section 4116(c) of the Oil*
12 *Pollution Act of 1990 (46 U.S.C. 3703 note) is*
13 *amended—*

14 *(A) by striking “Not later than 6 months*
15 *after the date of the enactment of this Act, the”*
16 *and inserting “(1) IN GENERAL.—The”; and*

17 *(B) by adding at the end the following:*

18 *“(2) PRINCE WILLIAM SOUND, ALASKA.—*

19 *“(A) IN GENERAL.—The requirement in*
20 *paragraph (1) relating to single hulled tankers*
21 *in Prince William Sound, Alaska, described in*
22 *that paragraph being escorted by at least 2 tow-*
23 *ing vessels or other vessels considered to be ap-*
24 *propriate by the Secretary (including regulations*
25 *promulgated in accordance with section*

1 3703(a)(3) of title 46, United States Code, as set
2 forth in part 168 of title 33, Code of Federal
3 Regulations (as in effect on March 1, 2009) im-
4 plementing this subsection with respect to those
5 tankers) shall apply to double hulled tankers over
6 5,000 gross tons transporting oil in bulk in
7 Prince William Sound, Alaska.

8 “(B) IMPLEMENTATION OF REQUIRE-
9 MENTS.—The Secretary of the Federal agency
10 with jurisdiction over the Coast Guard shall
11 carry out subparagraph (A) by order without no-
12 tice and hearing pursuant to section 553 of title
13 5 of the United States Code.”.

14 (2) EFFECTIVE DATE.—The amendments made
15 by subsection (b) take effect on the date that is 90
16 days after the date of enactment of this Act.

17 (c) PRESERVATION OF STATE AUTHORITY.—Nothing
18 in this Act or in any other provision of Federal law related
19 to the regulation of maritime transportation of oil shall af-
20 fect, or be construed or interpreted as preempting, the laws
21 or regulations of any State or political subdivision thereof
22 in effect on the date of enactment of this Act which require
23 the escort by one or more tugs of laden oil tankers in the
24 areas other than Prince William Sound which are specified

1 *in section 4116(c) of the Oil Pollution Act of 1990 (46*
2 *U.S.C. 3703 note).*

3 **SEC. 812. EXTENSION OF FINANCIAL RESPONSIBILITY.**

4 *Section 1016(a) of the Oil Pollution Act of 1990 (33*
5 *U.S.C. 2716(a)) is amended—*

6 *(1) by striking “or” after the semicolon in para-*
7 *graph (1);*

8 *(2) by inserting “or” after the semicolon in*
9 *paragraph (2); and*

10 *(3) by inserting after paragraph (2) the fol-*
11 *lowing:*

12 *“(3) any tank vessel over 100 gross tons (except*
13 *a non-self-propelled vessel that does not carry oil as*
14 *cargo) using any place subject to the jurisdiction of*
15 *the United States;”.*

16 **SEC. 813. OIL SPILL LIABILITY TRUST FUND INVESTMENT**
17 **AMOUNT.**

18 *Within 30 days after the date of enactment of this Act,*
19 *the Secretary of the Treasury shall increase the amount in-*
20 *vested in income producing securities under section 5006(b)*
21 *of the Oil Pollution Act of 1990 (33 U.S.C. 2736(b)) by*
22 *\$12,851,340.*

23 **SEC. 814. LIABILITY FOR USE OF SINGLE-HULL VESSELS.**

24 *Section 1001(32)(A) of the Oil Pollution Act of 1990*
25 *(33 U.S.C. 2701(32)(A)) is amended by inserting “In the*

1 *case of a vessel, the term ‘responsible party’ also includes*
2 *the owner of oil being transported in a tank vessel with*
3 *a single hull after December 31, 2010 (other than a vessel*
4 *described in section 3703a(b)(3) of title 46, United States*
5 *Code).” after “vessel.”.*

6 **TITLE IX—MISCELLANEOUS**
7 **PROVISIONS**

8 **SEC. 901. VESSEL DETERMINATION.**

9 *(a) VESSELS DEEMED TO BE NEW VESSELS.—The*
10 *vessel with United States official number 981472 and the*
11 *vessel with United States official number 988333 shall each*
12 *be deemed to be a new vessel effective upon the date of deliv-*
13 *ery after January 1, 2008, from a privately-owned United*
14 *States shipyard if no encumbrances are on record with the*
15 *United States Coast Guard at the time of the issuance of*
16 *the new vessel certificate of documentation for such vessel*

17 *(b) SAFETY INSPECTION.—Each vessel shall be subject*
18 *to the vessel safety and inspection requirements of title 46,*
19 *United States Code, applicable to any such vessel as of the*
20 *day before the date of enactment of this Act.*

21 **SEC. 902. CONVEYANCE OF THE PRESQUE ISLE LIGHT STA-**
22 **TION FRESNEL LENS TO PRESQUE ISLE**
23 **TOWNSHIP, MICHIGAN.**

24 *(a) CONVEYANCE OF LENS AUTHORIZED.—*

1 (1) *TRANSFER OF POSSESSION.*—*Notwith-*
2 *standing any other provision of law, the Com-*
3 *mandant of the Coast Guard may transfer to Presque*
4 *Isle Township, a township in Presque Isle County in*
5 *the State of Michigan (in this section referred to as*
6 *the “Township”), possession of the Historic Fresnel*
7 *Lens (in this section referred to as the “Lens”) from*
8 *the Presque Isle Light Station Lighthouse, Michigan*
9 *(in this section referred to as the “Lighthouse”).*

10 (2) *CONDITION.*—*As a condition of the transfer*
11 *of possession authorized by paragraph (1), the Town-*
12 *ship shall, not later than one year after the date of*
13 *transfer, install the Lens in the Lighthouse for the*
14 *purpose of operating the Lens and Lighthouse as a*
15 *Class I private aid to navigation pursuant to section*
16 *85 of title 14, United States Code, and the applicable*
17 *regulations under that section.*

18 (3) *CONVEYANCE OF LENS.*—*Upon the certifi-*
19 *cation of the Commandant that the Township has in-*
20 *stalled the Lens in the Lighthouse and is able to oper-*
21 *ate the Lens and Lighthouse as a private aid to navi-*
22 *gation as required by paragraph (2), the Com-*
23 *mandant shall convey to the Township all right, title,*
24 *and interest of the United States in and to the Lens.*

1 (4) *CESSATION OF UNITED STATES OPERATIONS*
2 *OF AIDS TO NAVIGATION AT LIGHTHOUSE.*—Upon the
3 *making of the certification described in paragraph*
4 *(3), all active Federal aids to navigation located at*
5 *the Lighthouse shall cease to be operated and main-*
6 *tained by the United States.*

7 (b) *REVERSION.*—

8 (1) *REVERSION FOR FAILURE OF AID TO NAVIGA-*
9 *TION.*—If the Township does not comply with the con-
10 *dition set forth in subsection (a)(2) within the time*
11 *specified in that subsection, the Township shall, ex-*
12 *cept as provided in paragraph (2), return the Lens to*
13 *the Commandant at no cost to the United States and*
14 *under such conditions as the Commandant may re-*
15 *quire.*

16 (2) *EXCEPTION FOR HISTORICAL PRESERVA-*
17 *TION.*—Notwithstanding the lack of compliance of the
18 *Township as described in paragraph (1), the Town-*
19 *ship may retain possession of the Lens for installa-*
20 *tion as an artifact in, at, or near the Lighthouse*
21 *upon the approval of the Commandant. The Lens*
22 *shall be retained by the Township under this para-*
23 *graph under such conditions for the preservation and*
24 *conservation of the Lens as the Commandant shall*
25 *specify for purposes of this paragraph. Installation of*

1 *the Lens under this paragraph shall occur, if at all,*
2 *not later than two years after the date of the transfer*
3 *of the Lens to the Township under subsection (a)(1).*

4 (3) *REVERSION FOR FAILURE OF HISTORICAL*
5 *PRESERVATION.—If retention of the Lens by the*
6 *Township is authorized under paragraph (2) and the*
7 *Township does not install the Lens in accordance*
8 *with that paragraph within the time specified in that*
9 *paragraph, the Township shall return the lens to the*
10 *Coast Guard at no cost to the United States and*
11 *under such conditions as the Commandant may re-*
12 *quire.*

13 (c) *CONVEYANCE OF ADDITIONAL PERSONAL PROP-*
14 *ERTY.—*

15 (1) *TRANSFER AND CONVEYANCE OF PERSONAL*
16 *PROPERTY.—Notwithstanding any other provision of*
17 *law, the Commandant may transfer to the Township*
18 *any additional personal property of the United States*
19 *related to the Lens that the Commandant considers*
20 *appropriate for conveyance under this section. If the*
21 *Commandant conveys the Lens to the Township under*
22 *subsection (a)(3), the Commandant may convey to the*
23 *Township any personal property previously trans-*
24 *ferred to the Township under this subsection.*

1 (2) *REVERSION.*—*If the Lens is returned to the*
2 *Coast Guard pursuant to subsection (b), the Township*
3 *shall return to the Coast Guard all personal property*
4 *transferred or conveyed to the Township under this*
5 *subsection except to the extent otherwise approved by*
6 *the Commandant.*

7 (d) *CONVEYANCE WITHOUT CONSIDERATION.*—*The*
8 *conveyance of the Lens and any personal property under*
9 *this section shall be without consideration.*

10 (e) *DELIVERY OF PROPERTY.*—*The Commandant shall*
11 *deliver property conveyed under this section—*

12 (1) *at the place where such property is located*
13 *on the date of the conveyance;*

14 (2) *in condition on the date of conveyance; and*

15 (3) *without cost to the United States.*

16 (f) *MAINTENANCE OF PROPERTY.*—*As a condition of*
17 *the conveyance of any property to the Township under this*
18 *section, the Commandant shall enter into an agreement*
19 *with the Township under which the Township agrees—*

20 (1) *to operate the Lens as a Class I private aid*
21 *to navigation under section 85 of title 14, United*
22 *States Code, and application regulations under that*
23 *section; and*

1 (2) *to hold the United States harmless for any*
2 *claim arising with respect to personal property con-*
3 *veyed under this section.*

4 (g) *LIMITATION ON FUTURE CONVEYANCE.—The in-*
5 *struments providing for the conveyance of property under*
6 *this section shall—*

7 (1) *require that any further conveyance of an in-*
8 *terest in such property may not be made without the*
9 *advance approval of the Commandant; and*

10 (2) *provide that, if the Commandant determines*
11 *that an interest in such property was conveyed with-*
12 *out such approval—*

13 (A) *all right, title, and interest in such*
14 *property shall revert to the United States, and*
15 *the United States shall have the right to imme-*
16 *diate possession of such property; and*

17 (B) *the recipient of such property shall pay*
18 *the United States for costs incurred by the*
19 *United States in recovering such property.*

20 (h) *ADDITIONAL TERMS AND CONDITIONS.—The Com-*
21 *mandant may require such additional terms and conditions*
22 *in connection with the conveyances authorized by this sec-*
23 *tion as the Commandant considers appropriate to protect*
24 *the interests of the United States.*

1 **SEC. 903. LAND CONVEYANCE, COAST GUARD PROPERTY IN**
2 **MARQUETTE COUNTY, MICHIGAN, TO THE**
3 **CITY OF MARQUETTE, MICHIGAN.**

4 (a) *CONVEYANCE AUTHORIZED.*—*The Commandant of*
5 *the Coast Guard may convey, without consideration, to the*
6 *City of Marquette, Michigan (in this section referred to as*
7 *the “City”), all right, title, and interest of the United States*
8 *in and to a parcel of real property, together with any im-*
9 *provements thereon, located in Marquette County, Michi-*
10 *gan, that is under the administrative control of the Coast*
11 *Guard, consists of approximately 5.5 acres, and is com-*
12 *monly identified as Coast Guard Station Marquette and*
13 *Lighthouse Point.*

14 (b) *RETENTION OF CERTAIN EASEMENTS.*—*In con-*
15 *veying the property under subsection (a), the Commandant*
16 *of the Coast Guard may retain such easements over the*
17 *property as the Commandant considers appropriate for ac-*
18 *cess to aids to navigation.*

19 (c) *LIMITATIONS.*—*The property to be conveyed by*
20 *subsection (a) may not be conveyed under that subsection*
21 *until—*

22 (1) *the Coast Guard has relocated Coast Guard*
23 *Station Marquette to a newly constructed station;*

24 (2) *any environmental remediation required*
25 *under Federal law with respect to the property has*
26 *been completed; and*

1 (3) *the Commandant of the Coast Guard deter-*
2 *mines that retention of the property by the United*
3 *States is not required to carry out Coast Guard mis-*
4 *sions or functions.*

5 (d) *CONDITIONS OF TRANSFER.—All conditions placed*
6 *within the deed of title of the property to be conveyed under*
7 *subsection (a) shall be construed as covenants running with*
8 *the land.*

9 (e) *INAPPLICABILITY OF SCREENING OR OTHER RE-*
10 *QUIREMENTS.—The conveyance of property authorized by*
11 *subsection (a) shall be made without regard to the following:*

12 (1) *Section 2696 of title 10, United States Code.*

13 (2) *Chapter 5 of title 40, United States Code.*

14 (3) *Any other provision of law relating to the*
15 *screening, evaluation, or administration of excess or*
16 *surplus Federal property prior to conveyance by the*
17 *Administrator of General Services.*

18 (f) *EXPIRATION OF AUTHORITY.—The authority in*
19 *subsection (a) shall expire on the date that is five years*
20 *after the date of the enactment of this Act.*

21 (g) *DESCRIPTION OF PROPERTY.—The exact acreage*
22 *and legal description of the property to be conveyed under*
23 *subsection (a) shall be determined by a survey satisfactory*
24 *to the Commandant of the Coast Guard. The cost of the*
25 *survey shall be borne by the United States.*

1 (h) *ADDITIONAL TERMS AND CONDITIONS.*—The Com-
2 mandant of the Coast Guard may require such additional
3 terms and conditions in connection with the conveyance au-
4 thorized by subsection (a) as the Commandant considers ap-
5 propriate to protect the interests of the United States.

6 **SEC. 904. OFFSHORE SUPPLY VESSELS.**

7 (a) *REMOVAL OF TONNAGE LIMITS.*—

8 (1) *DEFINITION.*—

9 (A) Section 2101(19) of title 46, United
10 States Code, is amended by striking “of more
11 than 15 gross tons but less than 500 gross tons
12 as measured under section 14502 of this title, or
13 an alternate tonnage measured under section
14 14302 of this title as prescribed by the Secretary
15 under section 14104 of this title”.

16 (B) *EXEMPTION.*—Section 5209(b)(1) of the
17 Oceans Act of 1992 (Public Law 102–587; 46
18 U.S.C. 2101 note) is amended by striking “ves-
19 sel.” and inserting “vessel of less than 500 gross
20 tons as measured under section 14502 of title 46,
21 United States Code, or an alternate tonnage
22 measured under section 14302 of such title as
23 prescribed by the Secretary under section 14104
24 of such title.”.

1 (2) *APPLICATION.*—Section 3702(b) of title 46,
2 *United States Code*, is amended by striking para-
3 *graph (1) and redesignating paragraphs (2) and (3)*
4 *as paragraphs (1) and (2), respectively.*

5 (b) *SCALE OF EMPLOYMENT: ABLE SEAMEN.*—Section
6 7312(d) of title 46, *United States Code*, is amended to read
7 *as follows:*

8 “(d) *Individuals qualified as able seamen—offshore*
9 *supply vessels under section 7310 of this title may con-*
10 *stitute all of the able seamen required on board a vessel*
11 *of less than 500 gross tons as measured under section 14502*
12 *of this title or an alternate tonnage as measured under sec-*
13 *tion 14302 of this title as prescribed by the Secretary under*
14 *section 14104 of this title engaged in support of exploration,*
15 *exploitation, or production of offshore mineral or energy re-*
16 *sources. Individuals qualified as able seamen—limited*
17 *under section 7308 of this title may constitute all of the*
18 *able seamen required on board a vessel of at least 500 gross*
19 *tons as measured under section 14502 of this title or an*
20 *alternate tonnage measured under section 14302 of this title*
21 *as prescribed by the Secretary under section 14104 of this*
22 *title engaged in support of exploration, exploitation, or pro-*
23 *duction of offshore mineral or energy resources.”.*

1 (c) *MINIMUM NUMBER OF LICENSED INDIVIDUALS.*—
2 Section 8301(b) of title 46, United States Code, is amended
3 to read as follows:

4 “(b)(1) *An offshore supply vessel of less than 500 gross*
5 *tons as measured under section 14502 of this title or 6,000*
6 *gross tons as measured under section 14302 of this title on*
7 *a voyage of less than 600 miles shall have a licensed mate.*
8 *If the vessel is on a voyage of at least 600 miles, however,*
9 *the vessel shall have 2 licensed mates.*

10 “(2) *An offshore supply vessel shall have at least one*
11 *mate. Additional mates on an offshore supply vessel of at*
12 *least 6,000 gross tons as measured under section 14302 of*
13 *this title shall be prescribed in accordance with hours of*
14 *service requirements (including recording and record keep-*
15 *ing of that service) prescribed by the Secretary.*

16 “(3) *An offshore supply vessel of more than 200 gross*
17 *tons as measured under section 14502 of this title, or an*
18 *alternate tonnage measured under section 14302 of this title*
19 *as prescribed by the Secretary under section 14104 of this*
20 *title, may not be operated without a licensed engineer.”.*

21 (d) *WATCHES.*—Section 8104(g) of title 46, United
22 States Code, is amended—

23 (1) *by inserting “(1)” after “(g)”;* and

24 (2) *by adding at the end the following:*

1 “(2) Paragraph (1) applies to an offshore supply vessel
2 of at least 6,000 gross tons as measured under section 14302
3 of this title if the individuals engaged on the vessel are in
4 compliance with hours of service requirements (including
5 recording and record-keeping of that service) as prescribed
6 by the Secretary.”.

7 (e) OIL FUEL TANK PROTECTION.—

8 (1) APPLICATION.—An offshore supply vessel of
9 at least 6,000 gross tons as measured under section
10 14302 of this title that is constructed under a contract
11 entered into after the date of enactment of this Act,
12 or that is delivered after August 1, 2010, with an ag-
13 gregate capacity of 600 cubic meters or more of oil
14 fuel, shall comply with the requirements of Regulation
15 12A under Annex I to the Protocol of 1978 relating
16 to the International Convention for the Prevention of
17 Pollution from Ships, 1973, entitled Oil Fuel Tank
18 Protection, regardless of whether such vessel is en-
19 gaged in the coastwise trade or on an international
20 voyage.

21 (2) DEFINITION.—In this subsection the term
22 “oil fuel” means any oil used as fuel in connection
23 with the propulsion and auxiliary machinery of the
24 vessel in which such oil is carried.

25 (f) REGULATIONS.—

1 (1) *IN GENERAL.*—Not later than January 1,
2 2012, the Secretary of the department in which the
3 Coast Guard is operating shall promulgate regula-
4 tions to implement the amendments and authorities
5 enacted by this section for offshore supply vessels of
6 at least 6,000 gross tons as measured under section
7 14302 of title 46, United States Code, and to ensure
8 the safe carriage of oil, hazardous substances, and in-
9 dividuals in addition to the crew on such vessels. The
10 final rule issued pursuant to such rulemaking may
11 supersede the interim final rule promulgated under
12 paragraph (2) of this subsection. In promulgating
13 regulations under this subsection, the Secretary shall
14 take into consideration the characteristics of offshore
15 supply vessels, their methods of operation, and their
16 service in support of exploration, exploitation, or pro-
17 duction of offshore mineral or energy resources.

18 (2) *INTERIM FINAL RULE AUTHORITY.*—As soon
19 as is practicable and without regard to the provisions
20 of chapters 5 and 6 of title 5, United States Code, the
21 Secretary shall issue an interim final rule as a tem-
22 porary regulation implementing this section (includ-
23 ing the amendments made by this section) for offshore
24 supply vessels of at least 6,000 gross tons as measured
25 under section 14302 of title 46, United States Code,

1 *and to ensure the safe carriage of oil, hazardous sub-*
2 *stances, and individuals in addition to the crew on*
3 *such vessels.*

4 (3) *INTERIM PERIOD.*—*After the effective date of*
5 *this Act, prior to the effective date of the regulations*
6 *prescribed by paragraph (2) of this subsection, and*
7 *without regard to the provisions of chapters 5 and 6*
8 *of title 5, United States Code, and the offshore supply*
9 *vessel tonnage limits of applicable regulations and*
10 *policy guidance promulgated prior to the date of en-*
11 *actment of this Act, the Secretary may—*

12 (A) *issue a certificate of inspection under*
13 *section 3309 of title 46, United States Code, to*
14 *an offshore supply vessel of at least 6,000 gross*
15 *tons as measured under section 14302 of this*
16 *title if the Secretary determines that such vessel’s*
17 *arrangements and equipment meet the current*
18 *Coast Guard requirements for certification as a*
19 *cargo and miscellaneous vessel; and*

20 (B) *authorize a master, mate or engineer*
21 *who possesses an ocean or near coastal license*
22 *under part 10 of subchapter B of title 46, Code*
23 *of Federal Regulations, (or any successor regula-*
24 *tion) which qualifies the licensed officer for serv-*
25 *ice on offshore supply vessels of more than 3,000*

1 *gross tons, as measured under section 14302 of*
2 *title 46, United States Code, to operate offshore*
3 *supply vessels of 6,000 gross tons or greater, as*
4 *measured under such section.*

5 **SEC. 905. ASSESSMENT OF CERTAIN AIDS TO NAVIGATION**
6 **AND TRAFFIC FLOW.**

7 *(a) INFORMATION ON USAGE.—Within 60 days after*
8 *the date of enactment of this Act, the Commandant of the*
9 *Coast Guard shall—*

10 *(1) determine the types and numbers of vessels*
11 *typically transiting or utilizing that portion of the*
12 *Atlantic Intracoastal Waterway beginning at a point*
13 *that is due East of the outlet of the Cutler Drain*
14 *Canal C-100 in Dade County, Florida, and ending at*
15 *the Dade County line, during a period of 30 days;*
16 *and*

17 *(2) provide the information on usage compiled*
18 *under this subsection to the Senate Committee on*
19 *Commerce, Science, and Transportation and the*
20 *House of Representatives Committee on Transpor-*
21 *tation and Infrastructure.*

22 *(b) ASSESSMENT OF CERTAIN AIDS TO NAVIGATION.—*
23 *Within 90 days after the date of enactment of this Act, the*
24 *Commandant of the Coast Guard shall—*

1 (1) *review and assess the buoys, markers, and*
2 *other aids to navigation in and along that portion of*
3 *the Atlantic Intracoastal Waterway specified in sub-*
4 *section (a), to determine the adequacy and sufficiency*
5 *of such aids, and the need to replace such aids, install*
6 *additional aids, or both; and*

7 (2) *submit a report on the assessment required*
8 *by this section to the committees.*

9 (c) *SUBMISSION OF PLAN.—Within 180 days after the*
10 *date of enactment of this Act, the Commandant shall submit*
11 *a plan to the committees to address the needs identified*
12 *under subsection (b).*

13 **SEC. 906. ALTERNATIVE LICENSING PROGRAM FOR OPERA-**
14 **TORS OF UNINSPECTED PASSENGER VESSELS**
15 **ON LAKE TEXOMA IN TEXAS AND OKLAHOMA.**

16 (a) *IN GENERAL.—Upon the request of the Governor*
17 *of the State of Texas or the Governor of the State of Okla-*
18 *homa, the Secretary of the department in which the Coast*
19 *Guard is operating shall enter into an agreement with the*
20 *Governor of the State whereby the State shall license opera-*
21 *tors of uninspected passenger vessels operating on Lake*
22 *Texoma in Texas and Oklahoma in lieu of the Secretary*
23 *issuing the license pursuant to section 8903 of title 46,*
24 *United States Code, and the regulations issued thereunder,*

1 *but only if the State plan for licensing the operators of*
2 *uninspected passenger vessels—*

3 (1) *meets the equivalent standards of safety and*
4 *protection of the environment as those contained in*
5 *subtitle II of title 46, United States Code, and regula-*
6 *tions issued thereunder;*

7 (2) *includes—*

8 (A) *standards for chemical testing for such*
9 *operators;*

10 (B) *physical standards for such operators;*

11 (C) *professional service and training re-*
12 *quirements for such operators; and*

13 (D) *criminal history background check for*
14 *such operators;*

15 (3) *provides for the suspension and revocation of*
16 *State licenses;*

17 (4) *makes an individual, who is ineligible for a*
18 *license issued under title 46, United States Code, in-*
19 *eligible for a State license; and*

20 (5) *provides for a report that includes—*

21 (A) *the number of applications that, for the*
22 *preceding year, the State rejected due to failure*
23 *to—*

24 (i) *meet chemical testing standards;*

25 (ii) *meet physical standards;*

1 (iii) meet professional service and
2 training requirements; and

3 (iv) pass criminal history background
4 check for such operators;

5 (B) the number of licenses that, for the pre-
6 ceding year, the State issued;

7 (C) the number of license investigations
8 that, for the preceding year, the State conducted;

9 (D) the number of licenses that, for the pre-
10 ceding year, the State suspended or revoked, and
11 the cause for such suspensions or revocations;
12 and

13 (E) the number of injuries, deaths, colli-
14 sions, and loss or damage associated with
15 uninspected passenger vessels operations that, for
16 the preceding year, the State investigated.

17 (b) ADMINISTRATION.—

18 (1) The Governor of the State may delegate the
19 execution and enforcement of the State plan, includ-
20 ing the authority to license and the duty to report in-
21 formation pursuant to subsection (a), to any subordi-
22 nate State officer. The Governor shall provide, to the
23 Secretary, written notice of any delegation.

24 (2) The Governor (or the Governor's designee)
25 shall provide written notice of any amendment to the

1 *State plan no less than 45 days prior to the effective*
2 *date of such amendment.*

3 *(3) At the request of the Secretary, the Governor*
4 *of the State (or the Governor's designee) shall grant,*
5 *on a biennial basis, the Secretary access to State*
6 *records and State personnel for the purpose of audit-*
7 *ing State execution and enforcement of the State*
8 *plan.*

9 *(c) APPLICATION.—*

10 *(1) The requirements of section 8903 of title 46,*
11 *United States Code, and the regulations issued there-*
12 *under shall not apply to any person operating under*
13 *the authority of a State license issued pursuant to an*
14 *agreement under this section.*

15 *(2) The State shall not compel a person, oper-*
16 *ating under the authority of a license issued either by*
17 *another State, pursuant to a valid agreement under*
18 *this section, or by the Secretary, pursuant to section*
19 *8903 of title 46, United States Code, to—*

20 *(A) hold a license issued by the State, pur-*
21 *suant to an agreement under this section; or*

22 *(B) pay any fee, associated with licensing,*
23 *because the person does not hold a license issued*
24 *by the State, pursuant to an agreement under*
25 *this section.*

1 *Nothing in this paragraph shall limit the authority*
2 *of the State to impose requirements or fees for privi-*
3 *leges, other than licensing, that are associated with*
4 *the operation of uninspected passenger vessels on Lake*
5 *Texoma.*

6 *(3) For the purpose of enforcement, if an indi-*
7 *vidual is issued a license—*

8 *(A) by a State, pursuant to an agreement*
9 *entered into under to this section, or*

10 *(B) by the Secretary, pursuant to section*
11 *8903 of title 46, United States Code,*

12 *then the individual shall be entitled to lawfully oper-*
13 *ate an uninspected passenger vessel on Lake Texoma*
14 *in Texas and Oklahoma without further requirement*
15 *to hold an additional operator's license.*

16 *(d) TERMINATION.—*

17 *(1) If—*

18 *(A) the Secretary finds that the State plan*
19 *for the licensing the operators of uninspected*
20 *passenger vessels—*

21 *(i) does not meet the equivalent stand-*
22 *ards of safety and protection of the environ-*
23 *ment as those contained in subtitle II of*
24 *title 46, United States Code, and regula-*
25 *tions issued thereunder,*

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(ii) does not include—

*(I) standards for chemical testing
for such operators,*

*(II) physical standards for such
operators,*

*(III) professional service and
training requirements for such opera-
tors, or*

*(IV) background and criminal in-
vestigations for such operators,*

*(iii) does not provide for the suspen-
sion and revocation of State licenses, or*

*(iv) does not make an individual, who
is ineligible for a license issued under title
46, United States Code, ineligible for a
State license, or*

*(B) the Governor (or the Governor's des-
ignee) fails to report pursuant to subsection (b),
the Secretary shall terminate the agreement author-
ized by this section, if the Secretary provides written
notice to the Governor of the State 60 days in ad-
vance of termination. The findings of fact and conclu-
sions of the Secretary, if based on a preponderance of
the evidence, shall be conclusive.*

1 (2) *The Governor of the State may terminate the*
2 *agreement authorized by this section, if the Governor*
3 *provides written notice to the Secretary 60 days in*
4 *advance of the termination date.*

5 (e) *EXISTING AUTHORITY.—Nothing in this section*
6 *shall affect or diminish the authority or jurisdiction of any*
7 *Federal or State officer to investigate, or require reporting*
8 *of, marine casualties.*

9 (f) *UNINSPECTED PASSENGER VESSEL DEFINED.—In*
10 *this section the term “uninspected passenger vessel” has the*
11 *meaning that term has in section 2101(42)(B) of title 46,*
12 *United States Code.*

13 **TITLE X—BUDGETARY EFFECTS**

14 **SEC. 1001. BUDGETARY EFFECTS.**

15 *The budgetary effects of this Act, for the purpose of*
16 *complying with the Statutory Pay-As-You-Go Act of 2010,*
17 *shall be determined by reference to the latest statement titled*
18 *“Budgetary Effects of PAYGO Legislation” for this Act,*
19 *submitted for printing in the Congressional Record by the*
20 *Chairman of the Senate Budget Committee, provided that*

- 1 *such statement has been submitted prior to the vote on pas-*
- 2 *sage.*

Attest:

Secretary.

11TH CONGRESS
2^D SESSION

H. R. 3619

AMENDMENT